



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

#### HB3102

Introduced 2/17/2023, by Rep. Jaime M. Andrade, Jr.

#### SYNOPSIS AS INTRODUCED:

760 ILCS 100/2	from Ch. 21, par. 64.2
760 ILCS 100/3	from Ch. 21, par. 64.3
760 ILCS 100/3.1 new	
760 ILCS 100/4	from Ch. 21, par. 64.4
760 ILCS 100/4.1 new	
760 ILCS 100/4.2 new	
760 ILCS 100/5	from Ch. 21, par. 64.5
760 ILCS 100/14	from Ch. 21, par. 64.14
760 ILCS 100/15a	from Ch. 21, par. 64.15a
760 ILCS 100/25 rep.	

Amends the Cemetery Care Act. Defines "average fair market value", "total return percentage", and "net income". Provides that a trustee may apply to the Comptroller to establish a master trust fund in which deposits are made. Allows a cemetery authority to take distributions from its fund either by distributing ordinary income or total return distribution. Requires an application for the implementation of the total return distribution method to be submitted to the Comptroller at least 120 days before the effective date of the election to receive total return distribution. Allows, where no receiver is available, a circuit court to order a willing local municipality, township, county, or city to take over the cemetery. Repeals a provision regarding the use of care funds. Makes other changes.

LRB103 30889 LNS 57421 b

1 AN ACT concerning civil law.

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

4 Section 5. The Cemetery Care Act is amended by changing  
5 Sections 2, 3, 4, 5, 14, and 15a and by adding Sections 3.1,  
6 4.1, and 4.2 as follows:

7 (760 ILCS 100/2) (from Ch. 21, par. 64.2)

8 Sec. 2. Definitions. The following words, terms and  
9 phrases used in this Act, for the purpose of this Act, have the  
10 following meanings:

11 "Person" means any person, partnership, association,  
12 corporation, or other entity.

13 "Trustee" means any person authorized to hold funds under  
14 this Act.

15 "Comptroller" means the Comptroller of the State of  
16 Illinois.

17 "Care" means the maintenance of a cemetery and of the  
18 lots, graves, crypts, niches, family mausoleums, memorials,  
19 and markers therein; including: (i) the cutting and trimming  
20 of lawn, shrubs, and trees at reasonable intervals; (ii)  
21 keeping in repair the drains, water lines, roads, buildings,  
22 fences, and other structures, in keeping with a well  
23 maintained cemetery; (iii) maintenance of machinery, tools,

1 and equipment for such care; (iv) compensation of employees,  
2 payment of insurance premiums, and reasonable payments for  
3 employees pension and other benefits plans; and (v) to the  
4 extent surplus income from the care fund is available, the  
5 payment of overhead expenses necessary for such purposes and  
6 for maintaining necessary records of lot ownership, transfers,  
7 and burials.

8 "Care funds" as distinguished from receipts from annual  
9 charges or gifts for current or annual care, means any realty  
10 or personalty impressed with a trust by the terms of any gift,  
11 grant, contribution, payment, legacy, or pursuant to contract,  
12 accepted by any cemetery authority owning, operating,  
13 controlling or managing a privately operated cemetery, or by  
14 any trustee or licensee, agent or custodian for the same,  
15 under Section 3 of this Act, and the amounts set aside under  
16 Section 4 of this Act, and any income accumulated therefrom,  
17 where legally so directed by the terms of the transaction by  
18 which the principal was established.

19 "Cemetery" means any land or structure in this State  
20 dedicated to and used, or intended to be used, for the  
21 interment of human remains.

22 "Cemetery authority" means any person, firm, corporation,  
23 trustee, partnership, association or municipality owning,  
24 operating, controlling or managing a cemetery or holding lands  
25 for burial grounds or burial purposes in this State.

26 "Mausoleum crypt" means a space in a mausoleum used or

1 intended to be used, above or under ground, to entomb human  
2 remains.

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

7 "Fraternal cemetery" means a cemetery owned, operated,  
8 controlled, or managed by any fraternal organization or  
9 auxiliary organizations thereof, in which the sale of lots,  
10 graves, crypts or niches is restricted principally to its  
11 members.

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

14 "Investment Company Act of 1940" means Title 15, of the  
15 United States Code, Sections 80a-1 to 80a-51, inclusive, as  
16 amended.

