

1 AN ACT concerning regulation.

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

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

7 (225 ILCS 45/1a-1)

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

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

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

17 (2) It clearly identifies the provider's name and
18 address, the purchaser, and the beneficiary, if other than
19 the purchaser.

20 (2.5) If the provider has branch locations, the
21 contract gives the purchaser the opportunity to identify
22 the branch at which the funeral will be provided.

23 (3) It contains a complete description of the funeral
24 merchandise and services to be provided and the price of
25 the merchandise and services, and it clearly discloses
26 whether the price of the merchandise and services is
27 guaranteed or not guaranteed as to price.

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

30 THIS CONTRACT GUARANTEES THE BENEFICIARY THE
31 SPECIFIC GOODS AND SERVICES CONTRACTED FOR. NO
32 ADDITIONAL CHARGES MAY BE REQUIRED. FOR DESIGNATED

1 GOODS AND SERVICES, ADDITIONAL CHARGES MAY BE INCURRED
2 FOR UNEXPECTED EXPENSES INCLUDING, BUT NOT LIMITED TO,
3 CASH ADVANCES, SHIPPING OF REMAINS FROM A DISTANT
4 PLACE, OR DESIGNATED HONORARIA ORDERED OR DIRECTED BY
5 SURVIVORS.

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

10 THIS CONTRACT DOES NOT GUARANTEE THE PRICE THE
11 BENEFICIARY WILL PAY FOR ANY SPECIFIC GOODS OR
12 SERVICES. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A
13 DEPOSIT TO BE APPLIED TOWARD THE FINAL PRICE OF THE
14 GOODS OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES
15 MAY BE REQUIRED.

16 (C) If a non-guaranteed price contract may
17 subsequently become guaranteed, the contract shall
18 clearly disclose the nature of the guarantee and the
19 time, occurrence, or event upon which the contract
20 shall become a guaranteed price contract.

21 (4) It provides that if the particular supplies and
22 services specified in the pre-need contract are
23 unavailable at the time of delivery, the provider shall be
24 required to furnish supplies and services similar in style
25 and at least equal in quality of material and workmanship.

26 (5) It discloses any penalties or restrictions,
27 including but not limited to geographic restrictions or the
28 inability of the provider to perform, on the delivery of
29 merchandise, services, or pre-need contract guarantees.

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

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

34 (B) The nature of the relationship among the person
35 funding the pre-need contract, the provider, and the
36 seller; and

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

14 (D) The method of changing the provider.

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

18 (c) No pre-need contract shall be sold in this State unless
19 there is a provider for the services and personal property
20 being sold. If the seller is not a provider, then the seller
21 must have a binding agreement with a provider, and the identity
22 of the provider and the nature of the agreement between the
23 seller and the provider shall be disclosed in the pre-need
24 contract at the time of the sale and before the receipt of any
25 sales proceeds. A separate completed contract, as required by
26 the Illinois Pre-Need Cemetery Sales Act, shall be issued for
27 cemetery merchandise, cemetery services, or undeveloped
28 interment, entombment, or inurnment spaces, as defined in the
29 Illinois Pre-Need Cemetery Sales Act, and not covered by this
30 Act, unless the seller is licensed under both Acts and all
31 disclosures are in compliance with both Acts. The failure to
32 disclose the identity of the provider, the nature of the
33 agreement between the seller and the provider, or any changes
34 thereto to the purchaser and beneficiary, or the failure to
35 make the disclosures required in subdivision (a)(1),
36 constitutes an intentional violation of this Act.

1 (d) All pre-need contracts must be in writing in at least
2 11 point type, numbered, and executed in duplicate. A signed
3 copy of the pre-need contract must be provided to the purchaser
4 at the time of entry into the pre-need contract. The
5 Comptroller may by rule develop a model pre-need contract form
6 which meets the requirements of this Act.

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

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

23 (g) No pre-need contract shall be sold in this State unless
24 it is accompanied by a funding mechanism permitted under this
25 Act, and unless the seller is licensed by the Comptroller as
26 provided in Section 3 of this Act. Nothing in this Act is
27 intended to relieve sellers of pre-need contracts from being
28 licensed under any other Act required for their profession or
29 business, and being subject to the rules promulgated to
30 regulate their profession or business, including rules on
31 solicitation and advertisement.

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

33 (225 ILCS 45/3a) (from Ch. 111 1/2, par. 73.103a)

34 Sec. 3a. Denial, nonrenewal, suspension, or revocation of
35 license.

1 (a) The Comptroller may refuse to issue or renew or may
2 suspend or revoke a license on any of the following grounds:

3 (1) The applicant or licensee has made any
4 misrepresentations or false statements or concealed any
5 material fact.

