



Sen. William R. Haine

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1 AMENDMENT TO SENATE BILL 675

2 AMENDMENT NO. _____. Amend Senate Bill 675 by replacing
3 everything after the enacting clause with the following:

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

1 trustee's name and address and the primary state or federal
2 regulator of the trustee as a corporate fiduciary.

3 (1.7) If funded by life insurance, it clearly
4 identifies the life insurance provider and the primary
5 regulator of the life insurance provider.

6 (2) It clearly identifies the provider's name and
7 address, the purchaser, and the beneficiary, if other than
8 the purchaser.

9 (2.5) If the provider has branch locations, the
10 contract gives the purchaser the opportunity to identify
11 the branch at which the funeral will be provided.

12 (3) It contains a complete description of the funeral
13 merchandise and services to be provided and the price of
14 the merchandise and services, and it clearly discloses
15 whether the price of the merchandise and services is
16 guaranteed or not guaranteed as to price.

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

19 THIS CONTRACT GUARANTEES THE BENEFICIARY THE
20 SPECIFIC GOODS AND SERVICES CONTRACTED FOR. NO
21 ADDITIONAL CHARGES MAY BE REQUIRED. FOR DESIGNATED
22 GOODS AND SERVICES, ADDITIONAL CHARGES MAY BE INCURRED
23 FOR UNEXPECTED EXPENSES INCLUDING, BUT NOT LIMITED TO,
24 CASH ADVANCES, SHIPPING OF REMAINS FROM A DISTANT
25 PLACE, OR DESIGNATED HONORARIA ORDERED OR DIRECTED BY
26 SURVIVORS.

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

5 THIS CONTRACT DOES NOT GUARANTEE THE PRICE THE
6 BENEFICIARY WILL PAY FOR ANY SPECIFIC GOODS OR
7 SERVICES. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A
8 DEPOSIT TO BE APPLIED TOWARD THE FINAL PRICE OF THE
9 GOODS OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES
10 MAY BE REQUIRED.

11 (C) If a non-guaranteed price contract may
12 subsequently become guaranteed, the contract shall
13 clearly disclose the nature of the guarantee and the
14 time, occurrence, or event upon which the contract
15 shall become a guaranteed price contract.

16 (4) It provides that if the particular supplies and
17 services specified in the pre-need contract are
18 unavailable at the time of delivery, the provider shall be
19 required to furnish supplies and services similar in style
20 and at least equal in quality of material and workmanship.

21 (5) It discloses any penalties or restrictions,
22 including but not limited to geographic restrictions or the
23 inability of the provider to perform, on the delivery of
24 merchandise, services, or pre-need contract guarantees.

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

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

3 (B) The nature of the relationship among the person
4 funding the pre-need contract, the provider, and the
5 seller; and

6 (C) The impact on the pre-need contract of (i) any
7 changes in the funding arrangement including but not
8 limited to changes in the assignment, beneficiary
9 designation, or use of the funds; (ii) any specific
10 penalties to be incurred by the contract purchaser as a
11 result of failure to make payments; (iii) penalties to
12 be incurred or moneys or refunds to be received as a
13 result of cancellations; and (iv) all relevant
14 information concerning what occurs and whether any
15 entitlements or obligations arise if there is a
16 difference between the proceeds of the particular
17 funding arrangement and the amount actually needed to
18 pay for the funeral at-need.

19 (D) The method of changing the provider.

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

23 (c) No pre-need contract shall be sold in this State unless
24 there is a provider for the services and personal property
25 being sold. If the seller is not a provider, then the seller
26 must have a binding agreement with a provider, and the identity

1 of the provider and the nature of the agreement between the
2 seller and the provider shall be disclosed in the pre-need
3 contract at the time of the sale and before the receipt of any
4 sales proceeds. The failure to disclose the identity of the
5 provider, the nature of the agreement between the seller and
6 the provider, or any changes thereto to the purchaser and
7 beneficiary, or the failure to make the disclosures required in
8 subdivision (a)(1), constitutes an intentional violation of
9 this Act.