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

25 "Municipal cemetery" means a cemetery owned, operated,  
26 controlled or managed by any city, village, incorporated town,

1 township, county, or other municipal corporation, political  
2 subdivision, or instrumentality thereof authorized by law to  
3 own, operate, or manage a cemetery.

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

6 "Privately operated cemetery" means any entity that offers  
7 interment rights, entombment rights, or inurnment rights,  
8 other than a fraternal, municipal, State, federal or religious  
9 cemetery or a family burying ground.

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

16 "State or federal cemetery" means a cemetery owned,  
17 operated, controlled, or managed by any State or the federal  
18 government or any political subdivision or instrumentality  
19 thereof.

20 "Entombment right" means the right to place individual  
21 human remains or individual cremated human remains in a  
22 specific mausoleum crypt or lawn crypt selected by the  
23 consumer for use as a final resting place.

24 "Interment right" means the right to place individual  
25 human remains or cremated human remains in a specific  
26 underground location selected by the consumer for use as a

1 final resting place.

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

5 "Lawn crypt" means a permanent underground crypt usually  
6 constructed of reinforced concrete or similar material  
7 installed in multiple units for the entombment of human  
8 remains.

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

11 "Average fair market value" means the average of the fair  
12 market values of assets held by the fund on the first day of  
13 the current fiscal year and the first day of each of the 2  
14 preceding fiscal years, or the average of the fair market  
15 value for the entire term of the fund if there are less than 2  
16 preceding years.

17 "Total return percentage" means the annual percentage  
18 selected by the fund's trustee or the cemetery authority, but  
19 no less than 3% and no more than 5% of the average fair market  
20 value of the fund.

21 "Net income" means:

22 (1) ordinary income, which means all net interest and  
23 dividends, after fees and taxes taken from income, but  
24 does not include any capital gains from the investment of  
25 such care funds; or

26 (2) total return distribution, which means the

1       distribution of funds from the care fund based on the  
2       average fair market value of the fund assets multiplied by  
3       the total return percentage.

4       (Source: P.A. 92-651, eff. 7-11-02.)

5               (760 ILCS 100/3) (from Ch. 21, par. 64.3)

6       Sec. 3. Gifts and contributions - Trust funds. Any  
7       cemetery authority is hereby authorized and empowered to  
8       accept any gift, grant, contribution, payment, legacy, or  
9       pursuant to contract, any sum of money, funds, securities or  
10      property of any kind, or the income or avails thereof, and to  
11      establish a trust fund to hold the same in perpetuity for the  
12      care of its cemetery, or for the care of any lot, grave, crypt  
13      or niche in its cemetery; or for the special care of any lot,  
14      grave, crypt or niche or of any family mausoleum or memorial,  
15      marker, or monument in its cemetery.

16       The cemetery authority shall act as trustee of all amounts  
17      received for care until they have been deposited into the  
18      trust fund established under this Section. The cemetery  
19      authority may continue to be the trustee of up to \$500,000 of  
20      care funds that have been deposited into the trust fund, but  
21      the cemetery authority must retain an independent trustee for  
22      any amount of care funds held in trust in excess of that  
23      \$500,000. A cemetery authority holding care funds in excess of  
24      \$500,000 on the effective date of this amendatory Act of 1996  
25      shall have 36 months to retain an independent trustee for the

1 excess amounts held in trust; any other cemetery authority  
2 must retain an independent trustee for its care funds in  
3 excess of \$500,000 as soon as may be practical.

4 No gift, grant, legacy, payment or other contribution  
5 shall be invalid by reason of any indefiniteness or  
6 uncertainty as to the beneficiary designated in the instrument  
7 creating the gift, grant, legacy, payment or other  
8 contribution. If any gift, grant, legacy, payment or other  
9 contribution consists of non-income producing property, the  
10 cemetery authority accepting it is authorized and empowered to  
11 sell such property and to invest the funds obtained in  
12 accordance with the provisions of the next succeeding  
13 paragraph.