6 (2) The applicant or licensee is insolvent.

7 (3) The applicant or licensee has been engaged in
8 business practices that work a fraud.

9 (4) The applicant or licensee has refused to give
10 pertinent data to the Comptroller.

11 (5) The applicant or licensee has failed to satisfy any
12 enforceable judgment or decree rendered by any court of
13 competent jurisdiction against the applicant.

14 (6) The applicant or licensee has conducted or is about
15 to conduct business in a fraudulent manner.

16 (7) The trust agreement is not in compliance with State
17 or federal law.

18 (8) The fidelity bond is not satisfactory to the
19 Comptroller.

20 (9) As to any individual required to be listed in the
21 ~~license~~ application for license or license renewal, the
22 individual has conducted or is about to conduct any
23 business on behalf of the applicant in a fraudulent manner;
24 has been convicted of any felony or misdemeanor, an
25 essential element of which is fraud; has had a judgment
26 rendered against him or her based on fraud in any civil
27 litigation; has failed to satisfy any enforceable judgment
28 or decree rendered against him or her by any court of
29 competent jurisdiction; or has been convicted of any felony
30 or any theft-related offense.

31 (10) The applicant or licensee, including any member,
32 officer, or director thereof if the applicant or licensee
33 is a firm, partnership, association or corporation and any
34 shareholder holding more than 10% of the corporate stock,
35 has violated any provision of this Act or any regulation,
36 decision, order, or finding made by the Comptroller under

1 this Act.

2 (11) The Comptroller finds any fact or condition
3 existing which, if it had existed at the time of the
4 original application for such license or license renewal,
5 would have warranted the Comptroller in refusing the
6 issuance or renewal of the license.

7 (b) Before refusal to issue or renew and before suspension
8 or revocation of a license, the Comptroller shall hold a
9 hearing to determine whether the applicant or licensee,
10 hereinafter referred to as the respondent, is entitled to hold
11 such a license. At least 10 days prior to the date set for such
12 hearing, the Comptroller shall notify the respondent in writing
13 that on the date designated a hearing will be held to determine
14 his eligibility for a license and that he may appear in person
15 or by counsel. Such written notice may be served on the
16 respondent personally, or by registered or certified mail sent
17 to the respondent's business address as shown in his latest
18 notification to the Comptroller. At the hearing, both the
19 respondent and the complainant shall be accorded ample
20 opportunity to present in person or by counsel such statements,
21 testimony, evidence and argument as may be pertinent to the
22 charges or to any defense thereto. The Comptroller may
23 reasonably continue such hearing from time to time.

24 The Comptroller may subpoena any person or persons in this
25 State and take testimony orally, by deposition or by exhibit,
26 in the same manner and with the same fees and mileage
27 allowances as prescribed in judicial proceedings in civil
28 cases.

29 Any authorized agent of the Comptroller may administer
30 oaths to witnesses at any hearing which the Comptroller is
31 authorized to conduct.

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

33 (225 ILCS 45/3a-1 new)

34 Sec. 3a-1. Term of license.

35 (a) Any license that was issued under this Act before the

1 effective date of this amendatory Act of the 94th General
2 Assembly shall expire according to a schedule developed by the
3 Comptroller pursuant to the original date of issuance and must
4 thereafter be renewed as provided in this Act. Beginning on the
5 effective date of this amendatory Act of the 94th General
6 Assembly, a license or license renewal under this Act shall be
7 issued for a 5-year term, which shall expire as provided in
8 this Act.

9 (b) The Comptroller by rule may adopt a system under which
10 licenses must be renewed by various dates during the year,
11 coinciding with the due date of the annual report of the
12 licensee or any extensions thereof.

13 (225 ILCS 45/3a-2 new)

14 Sec. 3a-2. Requirements for license renewal. In order to
15 complete the license renewal process, the licensee shall submit
16 a license renewal application to the Comptroller in writing
17 signed by the licensee and duly verified on forms furnished by
18 the Comptroller upon the date of renewal. The Comptroller may
19 prescribe abbreviated license renewal application forms for
20 persons holding multiple licenses issued by the Comptroller.
21 Each renewal application (except abbreviated applications)
22 shall contain all the following:

23 (1) An affirmative statement indicating the licensee's
24 desire for renewal and agreement to abide by all applicable
25 statutes and rules.

26 (2) A \$25 nonrefundable renewal fee.

27 (3) A completed annual report.