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

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

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

6 (g) No pre-need contract shall be sold in this State unless
7 it is accompanied by a funding mechanism permitted under this
8 Act, and unless the seller is licensed by the Comptroller as
9 provided in Section 3 of this Act. Nothing in this Act is
10 intended to relieve sellers of pre-need contracts from being
11 licensed under any other Act required for their profession or
12 business, and being subject to the rules promulgated to
13 regulate their profession or business, including rules on
14 solicitation and advertisement.

15 (h) Each pre-need contract entered into under this Section
16 shall be registered on an online database maintained by the
17 State Comptroller. Information to be included in the database
18 shall include, but not be limited to, the name of licensee,
19 purchaser, date of contract, amount of contract, and
20 disposition of the funds. This information must be registered
21 into the State Comptroller's online database within 45 days
22 after the date of the pre-need contract.

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

24 (225 ILCS 45/2) (from Ch. 111 1/2, par. 73.102)

25 Sec. 2. (a) If a purchaser selects a trust arrangement to

1 fund the pre-need contract, all trust deposits as determined by
2 Section 1b shall be made within 30 days of receipt.

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

7 (c) Trust agreements and amendments to the trust agreements
8 used to fund a pre-need contract shall be filed with the
9 Comptroller.

10 (d) (Blank).

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

21 (f) (Blank).

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

26 (h) A trustee shall at least annually furnish to each

1 purchaser a statement containing: (1) the receipts,
2 disbursements, and inventory of the trust, including an
3 explanation of any fees or expenses charged by the trustee
4 under Section 5 of this Act or otherwise, (2) an explanation of
5 the purchaser's right to a refund, if any, under this Act, and
6 (3) identifying the primary regulator of the trust as a
7 corporate fiduciary under state or federal law.

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

9 (225 ILCS 45/3) (from Ch. 111 1/2, par. 73.103)

10 Sec. 3. Licensing.

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

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

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

25 (3) The name and address of the applicant's principal

1 place of business at which the books, accounts, and records
2 shall be available for examination by the Comptroller as
3 required by this Act;

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

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

26 (6) The name of the trustee and, if applicable, the

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

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

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

21 The licensee shall keep accurate accounts, books and
22 records in this State, at the principal place of business
23 identified in the licensee's license application or as
24 otherwise approved by the Comptroller in writing, of all
25 transactions, copies of all pre-need contracts, trust
26 agreements, and other agreements, dates and amounts of payments

1 made and accepted thereon, the names and addresses of the
2 contracting parties, the persons for whose benefit such funds
3 are accepted, and the names of the depositaries of such funds.
4 Each licensee shall maintain the documentation for a period of
5 3 years after the licensee has fulfilled his obligations under
6 the pre-need contract. Additionally, for a period not to exceed
7 6 months after the performance of all terms in a pre-need sales
8 contract, the licensee shall maintain copies of the contract at
9 the licensee branch location where the contract was entered or
10 at some other location agreed to by the Comptroller in writing.
11 If an insurance policy or tax-deferred annuity is used to fund
12 the pre-need contract, the licensee under this Act shall keep
13 and maintain accurate accounts, books, and records in this
14 State, at the principal place of business identified in the
15 licensee's application or as otherwise approved by the
16 Comptroller in writing, of all insurance policies and
17 tax-deferred annuities used to fund the pre-need contract, the
18 name and address of insured, annuitant, and initial
19 beneficiary, and the name and address of the insurance company
20 issuing the policy or annuity. If a life insurance policy or
21 tax-deferred annuity is used to fund a pre-need contract, the
22 licensee shall notify the insurance company of the name of each
23 pre-need contract purchaser and the amount of each payment when
24 the pre-need contract, insurance policy or annuity is
25 purchased.