14 The care funds authorized by this Section and provided for  
15 in Section 4 of this Act shall be held intact and, unless  
16 otherwise restricted by the terms of the gift, grant, legacy,  
17 contribution, payment, contract or other payment, as to  
18 investments made after June 11, 1951 the trustee of the care  
19 funds of the cemetery authority, in acquiring, investing,  
20 reinvesting, exchanging, retaining, selling and managing  
21 property for any such trust, shall exercise the judgment and  
22 care under the circumstances then prevailing, which persons of  
23 prudence, discretion and intelligence exercise in the  
24 management of their own affairs, not in regard to speculation  
25 but in regard to the permanent disposition of their funds,  
26 considering the probable income as well as the probable safety



1 of their capital. Within the limitations of the foregoing  
2 standard, the trustee of the care funds of the cemetery  
3 authority is authorized to acquire and retain every kind of  
4 property, real, personal or mixed, and every kind of  
5 investment, including specifically but without limiting the  
6 generality of the foregoing, bonds, debentures and other  
7 corporate obligations, preferred or common stocks and real  
8 estate mortgages, which persons of prudence, discretion and  
9 intelligence acquire or retain for their own account. Within  
10 the limitations of the foregoing standard, the trustee is  
11 authorized to retain property properly acquired, without  
12 limitation as to time and without regard to its suitability  
13 for original purchase. The care funds authorized by this  
14 Section may be commingled with other trust funds received by  
15 such cemetery authority for the care of its cemetery or for the  
16 care or special care of any lot, grave, crypt, niche, private  
17 mausoleum, memorial, marker, or monument in its cemetery,  
18 whether received by gift, grant, legacy, contribution,  
19 payment, contract or other conveyance heretofore or hereafter  
20 made to such cemetery authority. Such care funds may be  
21 invested with common trust funds as provided in the ~~The~~ Common  
22 Trust Fund Act. The net income only from the investment of such  
23 care funds shall be allocated and used for the purposes  
24 specified in the transaction by which the principal was  
25 established in the proportion that each contribution bears to  
26 the entire sum invested.

1 (Source: P.A. 89-615, eff. 8-9-96.)

2 (760 ILCS 100/3.1 new)

3 Sec. 3.1. Master trust fund. For the purposes of  
4 collective investment and administration, a trustee may apply  
5 to the Comptroller to establish a master trust fund in which  
6 deposits are made pursuant to the provisions of this Act. The  
7 operation of the master trust fund shall be subject to the  
8 provisions of this Act and rules applicable to this Act. The  
9 master trust fund shall be subject to the following  
10 requirements:

11 (1) it shall include only cemetery authorities located  
12 in this State that have given written consent to  
13 participate in a master trust fund;

14 (2) it must be administered by an independent trustee;

15 (3) the trustee of a master trust fund shall maintain  
16 separate records of principal and income for each  
17 participant in the master trust fund;

18 (4) the income and associated expenses of the master  
19 trust fund shall be divided among the participants in the  
20 master trust fund based on the proportion that each  
21 participant contributes to the balance of the master trust  
22 fund; and

23 (5) the trustee shall make accounting records of the  
24 trust, including a report that will include itemized  
25 separate accounting for each participant in the master

1       trust fund, available for review and audit upon request by  
2       the Comptroller.

3           (760 ILCS 100/4) (from Ch. 21, par. 64.4)

4           Sec. 4. Care funds; deposits; investments.

5           Whenever a cemetery authority owning, operating,  
6           controlling or managing a privately operated cemetery accepts  
7           care funds, either in connection with the sale or giving away  
8           at an imputed value of an interment right, entombment right or  
9           inurnment right, or in pursuance of a contract, or whenever,  
10          as a condition precedent to the purchase or acceptance of an  
11          interment right, entombment right or inurnment right, such  
12          cemetery authority requires the establishment of a care fund  
13          or a deposit in an already existing care fund, then such  
14          cemetery authority shall execute and deliver to the person  
15          from whom received an instrument in writing which shall  
16          specifically state: (a) the nature and extent of the care to be  
17          furnished, and (b) that such care shall be furnished only in so  
18          far as the net income derived from the amount deposited in  
19          trust will permit ~~(the income from the amount so deposited,~~  
20          ~~less necessary expenditures of administering the trust, shall~~  
21          ~~be deemed the net income),~~ and (c) that not less than the  
22          following amounts will be set aside and deposited in trust:

23                1. For interment rights, \$1 per square foot of the  
24                space sold or 15% of the sales price or imputed value,  
25                whichever is the greater, with a minimum of \$25 for each

1 individual interment right.