28 (4) The following information for the licensee, and
29 each member, officer, and director thereof, if the licensee
30 is a firm, partnership, association, or corporation, and
31 each shareholder holding more than 10% of the corporate
32 stock, if the licensee is a corporation:

33 (A) His or her name and current address (both
34 residence and place of business).

35 (B) A detailed statement of the individual's

1 business experience for the 10 years immediately
2 preceding the application.

3 (C) Any present or prior connection between the
4 individual and any other person engaged in pre-need
5 sales.

6 (D) Any felony or misdemeanor convictions of which
7 fraud was an essential element and any charges or
8 complaints lodged against the individual of which
9 fraud was an essential element and that resulted in
10 civil or criminal litigation.

11 (E) Any failure of the individual to satisfy an
12 enforceable judgment entered against him or her based
13 upon fraud.

14 (F) Any other information requested by the
15 Comptroller relating to past business practices of the
16 individual.

17 Since the information required by this item (4) and item
18 (5) may be confidential or contain proprietary
19 information, this information shall not be available to
20 other licensees or the general public and shall be used
21 only for the lawful purposes of the Comptroller in
22 enforcing this Act.

23 (5) A current statement of the licensee's assets and
24 liabilities.

25 (6) The current name and address of the licensee's
26 principal place of business at which the books, accounts,
27 and records are available for examination by the
28 Comptroller as required by this Act.

29 (7) The current names and addresses of the licensee's
30 branch locations at which pre-need sales are conducted and
31 that operate under the same license number as the
32 licensee's principal place of business.

33 (8) The name of the current trustee and, if applicable,
34 the names of the advisors to the trustee, including a copy
35 of the current trust agreement under which the trust funds
36 are held as required by this Act.

1 (9) Such other information as the Comptroller may
2 reasonably require in order to determine whether the
3 licensee's renewal application qualifies under this Act.

4 (225 ILCS 45/3a-3 new)

5 Sec. 3a-3. Remedy for delinquent license renewal.

6 (a) If a licensee continues to conduct activities requiring
7 a license but fails to submit a completed license renewal
8 application to the Comptroller within the time specified in
9 this Act, the Comptroller shall impose upon the licensee a
10 penalty in the amount of \$5 per day for each day the renewal
11 statement is not submitted. The Comptroller may abate all or
12 part of the \$5 daily penalty for good cause shown.

13 (b) In the event the renewal application is denied by the
14 Comptroller, the renewal fee paid is not refundable.

15 (225 ILCS 45/3a-4 new)

16 Sec. 3a-4. License renewal process. Once the licensee has
17 filed for license renewal, the expiring license shall remain in
18 effect until the renewal has been issued. Upon approval of the
19 Comptroller, the Comptroller shall issue a license renewal to
20 be posted in the place of business of the licensee.

21 (225 ILCS 45/3a-5)

22 Sec. 3a-5. License requirements.

23 (a) Every license issued by the Comptroller shall state the
24 number of the license, the business name and address of the
25 licensee's principal place of business, each branch location
26 also operating under the license, and the licensee's parent
27 company, if any. The license shall be conspicuously posted in
28 each place of business operating under the license. The
29 Comptroller may issue such additional licenses as may be
30 necessary for licensee branch locations upon compliance with
31 the provisions of this Act governing an original issuance of a
32 license for each new license.

33 (b) Individual salespersons representing a licensee shall

1 not be required to obtain licenses in their individual
2 capacities, but must acknowledge, by affidavit, that they have
3 been provided with a copy of and have read this Act. The
4 licensee shall retain copies of the affidavits of its sellers
5 for its records and shall make the affidavits available to the
6 Comptroller for examination upon request.

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

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

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

18 (f) Every license issued hereunder shall remain in force
19 until it expires or has been suspended, surrendered, or revoked
20 in accordance with this Act. The Comptroller, upon the request
21 of an interested person or on his own motion, may issue new
22 licenses to a licensee whose license or licenses have been
23 revoked, if no factor or condition then exists which would have
24 warranted the Comptroller to originally refuse the issuance of
25 such license.

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

27 (225 ILCS 45/3f)

28 Sec. 3f. Revocation of license.

29 (a) The Comptroller, upon determination that grounds exist
30 for the nonrenewal, revocation or suspension of a license
31 issued under this Act, may refuse to renew, revoke or suspend,
32 if appropriate, the license issued to a licensee or to a
33 particular branch office location with respect to which the
34 grounds for the nonrenewal, revocation or suspension may occur
35 or exist.