26 The licensee shall make reports to the Comptroller annually

1 or at such other time as the Comptroller may require, on forms
2 furnished by the Comptroller. The licensee shall file the
3 annual report with the Comptroller within 75 days after the end
4 of the licensee's fiscal year. The Comptroller shall for good
5 cause shown grant an extension for the filing of the annual
6 report upon the written request of the licensee. Such extension
7 shall not exceed 60 days. If a licensee fails to submit an
8 annual report to the Comptroller within the time specified in
9 this Section, the Comptroller shall impose upon the licensee a
10 penalty of \$5 per day for the first 15 days past due, \$10 per
11 day for 16 through 30 days past due, \$15 per day for 31 through
12 45 days past due, and \$20 per day for the 46th day and every day
13 thereafter ~~for each and every day~~ the licensee remains
14 delinquent in submitting the annual report. The Comptroller may
15 abate all or part of the ~~\$5~~ daily penalty for good cause shown.
16 Every application shall be accompanied by a check or money
17 order in the amount of \$25 and every report shall be
18 accompanied by a check or money order in the amount of \$10
19 payable to: Comptroller, State of Illinois.

20 The licensee shall make all required books and records
21 pertaining to trust funds, insurance policies, or tax-deferred
22 annuities available to the Comptroller for examination. The
23 Comptroller, or a person designated by the Comptroller who is
24 trained to perform such examinations, may at any time
25 investigate the books, records and accounts of the licensee
26 with respect to trust funds, insurance policies, or

1 tax-deferred annuities and for that purpose may require the
 2 attendance of and examine under oath all persons whose
 3 testimony he may require. The licensee shall pay a fee for such
 4 examination in accordance with a schedule established by the
 5 Comptroller. The fee shall not exceed the cost of such
 6 examination. For pre-need contracts funded by trust
 7 arrangements, the cost of an initial examination shall be borne
 8 by the licensee if it has \$10,000 or more in trust funds,
 9 otherwise, by the Comptroller. The charge made by the
 10 Comptroller for an examination shall be based upon the total
 11 amount of trust funds held by the licensee at the end of the
 12 calendar or fiscal year for which the report is required by
 13 this Act and shall be in accordance with the following
 14 schedule:

- 15 Less than \$10,000..... no charge;
- 16 \$10,000 or more but less than \$50,000..... \$10;
- 17 \$50,000 or more but less than \$100,000 \$40;
- 18 \$100,000 or more but less than \$250,000..... \$80;
- 19 \$250,000 or more \$100.

20 The Comptroller may order additional audits or
 21 examinations as he or she may deem necessary or advisable to
 22 ensure the safety and stability of the trust funds and to
 23 ensure compliance with this Act. These additional audits or
 24 examinations shall only be made after good cause is established
 25 by the Comptroller in the written order. The grounds for
 26 ordering these additional audits or examinations may include,

1 but shall not be limited to:

2 (1) material and unverified changes or fluctuations in
3 trust balances or insurance or annuity policy amounts;

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

6 (3) any withdrawals or attempted withdrawals from the
7 trusts, insurance policies, or annuity contracts in
8 violation of this Act; or

9 (4) failure to maintain or produce documentation
10 required by this Act for deposits into trust accounts,
11 trust investment activities, or life insurance or annuity
12 policies.

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

25 For pre-need contracts funded by life insurance or a
26 tax-deferred annuity, the cost of an examination shall be borne

1 by the licensee. The fee schedule for such examination shall be
2 established in rules promulgated by the Comptroller. In the
3 event such investigation or other information received by the
4 Comptroller discloses a substantial violation of the
5 requirements of this Act, the Comptroller shall revoke the
6 license of such person upon a hearing as provided in this Act.
7 Such licensee may terminate all further responsibility for
8 compliance with the requirements of this Act by voluntarily
9 surrendering the license to the Comptroller, or in the event of
10 its loss, furnishing the Comptroller with a sworn statement to
11 that effect, which states the licensee's intention to
12 discontinue acceptance of funds received under pre-need
13 contracts. Such license or statement must be accompanied by an
14 affidavit that said licensee has lawfully expended or refunded
15 all funds received under pre-need contracts, and that the
16 licensee will accept no additional sales proceeds. The
17 Comptroller shall immediately cancel or revoke said license.