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

5 3. For inurnment rights, not less than 10% of the  
6 sales price or imputed value with a minimum of \$15 for each  
7 individual inurnment right.

8 4. For any transfer of interment rights, entombment  
9 rights, or inurnment rights recorded in the records of the  
10 cemetery authority, excepting only transfers between  
11 members of the immediate family of the transferor, a  
12 minimum of \$25 for each such right transferred. For the  
13 purposes of this paragraph "immediate family of the  
14 transferor" means the spouse, parents, grandparents,  
15 children, grandchildren, and siblings of the transferor.

16 5. Upon an interment, entombment, or inurnment in a  
17 grave, crypt, or niche in which rights of interment,  
18 entombment, or inurnment were originally acquired from a  
19 cemetery authority prior to January 1, 1948, a minimum of  
20 \$25 for each such right exercised.

21 6. For the special care of any lot, grave, crypt, or  
22 niche or of a family mausoleum, memorial, marker, or  
23 monument, the full amount received.

24 Such setting aside and deposit shall be made by such  
25 cemetery authority not later than 30 days after the close of  
26 the month in which the cemetery authority gave away for an

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

24 Any such cemetery authority engaged in selling or giving  
25 away at an imputed value interment rights, entombment rights  
26 or inurnment rights, in conjunction with the selling or giving

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

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

18 The trust authorized by this Section shall be a single  
19 purpose trust fund. In the event of the seller's bankruptcy,  
20 insolvency, or assignment for the benefit of creditors, or an  
21 adverse judgment, the trust funds shall not be available to  
22 any creditor as assets of the cemetery authority or to pay any  
23 expenses of any bankruptcy or similar proceeding, but shall be  
24 retained intact to provide for the future maintenance of the  
25 cemetery. Except in an action by the Comptroller to revoke a  
26 license issued pursuant to this Act and for creation of a

1 receivership as provided in this Act, the trust shall not be  
2 subject to judgment, execution, garnishment, attachment, or  
3 other seizure by process in bankruptcy or otherwise, nor to  
4 sale, pledge, mortgage, or other alienation, and shall not be  
5 assignable except as approved by the Comptroller. The changes  
6 made by this amendatory Act of the 91st General Assembly are  
7 intended to clarify existing law regarding the inability of  
8 licensees to pledge the trust.

9 (Source: P.A. 91-7, eff. 6-1-99.)

10 (760 ILCS 100/4.1 new)

11 Sec. 4.1. Distributions.

12 (a) A cemetery authority may take distributions from its  
13 fund either by distributing:

14 (1) ordinary income; or

15 (2) total return distribution.

16 (b) If a cemetery authority takes distributions from its  
17 fund by total return distribution, the following apply:

18 (1) Fees and taxes may be paid from corpus.

19 (2) If the fees paid by the care fund exceed 2% of the  
20 fair market value at the end of a given year, the amount in  
21 excess shall be paid from the distributions.

22 (c) A cemetery authority may select a distribution method  
23 by delivering written instructions to the trustee of the fund  
24 no later than 30 days before the beginning of the calendar  
25 year. The distribution method and the distribution rate

1 selected shall remain in effect unless the cemetery notifies  
2 the trustee of its desire to effect a change, application for  
3 the change has been submitted to the Comptroller as required  
4 in Section 4.2, and copies of the documentation are submitted  
5 to the trustee. If the trustee does not receive written  
6 instructions from the cemetery authority informing the trustee  
7 of the method of calculating chosen, then the trustee shall  
8 calculate and distribute based on the ordinary income  
9 distribution method. The trustee shall distribute income to  
10 the cemetery authority at least annually or in more frequent  
11 installments as agreed to by the trustee and cemetery  
12 authority.

13 (760 ILCS 100/4.2 new)

14 Sec. 4.2. Application for total return distribution and  
15 restrictions.

16 (a) An application for the implementation of the total  
17 return distribution method shall be submitted to the  
18 Comptroller at least 120 days before the effective date of the  
19 election to receive total return distribution. In addition to  
20 submitting payment of a reasonable application fee, the  
21 cemetery authority shall provide the Comptroller with all of  
22 the following:

23 (1) A written investment policy. The investment goals  
24 shall be to achieve principal growth through allowable  
25 investments for care fund trusts with a secondary goal of



1 achieving current income.