1 (b) Whenever a license is not renewed or is revoked by the
2 Comptroller, he or she shall apply to the Circuit Court of the
3 county wherein the licensee is located for a receiver to
4 administer the trust funds of the licensee or to maintain the
5 life insurance policies and tax-deferred annuities held by the
6 licensee under a pre-need contract.

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

8 Section 10. The Crematory Regulation Act is amended by
9 changing Sections 11, 11.5, 13, and 62.10 and by adding
10 Sections 10.1, 10.2, 10.3, and 10.4 as follows:

11 (410 ILCS 18/10.1 new)

12 Sec. 10.1. Term of license.

13 (a) Any license that was issued under this Act before the
14 effective date of this amendatory Act of the 94th General
15 Assembly shall expire according to a schedule developed by the
16 Comptroller pursuant to the original date of issuance and must
17 thereafter be renewed as provided in this Act. Beginning on the
18 effective date of this amendatory Act of the 94th General
19 Assembly, a license or license renewal shall be issued for a
20 5-year term, which shall expire as provided in this Act.

21 (b) The Comptroller by rule may adopt a system under which
22 licenses must be renewed by various dates during the year,
23 coinciding with the due date of the annual report of the
24 licensee or any extensions thereof.

25 (410 ILCS 18/10.2 new)

26 Sec. 10.2. Requirements for license renewal. In order to
27 complete the license renewal process, the licensee shall submit
28 a license renewal application to the Comptroller in writing on
29 forms furnished by the Comptroller upon the date of renewal.
30 The Comptroller may prescribe abbreviated license renewal
31 application forms for persons holding multiple licenses issued
32 by the Comptroller. Each renewal application (except
33 abbreviated applications) shall contain all of the following:

1 (1) An affirmative statement indicating the licensee's
2 desire for renewal and agreement to abide by all applicable
3 statutes and rules.

4 (2) A \$25 nonrefundable renewal fee.

5 (3) A completed annual report.

6 (4) The current name and address (both residence and
7 business) of the licensee, if the licensee is an
8 individual; the full name and address of every member, if
9 the licensee is a partnership; the full name and address of
10 every member of the board of directors, if the licensee is
11 an association; and the name and address of every officer,
12 director, and shareholder holding more than 25% of the
13 corporate stock, if the licensee is a corporation.

14 (5) A description of the type of structure and
15 equipment used in the operation of the crematory, including
16 the operating permit number issued to the cremation device
17 by the Illinois Environmental Protection Agency.

18 (6) An updated attestation by the owner that cremation
19 services shall be by a person trained in accordance with
20 the requirements of Section 22 of this Act.

21 (7) A copy of the certifications issued by the
22 certification program to the person or persons who operate
23 the cremation device.

24 (8) Any further information that the Comptroller
25 reasonably may require.

26 (410 ILCS 18/10.3 new)

27 Sec. 10.3. Remedy for delinquent license renewal.

28 (a) If a licensee continues to conduct activities requiring
29 a license but fails to submit a completed license renewal
30 application to the Comptroller within the time specified in
31 this Act, the Comptroller shall impose upon the licensee a
32 penalty of \$5 for each day the licensee remains delinquent in
33 submitting the renewal application. The Comptroller may abate
34 all or part of the \$5 daily penalty for good cause shown.

35 (b) In the event the renewal application is denied by the

1 Comptroller, the renewal fee paid is not refundable.

2 (410 ILCS 18/10.4 new)

3 Sec. 10.4. License renewal process. Once the licensee has
4 filed for license renewal, the expiring license shall remain in
5 effect until the renewal has been issued. Upon approval of the
6 Comptroller, the Comptroller shall issue a license renewal to
7 be posted in the place of business of the licensee.

8 (410 ILCS 18/11)

9 Sec. 11. Grounds for refusal of license or license renewal
10 or suspension or revocation of license.

11 (a) In this Section, "applicant" means a person who has
12 applied for a license or license renewal under this Act.

13 (b) The Comptroller may refuse to issue or renew a license
14 under this Act, or may suspend or revoke a license issued under
15 this Act, on any of the following grounds:

16 (1) The applicant or licensee has made any
17 misrepresentation or false statement or concealed any
18 material fact in connection with a license application or
19 licensure under this Act.

20 (2) The applicant or licensee has been engaged in
21 business practices that work a fraud.

22 (3) The applicant or licensee has refused to give
23 information required under this Act to be disclosed to the
24 Comptroller.

25 (4) The applicant or licensee has conducted or is about
26 to conduct cremation business in a fraudulent manner.

27 (5) As to any individual listed in the license or
28 license renewal application as required under Section 10 or
29 10.2, that individual has conducted or is about to conduct
30 any cremation business on behalf of the applicant in a
31 fraudulent manner or has been convicted of any felony or
32 misdemeanor an essential element of which is fraud.

