

HB5632



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5632

by Rep. Kelly Burke

SYNOPSIS AS INTRODUCED:

225 ILCS 411/5-20
225 ILCS 411/20-5

Amends the Cemetery Oversight Act. Provides that a cemetery authority and a cemetery authority claiming a partial exemption shall provide access to the cemetery every day of the year from sunrise to sunset each day and shall have an employee on site at all times during these hours of operation to assist cemetery visitors. Effective on July 1, 2014.

LRB098 19322 ZMM 55444 b

A BILL FOR

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 Cemetery Oversight Act is amended by
5 changing Sections 5-20 and 20-5 as follows:

6 (225 ILCS 411/5-20)

7 (Section scheduled to be repealed on January 1, 2021)

8 Sec. 5-20. Exemptions.

9 (a) Full exemption. Except as provided in this subsection,
10 this Act does not apply to (1) any cemetery authority operating
11 as a family burying ground or religious burying ground, (2) any
12 cemetery authority that has not engaged in an interment,
13 inurnment, or entombment of human remains within the last 10
14 years, or (3) any cemetery authority that is less than 3 acres.
15 For purposes of determining the applicability of this
16 subsection, the number of interments, inurnments, and
17 entombments shall be aggregated for each calendar year. A
18 cemetery authority claiming a full exemption shall apply for
19 exempt status as provided for in Section 10-20 of this Act. A
20 cemetery authority claiming a full exemption shall be subject
21 to Sections 10-40, 10-55, and 10-60 of this Act. A cemetery
22 authority that performs activities that would disqualify it
23 from a full exemption is required to apply for licensure within

1 one year following the date on which its activities would
2 disqualify it for a full exemption. A cemetery authority that
3 previously qualified for and maintained a full exemption that
4 fails to timely apply for licensure shall be deemed to have
5 engaged in unlicensed practice and shall be subject to
6 discipline in accordance with Article 25 of this Act.

7 (b) Partial exemption. If a cemetery authority does not
8 qualify for a full exemption and (1) engages in 25 or fewer
9 interments, inurnments, or entombments of human remains for
10 each of the preceding 2 calendar years, (2) operates as a
11 public cemetery, or (3) operates as a religious cemetery, then
12 the cemetery authority is partially exempt from this Act but
13 shall be required to comply with Sections 10-23, 10-40, 10-55,
14 10-60, subsections (a), (b), (b-5), (c), (d), (g), and (h) of
15 Section 20-5, Sections 20-6, 20-8, 20-10, 20-12, 20-30, 20-35,
16 20-40, 25-3, and 25-120, and Article 35 of this Act. Cemetery
17 authorities claiming a partial exemption shall apply for the
18 partial exemption as provided in Section 10-20 of this Act. A
19 cemetery authority that changes to a status that would
20 disqualify it from a partial exemption is required to apply for
21 licensure within one year following the date on which it
22 changes its status. A cemetery authority that maintains a
23 partial exemption that fails to timely apply for licensure
24 shall be deemed to have engaged in unlicensed practice and
25 shall be subject to discipline in accordance with Article 25 of
26 this Act.

1 (c) Nothing in this Act applies to the City of Chicago in
2 its exercise of its powers under the O'Hare Modernization Act
3 or limits the authority of the City of Chicago to acquire
4 property or otherwise exercise its powers under the O'Hare
5 Modernization Act, or requires the City of Chicago, or any
6 person acting on behalf of the City of Chicago, to comply with
7 the licensing, regulation, investigation, or mediation
8 requirements of this Act in exercising its powers under the
9 O'Hare Modernization Act.

10 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

11 (225 ILCS 411/20-5)

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

13 Sec. 20-5. Maintenance and records.

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

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

24 (2) the cutting of lawn throughout the cemetery at
25 reasonable intervals to prevent an overgrowth of grass and

1 weeds given the weather conditions, climate, and season;

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

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

5 (5) maintaining, repairing, or removing, if necessary,
6 drains, water lines, roads, buildings, fences, and other
7 structures; and

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

10 In determining whether a cemetery authority provides
11 reasonable maintenance of the cemetery property, the
12 Department shall consider:

13 (1) the cemetery authority's contractual obligations
14 for care and maintenance;

15 (2) the size of the cemetery;

16 (3) the extent and use of the cemetery authority's
17 financial resources;

18 (4) the standard of maintenance of one or more
19 similarly situated cemeteries; in determining whether a
20 cemetery is similarly situated, the Department shall
21 consider the cemetery's size, location, topography, and
22 financial resources, and whether the cemetery is a
23 fraternal cemetery, a religious cemetery, a public
24 cemetery, a cemetery owned and operated by a cemetery
25 association, or a licensed cemetery.

26 Reasonable maintenance by the cemetery authority shall not

1 preclude the exercise of lawful rights by the owner of an
2 interment, inurnment, or entombment right, or by the decedent's
3 immediate family or other heirs, in accordance with reasonable
4 rules and regulations of the cemetery or other agreement of the
5 cemetery authority.