2 (2) A care fund trust agreement that clearly shows the  
3 selection of the total return distribution method.

4 (3) A written distribution policy establishing the  
5 total return percentage and initial estimated average fair  
6 market value, using the most recent month-end balances as  
7 the estimate for the current year, signed by the cemetery  
8 authority or trustee, along with supporting documentation  
9 and additional information as may be required by the rules  
10 adopted under this Act.

11 (b) The application shall be considered approved unless  
12 the cemetery authority or trustee is notified otherwise by the  
13 Comptroller within 90 days of receipt. The notification shall  
14 contain details of the information needed to remedy any  
15 deficiencies in the application.

16 (c) The total return percentage elected may be reduced but  
17 may not be increased unless additional application is made to  
18 the Comptroller with documentation demonstrating the rate of  
19 return of the care funds over the last 3 years to support an  
20 increase in the percentage. The total return distribution  
21 shall not exceed 5% of the average fair market value of the  
22 fund assets in a given calendar year.

23 (d) A cemetery authority that has elected the total return  
24 distribution method may elect to reconvert to the ordinary  
25 income distribution method by submitting written documentation  
26 to the Comptroller in support of the reversion, including a

1 copy of the trust agreement, notification on the proposed  
2 effective date of the reconversion, and any additional  
3 information required by the Comptroller.

4 (e) The Comptroller may take corrective measures,  
5 including reducing the total return percentage or requiring a  
6 distribution of only ordinary income for a year under one or  
7 more of the following circumstances:

8 (1) if the average fair market value of the care fund  
9 from one 3-year period to the previous 3-year period  
10 declines by 10% or more;

11 (2) if the average fair market value of the care fund  
12 declines by more than 30% during a rolling 5-year period;

13 (3) if the fair market value of the fund at the  
14 beginning of a fiscal year is less than 80% of the fair  
15 market value of the fund on the first day of the fiscal  
16 year when the care fund started making distributions based  
17 on the total return distribution method;

18 (4) if there is an uncorrected care fund deficiency as  
19 determined by the Comptroller's review of the annual  
20 report; or

21 (5) if the Comptroller determines that the trustee is  
22 not able to demonstrate sufficient knowledge and expertise  
23 regarding the effective implementation of distributing  
24 income for the maintenance of the cemetery using the total  
25 return distribution method.

26 (f) The Comptroller may evaluate the care fund conditions

1 and choose not to impose corrective measures if the  
2 Comptroller finds that:

3 (1) the reasons are due to unusual or temporary  
4 factors not within the control of the cemetery authority  
5 or the trustee and that could not have been reasonably  
6 anticipated;

7 (2) the current investment policy of the fund is  
8 reasonably designed to protect the fund from further  
9 declines in fair market value; or

10 (3) the exception appears to be both necessary and  
11 appropriate for the continued protections of the care  
12 fund.

13 (760 ILCS 100/5) (from Ch. 21, par. 64.5)

14 Sec. 5. No cemetery authority, nor any agent, servant, or  
15 employee of it, nor any other person, shall advertise,  
16 represent, guarantee, promise, or contract that perpetual  
17 care, permanent care, perpetual or permanent maintenance, care  
18 forever, continuous care, eternal care, everlasting care, or  
19 any similar or equivalent care, or care for any number of years  
20 of any cemetery or of any lot, grave, crypt or niche, or of any  
21 family mausoleum, memorial, marker, or monument, will be  
22 furnished: Provided, however, that any cemetery authority may  
23 advertise, represent, guarantee, promise or contract that care  
24 will be furnished from the net income only derived from funds  
25 held in trust as provided in Sections ~~Section~~ 3 and 4 of this

1 Act; and may advertise, represent, guarantee, promise or  
2 contract that care will be given any lot, grave, crypt, or  
3 niche, or any family mausoleum, memorial, marker, or monument  
4 for any definite number of years, such care to be furnished  
5 under a contract providing that the principal of the amount  
6 paid under the contract shall be used to furnish the care and  
7 further providing specifically the care to be given and the  
8 number of years for which it is to be given.

9 (Source: Laws 1947, p. 338.)