33 (6) The applicant or licensee has failed to make the
34 annual report required by this Act or to comply with a

1 final order, decision, or finding of the Comptroller made
2 under this Act.

3 (7) The applicant or licensee, including any member,
4 officer, or director of the applicant or licensee if the
5 applicant or licensee is a firm, partnership, association,
6 or corporation and including any shareholder holding more
7 than 25% of the corporate stock of the applicant or
8 licensee, has violated any provision of this Act or any
9 regulation or order made by the Comptroller under this Act.

10 (8) The Comptroller finds any fact or condition
11 existing that, if it had existed at the time of the
12 original application for a license or license renewal under
13 this Act, would have warranted the Comptroller in refusing
14 the issuance of the license.

15 (Source: P.A. 92-675, eff. 7-1-03.)

16 (410 ILCS 18/11.5)

17 Sec. 11.5. License revocation or suspension; surrender of
18 license.

19 (a) Upon determining that grounds exist for the nonrenewal,
20 revocation, or suspension of a license issued under this Act,
21 the Comptroller, if appropriate, may revoke, ~~or~~ suspend, or
22 refuse to renew the license issued to the licensee.

23 (b) Upon the nonrenewal, revocation, or suspension of a
24 license issued under this Act, the licensee must immediately
25 surrender the license to the Comptroller. If the licensee fails
26 to do so, the Comptroller may seize the license.

27 (Source: P.A. 92-675, eff. 7-1-03.)

28 (410 ILCS 18/13)

29 Sec. 13. License; display; transfer; duration.

30 (a) Every license issued under this Act must state the
31 number of the license, the business name and address of the
32 licensee's principal place of business, and the licensee's
33 parent company, if any. The license must be conspicuously
34 posted in the place of business operating under the license.

1 (b) No license is transferable or assignable without the
2 express written consent of the Comptroller. A transfer of more
3 than 50% of the ownership of any business licensed under this
4 Act shall be deemed to be an attempted assignment of the
5 license originally issued to the licensee for whom consent of
6 the Comptroller is required.

7 (c) Every license issued under this Act shall remain in
8 force until it expires or has been surrendered, suspended, or
9 revoked in accordance with this Act. Upon the request of an
10 interested person or on the Comptroller's own motion, the
11 Comptroller may issue a new license to a licensee whose license
12 has been revoked under this Act if no factor or condition then
13 exists which would have warranted the Comptroller in originally
14 refusing the issuance of the license.

15 (Source: P.A. 92-675, eff. 7-1-03.)

16 (410 ILCS 18/62.10)

17 Sec. 62.10. Investigation of actions; hearing.

18 (a) The Comptroller shall make an investigation upon
19 discovering facts that, if proved, would constitute grounds for
20 refusal, denial, suspension, or revocation of a license under
21 this Act.

22 (b) Before refusing to issue or renew, and before
23 suspending or revoking, a license under this Act, the
24 Comptroller shall hold a hearing to determine whether the
25 applicant for a license or the licensee ("the respondent") is
26 entitled to hold such a license. At least 10 days before the
27 date set for the hearing, the Comptroller shall notify the
28 respondent in writing that (i) on the designated date a hearing
29 will be held to determine the respondent's eligibility for a
30 license and (ii) the respondent may appear in person or by
31 counsel. The written notice may be served on the respondent
32 personally, or by registered or certified mail sent to the
33 respondent's business address as shown in the respondent's
34 latest notification to the Comptroller. The notice must include
35 sufficient information to inform the respondent of the general

1 nature of the reason for the Comptroller's action.

2 (c) At the hearing, both the respondent and the complainant
3 shall be accorded ample opportunity to present in person or by
4 counsel such statements, testimony, evidence, and argument as
5 may be pertinent to the charge or to any defense to the charge.
6 The Comptroller may reasonably continue the hearing from time
7 to time. The Comptroller may subpoena any person or persons in
8 this State and take testimony orally, by deposition, or by
9 exhibit, in the same manner and with the same fees and mileage
10 as prescribed in judicial proceedings in civil cases. Any
11 authorized agent of the Comptroller may administer oaths to
12 witnesses at any hearing that the Comptroller is authorized to
13 conduct.