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

19 (225 ILCS 45/3a-5)

20 Sec. 3a-5. License requirements.

21 (a) Every license issued by the Comptroller shall state the
22 number of the license, the business name and address of the
23 licensee's principal place of business, each branch location
24 also operating under the license, and the licensee's parent
25 company, if any. The license shall be conspicuously posted in

1 each place of business operating under the license. The
2 Comptroller may issue such additional licenses as may be
3 necessary for licensee branch locations upon compliance with
4 the provisions of this Act governing an original issuance of a
5 license for each new license.

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

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

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

18 (e) No license shall be transferable or assignable without
19 the express written consent of the Comptroller. A transfer of
20 more than 50% of the ownership of any business licensed
21 hereunder shall be deemed to be an attempted assignment of the
22 license originally issued to the licensee for which consent of
23 the Comptroller shall be required.

24 (f) Every license issued hereunder shall be renewed every 5
25 years for a renewal fee of \$100. The renewal fee shall be
26 deposited into the Comptroller's Administrative Fund ~~remain in~~

1 ~~force until it has been suspended, surrendered, or revoked in~~
2 ~~accordance with this Act.~~ The Comptroller, upon the request of
3 an interested person or on his own motion, may issue new
4 licenses to a licensee whose license or licenses have been
5 revoked, if no factor or condition then exists which would have
6 warranted the Comptroller to originally refuse the issuance of
7 such license.

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

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

11 (225 ILCS 411/15-15)

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

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

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

22 (b) The cemetery authority shall execute and deliver to the
23 person from whom it received the care funds an instrument in
24 writing that shall specifically state: (i) the nature and

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

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

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

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

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

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

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

17 (225 ILCS 411/15-40)

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

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

20 (a) The Comptroller ~~Department~~ shall examine at least
21 annually every licensee who holds \$250,000 or more in its care
22 funds. For that purpose, the Comptroller ~~Department~~ shall have
23 free access to the office and places of business and to such
24 records of all licensees and of all trustees of the care funds
25 of all licensees as shall relate to the acceptance, use, and

1 investment of care funds. The Comptroller ~~Department~~ may
2 require the attendance of and examine under oath all persons
3 whose testimony may be required relative to such business. In
4 such cases the Comptroller ~~Department~~, or any qualified
5 representative of the Comptroller ~~Department~~ whom the
6 Comptroller ~~Department~~ may designate, may administer oaths to
7 all such persons called as witnesses, and the Comptroller
8 ~~Department~~, or any such qualified representative of the
9 Comptroller ~~Department~~, may conduct such examinations. The
10 cost of an initial examination shall be determined by rule.

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

19 (1) material and unverified changes or fluctuations in
20 trust balances;

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

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

25 (4) failure to maintain or produce documentation
26 required by this Act.

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

2 (225 ILCS 411/75-55)

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

4 Sec. 75-55. Transition.

5 (a) Within 60 days after the effective date of this Act,
6 the Comptroller shall provide the Department copies of records
7 in the Comptroller's possession pertaining to the Cemetery Care
8 Act and the Crematory Regulation Act that are necessary for the
9 Department's immediate responsibilities under this Act. All
10 other records pertaining to the Cemetery Care Act with the
11 exception of records pertaining to care funds ~~and the Crematory~~
12 ~~Regulation Act shall be transferred to the Department by March~~
13 ~~1, 2012. In the case of records that pertain both to the~~
14 ~~administration of the Cemetery Care Act or the Crematory~~
15 ~~Regulation Act and to a function retained by the Comptroller,~~
16 ~~the Comptroller, in consultation with the Department, shall~~
17 ~~determine, within 60 days after the repeal of the Cemetery Care~~
18 ~~Act, whether the records shall be transferred, copied, or left~~
19 ~~with the Comptroller; until this determination has been made~~
20 ~~the transfer shall not occur.~~

21 (b) (Blank). ~~A person licensed under one of the Acts listed~~
22 ~~in subsection (a) of this Section or regulated under the~~
23 ~~Cemetery Association Act shall continue to comply with the~~
24 ~~provisions of those Acts until such time as the person is~~
25 ~~licensed under this Act or those Acts are repealed or the~~

1 ~~amendatory changes made by this amendatory Act of the 96th~~
2 ~~General Assembly take effect, as the case may be, whichever is~~
3 ~~earlier.~~

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

21 (d) Any cemetery authority that fails to pay to the
22 Department the required fee or submits the incorrect amount
23 shall be subject to the penalties provided for in Section
24 25-110 of this Act.