10 (760 ILCS 100/14) (from Ch. 21, par. 64.14)

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

1 Comptroller, may conduct such examinations. The cost of an  
 2 initial examination shall be borne by the cemetery authority  
 3 if it has \$10,000 or more in such fund; otherwise, by the  
 4 Comptroller. The charge made by the Comptroller for such  
 5 examination shall be based upon the total amount of care funds  
 6 held by the cemetery authority as of the end of the calendar or  
 7 fiscal year for which a report is required by Section 12 of  
 8 this Act and shall be in accordance with the following  
 9 schedule:

10	less than \$10,000.....	no charge;
11	\$10,000 or more but less than	
12	\$50,000.....	\$10;
13	\$50,000 or more but less than	
14	\$100,000 .....	\$40;
15	\$100,000 or more but less than	
16	\$250,000 .....	\$80;
17	\$250,000 or more .....	\$100.

18 Any licensee which is not required to be examined annually  
 19 shall submit an annual report to the Comptroller containing  
 20 such information as the Comptroller reasonably may request.

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

1 grounds for ordering these additional audits or examinations  
2 may include, but shall not be limited to:

3 (1) material and unverified changes or fluctuations in  
4 trust balances;

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

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

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

12 Prior to ordering an additional audit or examination, the  
13 Comptroller shall request the licensee to respond and comment  
14 upon the factors identified by the Comptroller as warranting  
15 the subsequent examination or audit. The licensee shall have  
16 30 days to provide a response to the Comptroller. If the  
17 Comptroller decides to proceed with the additional examination  
18 or audit, the licensee shall bear the full cost of that  
19 examination or audit, up to a maximum of \$7,500. The  
20 Comptroller may elect to pay for the examination or audit and  
21 receive reimbursement from the licensee. Payment of the costs  
22 of the examination or audit by a licensee shall be a condition  
23 of receiving or maintaining a license under this Act. All  
24 moneys received by the Comptroller for examination or audit  
25 fees shall be maintained in a separate account to be known as  
26 the Comptroller's Administrative Fund. This Fund, subject to

1 appropriation by the General Assembly, may be utilized by the  
2 Comptroller for enforcing this Act and other purposes that may  
3 be authorized by law.

4 (Source: P.A. 89-615, eff. 8-9-96.)

5 (760 ILCS 100/15a) (from Ch. 21, par. 64.15a)

6 Sec. 15a. Where any cemetery authority owning, operating,  
7 controlling or managing a privately operated cemetery or any  
8 trustee for the same has accepted care funds within the  
9 meaning of this Act, and is considered abandoned or seeks  
10 dissolution ~~dissolution is sought by such cemetery authority~~  
11 in any manner, by resolution of such cemetery authority, or  
12 the trustees thereof, notice shall be given to the Comptroller  
13 of such intention to dissolve, and proper disposition shall be  
14 made of the care funds so held for the general benefit of such  
15 lot owners by or for the benefit of such cemetery authority, as  
16 provided by law, or in accordance with the trust provisions of  
17 any gift, grant, contribution, payment, legacy or pursuant to  
18 any contract whereby such funds were created. The Comptroller  
19 represented by the Attorney General may apply to the circuit  
20 court for the appointment of a receiver, trustee, successor in  
21 trust, or for directions of such court as to the proper  
22 disposition to be made of such care funds, to the end that the  
23 uses and purposes for which such trust or care funds were  
24 created may be accomplished. Where no such receiver is  
25 available, the circuit court may order a willing local

1 municipality, township, county, or city to take over the  
2 cemetery. Any existing deed or care funds may be conveyed or  
3 transferred to the unit of local government. If there is no  
4 party available to convey the deed or transfer the care funds,  
5 then a judicial deed and court order may be obtained in the  
6 county in which the cemetery is located, and such deed or other  
7 writing, if it relates to land, shall promptly, after its  
8 execution by a judge or the sheriff, be recorded in the  
9 recorder's office of the county wherein the land is situated.  
10 Any cemetery taken over by a local municipality, township,  
11 county, or city shall be considered a municipal cemetery for  
12 the purposes of this Act.

13 (Source: P.A. 87-747; 88-477.)

14 (760 ILCS 100/25 rep.)

15 Section 10. The Cemetery Care Act is amended by repealing  
16 Section 25.