14 (d) The Comptroller, at the Comptroller's expense, shall
15 provide a certified shorthand reporter to take down the
16 testimony and preserve a record of every proceeding at the
17 hearing of any case involving the refusal to issue or renew a
18 license under this Act, the suspension or revocation of such a
19 license, the imposition of a monetary penalty, or the referral
20 of a case for criminal prosecution. The record of any such
21 proceeding shall consist of the notice of hearing, the
22 complaint, all other documents in the nature of pleadings and
23 written motions filed in the proceeding, the transcript of
24 testimony, and the report and orders of the Comptroller. Copies
25 of the transcript of the record may be purchased from the
26 certified shorthand reporter who prepared the record or from
27 the Comptroller.

28 (Source: P.A. 92-675, eff. 7-1-03.)

29 Section 15. The Cemetery Care Act is amended by changing
30 Sections 7, 8, 10, 11, 14, 15, 15.3, 15.4, and 18 and by adding
31 Sections 9.1, 9.2, 9.3, and 9.4 as follows:

32 (760 ILCS 100/7) (from Ch. 21, par. 64.7)

33 Sec. 7. License to hold care funds. No cemetery authority
34 owning, operating, controlling or managing a privately

1 operated cemetery may accept the care funds authorized by the
2 provisions of Section 3 of this Act without securing from the
3 Comptroller a license to hold the funds. The license shall be
4 secured by the cemetery authority whether the cemetery
5 authority is serving as trustee of the care funds or whether
6 the care funds are held by an independent trustee.

7 All licenses issued under the provisions of this Act by the
8 Department of Financial Institutions prior to the time the
9 administration of this Act was transferred to the Comptroller
10 shall remain valid for all purposes unless such license expires
11 or is terminated, surrendered or revoked as provided in this
12 Act.

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

14 (760 ILCS 100/8) (from Ch. 21, par. 64.8)

15 Sec. 8. Every cemetery authority shall register with the
16 Comptroller upon forms furnished by him or her. Such
17 registration statement shall state whether the cemetery
18 authority claims that the cemetery owned, operated,
19 controlled, or managed by it is a fraternal cemetery,
20 municipal, State, or federal cemetery, or religious cemetery,
21 or a family burying ground, as the case may be, as defined in
22 Section 2 of this Act, and shall state the date of
23 incorporation if a corporation and whether incorporated under
24 general or private act of the legislature. Such registration
25 statement shall be accompanied by a fee of \$5. Such fee shall
26 be paid to the Comptroller and no registration statement shall
27 be accepted by him without the payment of such fee. Every
28 cemetery authority that is not required to file an annual
29 report under this Act shall bear the responsibility of
30 informing the Comptroller whenever a change takes place
31 regarding status of cemetery, name of contact person, and that
32 person's address and telephone number.

33 Upon receipt of a registration statement, if a claim is
34 made that a cemetery is a fraternal cemetery, municipal
35 cemetery, or religious cemetery, or a family burying ground, as

1 the case may be, as defined in Section 2 of this Act, and the
2 Comptroller shall determine that such cemetery is not a
3 fraternal cemetery, a municipal cemetery, or a religious
4 cemetery, or a family burying ground, as the case may be, as
5 defined in Section 2 of this Act, the Comptroller shall notify
6 the cemetery authority making the claim of such determination;
7 provided, however, that no such claim shall be denied until the
8 cemetery authority making such claim has had at least 10 days'
9 notice of a hearing thereon and an opportunity to be heard.
10 When any such claim is denied, the Comptroller shall within 20
11 days thereafter prepare and keep on file in his office the
12 transcript of the evidence taken and a written order or
13 decision of denial of such claim and shall send by United
14 States mail a copy of such order or decision of denial to the
15 cemetery authority making such claim within 5 days after the
16 filing in his office of such order, finding or decision. A
17 review of any such order, finding or decision may be had as
18 provided in the Administrative Review Law, as now or hereafter
19 amended.

20 Where no claim is made that a cemetery is a fraternal
21 cemetery, municipal cemetery or religious cemetery or family
22 burying ground, as the case may be, as defined in Section 2 of
23 this Act, the registration statement shall be accompanied by a
24 fidelity bond in the amount required by Section 9 of this Act.
25 Upon receipt of such application, statement and bond, the
26 Comptroller shall issue a license to accept the care funds
27 authorized by the provisions of Section 3 of this Act to each
28 cemetery authority owning, operating, controlling or managing
29 a privately operated cemetery. However, the Comptroller shall
30 issue a license without the filing of a bond where the filing
31 of a bond is excused by Section 18 of this Act.

32 The license issued by the Comptroller shall remain in full
33 force and effect until it expires or is surrendered by the
34 licensee or revoked by the Comptroller as hereinafter provided.

35 (Source: P.A. 88-477.)