25 (e) Except as otherwise specifically provided, all fees,
26 fines, penalties, or other moneys received or collected

1 pursuant to this Act shall be deposited in the Cemetery
2 Oversight Licensing and Disciplinary Fund.

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

9 (g) (Blank). ~~Personnel employed by the Comptroller on~~
10 ~~February 29, 2012, to perform the duties pertaining to the~~
11 ~~administration of the Cemetery Care Act and the Crematory~~
12 ~~Regulation Act, are transferred to the Department on March 1,~~
13 ~~2012.~~

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

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

25 ~~The Department shall continue to honor during their~~
26 ~~pendency all bargaining agreements in effect at the time of the~~

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

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

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

12 (815 ILCS 390/6) (from Ch. 21, par. 206)

13 Sec. 6. License application.

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

23 (1) The full name and address, both residence and
24 business, of the applicant if the applicant is an

1 individual; of every member if applicant is a partnership;
2 of every member of the Board of Directors if applicant is
3 an association; and of every officer, director and
4 shareholder holding more than 10% of the corporate stock if
5 applicant is a corporation;

6 (2) A detailed statement of applicant's assets and
7 liabilities;

8 (2.1) The name and address of the applicant's principal
9 place of business at which the books, accounts, and records
10 are available for examination by the Comptroller as
11 required by this Act;

12 (2.2) The name and address of the applicant's branch
13 locations at which pre-need sales will be conducted and
14 which will operate under the same license number as the
15 applicant's principal place of business;

16 (3) For each individual listed under (1) above, a
17 detailed statement of the individual's business experience
18 for the 10 years immediately preceding the application; any
19 present or prior connection between the individual and any
20 other person engaged in pre-need sales; any felony or
21 misdemeanor convictions for which fraud was an essential
22 element; any charges or complaints lodged against the
23 individual for which fraud was an essential element and
24 which resulted in civil or criminal litigation; any failure
25 of the individual to satisfy an enforceable judgment
26 entered against him or her based upon fraud; and any other

1 information requested by the Comptroller relating to the
2 past business practices of the individual. Since the
3 information required by this paragraph may be confidential
4 or contain proprietary information, this information shall
5 not be available to other licensees or the general public
6 and shall be used only for the lawful purposes of the
7 Comptroller in enforcing this Act;

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

12 (5) Where applicable, the name of the corporate surety
13 company providing the performance bond for the
14 construction of undeveloped spaces and a copy of the bond;
15 and

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

19 (b) Applications for license shall be accompanied by a
20 fidelity bond executed by the applicant and a security company
21 authorized to do business in this State in such amount, not
22 exceeding \$10,000, as the Comptroller may require. The
23 Comptroller may require additional bond from time to time in
24 amounts equal to one-tenth of such trust funds but not to
25 exceed \$100,000, which bond shall run to the Comptroller for
26 the use and benefit of the beneficiaries of such trust funds.

1 Such licensee may by written permit of the Comptroller be
2 authorized to operate without additional bond, except such
3 fidelity bond as may be required by the Comptroller for the
4 protection of the licensee against loss by default by any of
5 its employees engaged in the handling of trust funds.

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

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

9 (815 ILCS 390/8) (from Ch. 21, par. 208)

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

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

1 Comptroller for examination upon request.

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

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

7 (e) Any person engaged in pre-need sales, as defined
8 herein, prior to the effective date of this Act may continue
9 operations until the application for license under this Act is
10 denied; provided that such person shall make application for a
11 license within 60 days of the date that application forms are
12 made available by the Comptroller.

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

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

1 warranted the Comptroller in refusing originally the issuance
2 of such license.