6 In the case of a cemetery dedicated as a nature preserve
7 under the Illinois Natural Areas Preservation Act, reasonable
8 maintenance by the cemetery authority shall be in accordance
9 with the rules and master plan governing the dedicated nature
10 preserve.

11 A cemetery authority accused of violating the reasonable
12 maintenance standard set forth in this Section shall have a
13 reasonable opportunity to cure the violation. The cemetery
14 authority shall have 10 business days after receipt of notice
15 to cure the violation. If a cemetery authority cannot cure the
16 violation within 10 business days, then the cemetery authority
17 may request a time extension in order to cure the violation.
18 The request for an extension shall be made in writing to the
19 Department and must be postmarked within 10 business days after
20 receipt of the notice of the alleged violation. The request
21 shall outline all reasons for the extension and an estimated
22 date by which the cure will be accomplished. Acceptable reasons
23 include, without limitation, delays caused by weather
24 conditions, season or climate, equipment failures, or
25 acquisitions of materials or supplies being addressed by the
26 authority in a timely manner, and unexpected temporary absences

1 of personnel. The Department may approve or deny the extension.
2 If the extension is denied, then the cemetery authority must
3 cure the violation within 10 business days after the date of
4 receipt of the Department's extension denial. If the extension
5 is granted, then the cemetery authority must cure the violation
6 within the extended period of time. A cemetery authority that
7 does not cure the violation within the appropriate period of
8 time shall be subject to discipline in accordance with Article
9 25 of this Act.

10 (b) A cemetery authority, before commencing cemetery
11 operations or within 6 months after the effective date of this
12 Act, shall cause an overall map of its cemetery property,
13 delineating all lots or plots, blocks, sections, avenues,
14 walks, alleys, and paths and their respective designations, to
15 be filed at its on-site office, or if it does not maintain an
16 on-site office, at its principal place of business. The
17 cemetery authority shall update its map and index described in
18 subsection (b-5) within a reasonable time after any expansion
19 or alteration of the cemetery property. A cemetery manager's
20 certificate acknowledging, accepting, and adopting the map
21 shall also be included with the map. The Department may order
22 that the cemetery authority obtain a cemetery plat and that it
23 be filed at its on-site office, or if it does not maintain an
24 on-site office, at its principal place of business if (1) a
25 human body that should have been interred, entombed, or inurned
26 at the cemetery after the effective date of this amendatory Act

1 of the 97th General Assembly is missing, displaced, or
2 dismembered and (2) the cemetery map contains serious
3 discrepancies.

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

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

18 (c) The cemetery authority shall open the cemetery map or
19 plat to public inspection. The cemetery authority shall make
20 available a copy of the overall cemetery map or plat upon
21 written request and shall, if practical, provide a copy of a
22 segment of the cemetery plat where interment rights are located
23 upon the payment of reasonable photocopy fees. Any unsold lots,
24 plots, or parts thereof, in which there are not human remains,
25 may be resurveyed and altered in shape or size and properly
26 designated on the cemetery map or plat. However, sold lots,

1 plots, or parts thereof in which there are human remains may
2 not be renumbered or renamed. Nothing contained in this
3 subsection, however, shall prevent the cemetery authority from
4 enlarging an interment right by selling to its owner the excess
5 space next to the interment right and permitting interments
6 therein, provided reasonable access to the interment right and
7 to adjoining interment rights is not thereby eliminated.

8 (d) A cemetery authority shall keep a record of every
9 interment, entombment, and inurnment completed after the
10 effective date of this Act. The record shall include the
11 deceased's name, age, date of burial, and the specific location
12 of the interred, entombed, or inurned human remains. The
13 specific location shall correspond to the map or plat
14 maintained in accordance with subsection (b) of this Section.

15 (e) (Blank).

16 (f) A cemetery authority shall make available for
17 inspection and, upon reasonable request and the payment of a
18 reasonable copying fee, provide a copy of its rules and
19 regulations. A cemetery authority shall make available for
20 viewing and provide a copy of its current prices of interment,
21 inurnment, or entombment rights.

22 (g) A cemetery authority shall provide access to the
23 cemetery every day of the year from sunrise to sunset each day
24 and shall have an employee on site at all times during these
25 hours of operation to assist cemetery visitors ~~under the~~
26 ~~cemetery authority's reasonable rules and regulations.~~

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

4 (i) A licensed cemetery authority shall keep in this State
5 and use in its business such records as will enable the
6 Department to determine whether such licensee or trustee is
7 complying with the provisions of this Act and with the rules,
8 regulations, and directions made by the Department under this
9 Act. The licensed cemetery authority shall keep the records in
10 electronic or written format at the location identified in the
11 license issued by the Department or as otherwise agreed by the
12 Department in writing. The books, accounts, and records shall
13 be accessible for review upon demand of the Department.

14 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

15 Section 99. Effective date. This Act takes effect July 1,
16 2014.