1 (760 ILCS 100/9.1 new)

2 Sec. 9.1. Term of license.

3 (a) Any license that was issued under this Act before the
4 effective date of this amendatory Act of the 94th General
5 Assembly shall expire according to a schedule developed by the
6 Comptroller pursuant to the original date of issuance and must
7 thereafter be renewed as provided in this Act. Beginning on the
8 effective date of this amendatory Act of the 94th General
9 Assembly, a license or license renewal shall be issued for a
10 5-year term, which shall expire as provided in this Act.

11 (b) The Comptroller by rule may adopt a system under which
12 licenses must be renewed by various dates during the year,
13 coinciding with the due date of the annual report of the
14 licensee or any extensions thereof.

15 (760 ILCS 100/9.2 new)

16 Sec. 9.2. Requirements for license renewal. In order to
17 complete the license renewal process, the licensee shall submit
18 a license renewal application to the Comptroller in writing
19 signed by the licensee and on forms furnished by the
20 Comptroller upon the date of renewal. The Comptroller may
21 prescribe abbreviated license renewal forms for persons
22 holding multiple licenses issued by the Comptroller. Each
23 renewal application (except abbreviated applications) shall
24 contain all the following:

25 (1) An affirmative statement indicating the licensee's
26 desire for renewal and agreement to abide by all applicable
27 statutes and rules.

28 (2) A \$25 nonrefundable renewal fee.

29 (3) A completed annual report.

30 (4) The following information for the licensee; each
31 member, if the licensee is a partnership or association;
32 each officer or director, if the licensee is a corporation;
33 and each party owning 10% or more of the cemetery authority
34 and the parent company, if any:

35 (A) Name and current address (both residence and

1 place of business).

2 (B) A detailed statement of the individual's
3 business experience for the 10 years immediately
4 preceding the application.

5 (C) Any present or prior connection between the
6 individual and any other cemetery or cemetery
7 authority.

8 (D) Any felony or misdemeanor convictions of which
9 fraud was an essential element, any judgment against
10 the person in a civil suit in which the complaint is
11 based on fraud, and whether the person is, at the time
12 of application, a defendant in a civil suit in which
13 the complaint is based on fraud.

14 (E) Any failure of the individual to satisfy an
15 enforceable judgment entered against him or her based
16 upon fraud.

17 Since the information required by this item (4) and the
18 following item (5) may be confidential or contain
19 proprietary information, this information shall not be
20 available to other licensees or the general public and
21 shall be used only for the lawful purposes of the
22 Comptroller in enforcing this Act.

23 (5) A current statement of the licensee's assets and
24 liabilities.

25 (6) The current name, address, and legal boundaries of
26 each cemetery for which the care funds are entrusted and at
27 which the books, accounts, and records are available for
28 examination by the Comptroller as required by Section 13 of
29 this Act.

30 (7) Any other information that the Comptroller may
31 reasonably require in order to determine whether the
32 licensee qualifies for license renewal under this Act.

33 (760 ILCS 100/9.3 new)

34 Sec. 9.3. Remedy for delinquent renewal.

35 (a) If a licensee continues to conduct activities requiring

1 a license but fails to submit a completed license renewal
2 application to the Comptroller within the time specified in
3 this Act, the Comptroller shall impose upon the licensee a
4 penalty of \$5 for each day the licensee remains delinquent in
5 submitting the renewal application. The Comptroller may abate
6 all or part of the \$5 daily penalty for good cause shown.

7 (b) In the event the renewal application is denied by the
8 Comptroller, the renewal fee paid is not refundable.

9 (760 ILCS 100/9.4 new)

10 Sec. 9.4. License renewal process. Once the licensee has
11 filed for license renewal, the expiring license shall remain in
12 effect until the renewal has been issued. Upon approval of the
13 Comptroller, the Comptroller shall issue a license renewal to
14 be posted in the place of business of the licensee.

15 (760 ILCS 100/10) (from Ch. 21, par. 64.10)

16 Sec. 10. Upon receipt of such application for license or
17 license renewal, the Comptroller shall issue a license or
18 license renewal to the applicant unless the Comptroller
19 determines that:

20 (a) The applicant or licensee has made any
21 misrepresentations or false statements or has concealed any
22 essential or material fact, or

23 (b) The applicant or licensee is insolvent; or

24 (c) The applicant or licensee is or has been using
25 practices in the conducting of the cemetery business that work
26 or tend to work a fraud; or

27 (d) The applicant or licensee has refused to furnish or
28 give pertinent data to the Comptroller; or

29 (e) The applicant or licensee has failed to notify the
30 Comptroller with respect to any material facts required in the
31 application for license under the provisions of this Act; or