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

4 (815 ILCS 390/14) (from Ch. 21, par. 214)

5 Sec. 14. Contract required.

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

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

25 (2) In addition, such contracts must contain a

1 provision in distinguishing typeface as follows:

2 "Notwithstanding anything in this contract to the
3 contrary, you are afforded certain specific rights of
4 cancellation and refund under the Illinois Pre-Need
5 Cemetery Sales Act, enacted by the 84th General Assembly of
6 the State of Illinois".

7 (3) All pre-need sales contracts shall be sold on a
8 guaranteed price basis. At the time of performance of the
9 service or delivery of the merchandise, the seller shall be
10 prohibited from assessing the purchaser or his heirs or
11 assigns or duly authorized representative any additional
12 charges for the specific merchandise and services listed on
13 the pre-need sales contract.

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

17 "THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC
18 GOODS, SERVICES, INTERMENT SPACES, ENTOMBMENT SPACES, AND
19 INURNMENT SPACES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY
20 BE REQUIRED FOR DESIGNATED GOODS, SERVICES, AND SPACES.
21 ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED
22 EXPENSES."

23 (5) The pre-need sales contract shall provide that if
24 the particular cemetery services, cemetery merchandise, or
25 spaces specified in the pre-need contract are unavailable
26 at the time of delivery, the seller shall be required to

1 furnish services, merchandise, and spaces similar in style
2 and at least equal in quality of material and workmanship.

3 (6) The pre-need contract shall also disclose any
4 specific penalties to be incurred by the purchaser as a
5 result of failure to make payments; and penalties to be
6 incurred or moneys or refunds to be received as a result of
7 cancellation of the contract.

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

10 (8) Each pre-need contract that authorizes the
11 delivery of cemetery merchandise to a licensed and bonded
12 warehouse shall provide that prior to or upon delivery of
13 the merchandise to the warehouse the title to the
14 merchandise and a warehouse receipt shall be delivered to
15 the purchaser or beneficiary. The pre-need contract shall
16 contain the following statement in 12 point bold type:

17 "THIS CONTRACT AUTHORIZES THE DELIVERY OF MERCHANDISE TO A
18 LICENSED AND BONDED WAREHOUSE FOR STORAGE OF THE
19 MERCHANDISE UNTIL THE MERCHANDISE IS NEEDED BY THE
20 BENEFICIARY. DELIVERY OF THE MERCHANDISE IN THIS MANNER MAY
21 PRECLUDE REFUND OF SALE PROCEEDS THAT ARE ATTRIBUTABLE TO
22 THE DELIVERED MERCHANDISE."

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

25 (9) Each pre-need contract that authorizes the
26 placement of cemetery merchandise at the site of its

1 ultimate use prior to the time that the merchandise is
2 needed by the beneficiary shall contain the following
3 statement in 12 point bold type:

4 "THIS CONTRACT AUTHORIZES THE PLACEMENT OF MERCHANDISE AT
5 THE SITE OF ITS ULTIMATE USE PRIOR TO THE TIME THAT THE
6 MERCHANDISE IS NEEDED BY THE BENEFICIARY. DELIVERY OF THE
7 MERCHANDISE IN THIS MANNER MAY PRECLUDE REFUND OF SALE
8 PROCEEDS THAT ARE ATTRIBUTABLE TO THE DELIVERED
9 MERCHANDISE."

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

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

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

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

23 (d) No pre-need sales contract may be entered into in this
24 State unless there is a provider for the cemetery merchandise,
25 cemetery services, and undeveloped interment, inurnment, and
26 entombment spaces being sold. If the seller is not the

1 provider, then the seller must have a binding agreement with a
2 provider, and the identity of the provider and the nature of
3 the agreement between the seller and the provider must be
4 disclosed in the pre-need sales contract at the time of sale
5 and before the receipt of any sale proceeds. The failure to
6 disclose the identity of the provider, the nature of the
7 agreement between the seller and the provider, or any changes
8 thereto to the purchaser and beneficiary, or the failure to
9 make the disclosures required by this Section constitutes an
10 intentional violation of this Act.

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

20 (f) No pre-need contract may be entered into in this State
21 unless the seller explains to the purchaser the terms of the
22 pre-need contract prior to the purchaser signing and the
23 purchaser initials a statement in the contract confirming that
24 the seller has explained the terms of the contract prior to the
25 purchaser signing.

26 (g) The State Comptroller shall develop a booklet for

1 consumers in plain English describing the scope, application,
2 and consumer protections of this Act. After the booklet is
3 developed, no pre-need contract may be sold in this State
4 unless the seller distributes to the purchaser prior to the
5 sale a booklet developed or approved for use by the State
6 Comptroller.

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

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

16 (815 ILCS 390/15) (from Ch. 21, par. 215)

17 Sec. 15. (a) Whenever a seller receives anything of value
18 under a pre-need sales contract, the person receiving such
19 value shall deposit 50% of all proceeds received into one or
20 more trust funds maintained pursuant to this Section, except
21 that, in the case of proceeds received for the purchase of
22 outer burial containers, 85% of the proceeds shall be deposited
23 into one or more trust funds. Such deposits shall be made until
24 the amount deposited in trust equals 50% of the sales price of
25 the cemetery merchandise, cemetery services and undeveloped

1 spaces included in such contract, except that, in the case of
2 deposits for outer burial containers, deposits shall be made
3 until the amount deposited in trust equals 85% of the sales
4 price. In the event an installment contract is factored,
5 discounted or sold to a third party, the seller shall deposit
6 an amount equal to 50% of the sales price of the installment
7 contract, except that, for the portion of the contract
8 attributable to the sale of outer burial containers, the seller
9 shall deposit an amount equal to 85% of the sales price.
10 Proceeds required to be deposited in trust which are
11 attributable to cemetery merchandise and cemetery services
12 shall be held in a "Cemetery Merchandise Trust Fund". Proceeds
13 required to be deposited in trust which are attributable to the
14 sale of undeveloped interment, entombment or inurnment spaces
15 shall be held in a "Pre-construction Trust Fund". If
16 merchandise is delivered for storage in a bonded warehouse, as
17 authorized herein, and payment of transportation or other
18 charges totaling more than \$20 will be required in order to
19 secure delivery to the site of ultimate use, upon such delivery
20 to the warehouse the seller shall deposit to the trust fund the
21 full amount of the actual or estimated transportation charge.
22 Transportation charges which have been prepaid by the seller
23 shall not be deposited to trust funds maintained pursuant to
24 this Section. As used in this Section, "all proceeds" means the
25 entire amount paid by a purchaser in connection with a pre-need
26 sales contract, including finance charges and Cemetery Care Act

1 contributions, but excluding sales taxes and credit life
2 insurance premiums.

3 (b) The seller shall act as trustee of all amounts received
4 for cemetery merchandise, services, or undeveloped spaces
5 until those amounts have been deposited into the trust fund.
6 All trust deposits required by this Act shall be made within 30
7 days following the end of the month of receipt. The seller must
8 retain a corporate fiduciary as an independent trustee for any
9 amount of trust funds. Upon 30 days' prior written notice from
10 the seller to the Comptroller, the seller may change the
11 trustee of the trust fund. Failure to provide the Comptroller
12 with timely prior notice is an intentional violation of this
13 Act.

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

18 (d) Funds deposited in the trust account shall be
19 identified in the records of the seller by the name of the
20 purchaser. Nothing shall prevent the trustee from commingling
21 the deposits in any such trust fund for purposes of the
22 management thereof and the investment of funds therein as
23 provided in the "Common Trust Fund Act", approved June 24,
24 1949, as amended. In addition, multiple trust funds maintained
25 pursuant to this Act may be commingled or commingled with other
26 funeral or burial related trust funds, provided that all record

1 keeping requirements imposed by or pursuant to law are met.

2 (e) In lieu of a pre-construction trust fund, a seller of
3 undeveloped interment, entombment or inurnment spaces may
4 obtain and file with the Comptroller a performance bond in an
5 amount at least equal to 50% of the sales price of the
6 undeveloped spaces or the estimated cost of completing
7 construction, whichever is greater. The bond shall be
8 conditioned on the satisfactory construction and completion of
9 the undeveloped spaces as required in Section 19 of this Act.

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

22 The Comptroller shall prohibit pre-need sellers from doing
23 new business with a corporate surety company if the company is
24 insolvent or is in violation of this Section. In addition the
25 Comptroller may direct a pre-need seller to reinstate a
26 pre-construction trust fund upon the Comptroller's

1 determination that the corporate surety company no longer is
2 sufficient security.

3 All performance bonds issued pursuant to this Section must
4 be irrevocable during the statutory term for completing
5 construction specified in Section 19 of this Act, unless
6 terminated sooner by the completion of construction.

7 (f) Whenever any pre-need contract shall be entered into
8 and include 1) items of cemetery merchandise and cemetery
9 services, and 2) rights to interment, inurnment or entombment
10 in completed spaces without allocation of the gross sale price
11 among the items sold, the application of payments received
12 under the contract shall be allocated, first to the right to
13 interment, inurnment or entombment, second to items of cemetery
14 merchandise and cemetery services, unless some other
15 allocation is clearly provided in the contract.

16 (g) Any person engaging in pre-need sales who enters into a
17 combination sale which involves the sale of items covered by a
18 trust or performance bond requirement and any item not covered
19 by any entrustment or bond requirement, shall be prohibited
20 from increasing the gross sales price of those items not
21 requiring entrustment with the purpose of allocating a lesser
22 gross sales price to items which require a trust deposit or a
23 performance bond.

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

25 (815 ILCS 390/20) (from Ch. 21, par. 220)

1 Sec. 20. Records.

2 (a) Each licensee must keep accurate accounts, books and
3 records in this State at the principal place of business
4 identified in the licensee's license application or as
5 otherwise approved by the Comptroller in writing of all
6 transactions, copies of agreements, dates and amounts of
7 payments made or received, the names and addresses of the
8 contracting parties, the names and addresses of persons for
9 whose benefit funds are received, if known, and the names of
10 the trust depositories. Additionally, for a period not to
11 exceed 6 months after the performance of all terms in a
12 pre-need sales contract, the licensee shall maintain copies of
13 each pre-need contract at the licensee branch location where
14 the contract was entered or at some other location agreed to by
15 the Comptroller in writing.

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

21 (c) Each licensee shall submit reports to the Comptroller
22 annually, under oath, on forms furnished by the Comptroller.
23 The annual report shall contain, but shall not be limited to,
24 the following:

25 (1) An accounting of the principal deposit and
26 additions of principal during the fiscal year.

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

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

5 (d) The annual report shall be filed by the licensee with
6 the Comptroller within 75 days after the end of the licensee's
7 fiscal year. An extension of up to 60 days may be granted by
8 the Comptroller, upon a showing of need by the licensee. Any
9 other reports shall be in the form furnished or specified by
10 the Comptroller. If a licensee fails to submit an annual report
11 to the Comptroller within the time specified in this Section,
12 the Comptroller shall impose upon the licensee a penalty of \$5
13 per day for the first 15 days past due, \$10 per day for 16
14 through 30 days past due, \$15 per day for 31 through 45 days
15 past due, and \$20 per day for the 46th day and every day
16 thereafter ~~for each and every day~~ the licensee remains
17 delinquent in submitting the annual report. The Comptroller may
18 abate all or part of the \$5 daily penalty for good cause shown.
19 Each report shall be accompanied by a check or money order in
20 the amount of \$10 payable to: Comptroller, State of Illinois.

21 (e) On and after the effective date of this amendatory Act
22 of the 91st General Assembly, a licensee may report all
23 required information concerning the sale of outer burial
24 containers on the licensee's annual report required to be filed
25 under this Act and shall not be required to report that
26 information under the Illinois Funeral or Burial Funds Act, as

1 long as the information is reported under this Act.

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

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".