32 (f) The applicant or licensee has failed to satisfy any
33 enforceable judgment entered by the circuit court in any civil
34 proceedings against such applicant; or

1 (g) The applicant or licensee has conducted or is about to
2 conduct its business in a fraudulent manner; or

3 (h) The applicant or licensee or any individual listed in
4 the license or license renewal application has conducted or is
5 about to conduct any business on behalf of the applicant in a
6 fraudulent manner; or has been convicted of a felony or any
7 misdemeanor of which an essential element is fraud; or has been
8 involved in any civil litigation in which a judgment has been
9 entered against him or her based on fraud; or has failed to
10 satisfy any enforceable judgment entered by the circuit court
11 in any civil proceedings against such individual; or has been
12 convicted of any felony of which fraud is an essential element;
13 or has been convicted of any theft-related offense; or has
14 failed to comply with the requirements of this Act; or has
15 demonstrated a pattern of improperly failing to honor a
16 contract with a consumer; or

17 (i) The applicant or licensee has ever had a license
18 involving cemeteries or funeral homes revoked, suspended, or
19 refused to be issued in Illinois or elsewhere.

20 If the Comptroller so determines, then he or she shall
21 conduct a hearing to determine whether to deny the application
22 for license or license renewal. However, no application for
23 license or license renewal shall be denied unless the applicant
24 or licensee has had at least 10 days' notice of a hearing on
25 the application and an opportunity to be heard thereon. If the
26 application for license or license renewal is denied, the
27 Comptroller shall within 20 days thereafter prepare and keep on
28 file in his or her office the transcript of the evidence taken
29 and a written order of denial thereof, which shall contain his
30 or her findings with respect thereto and the reasons supporting
31 the denial, and shall send by United States mail a copy of the
32 written order of denial to the applicant at the address set
33 forth in the application for license or license renewal, within
34 5 days after the filing of such order. A review of such
35 decision may be had as provided in Section 20 of this Act.

36 The license or license renewal issued by the Comptroller

1 shall remain in full force and effect until it expires or is
2 surrendered by the licensee or revoked by the Comptroller as
3 hereinafter provided.

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

5 (760 ILCS 100/11) (from Ch. 21, par. 64.11)

6 Sec. 11. Issuance and display of license. A license issued
7 under this Act authorizes the cemetery authority to accept care
8 funds for the cemetery identified in the license. If a license
9 application seeks licensure to accept care funds on behalf of
10 more than one cemetery location, the Comptroller, upon approval
11 of the license application, shall issue to the cemetery
12 authority a separate license for each cemetery location
13 indicated on the application. Each license issued by the
14 Comptroller under this Act is independent of any other license
15 that may be issued to a cemetery authority under a single
16 license application.

17 Every license issued by the Comptroller shall state the
18 number of the license and the address at which the business is
19 to be conducted. Such license shall be kept conspicuously
20 posted in the place of business of the licensee and shall not
21 be transferable or assignable.

22 No more than one place of business shall be maintained
23 under the same license, but the Comptroller may issue more than
24 one license to the same licensee upon compliance with the
25 provisions of this Act governing an original issuance of a
26 license, for each new license.

27 Whenever a licensee shall wish to change the name as
28 originally set forth in his license, he shall give written
29 notice thereof to the Comptroller together with the reasons for
30 the change and if the change is approved by the Comptroller he
31 shall issue a new license.

32 A license issued by the Comptroller shall remain in full
33 force and effect until it expires or is surrendered by the
34 licensee or suspended or revoked by the Comptroller as provided
35 in this Act.

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

2 (760 ILCS 100/14) (from Ch. 21, par. 64.14)

3 Sec. 14. The Comptroller may at any time investigate the
4 cemetery business of every licensee with respect to its care
5 funds. The Comptroller shall examine at least annually every
6 licensee who holds \$750,000 ~~\$250,000~~ or more in its care funds.
7 For that purpose, the Comptroller shall have free access to the
8 office and places of business and to such records of all
9 licensees and of all trustees of the care funds of all
10 licensees as shall relate to the acceptance, use and investment
11 of care funds. The Comptroller may require the attendance of
12 and examine under oath all persons whose testimony he may
13 require relative to such business and in such cases the
14 Comptroller or any qualified representative of the Comptroller
15 whom the Comptroller may designate, may administer oaths to all
16 such persons called as witnesses, and the Comptroller, or any
17 such qualified representative of the Comptroller, may conduct
18 such examinations. The cost of an initial examination shall be
19 borne by the cemetery authority if it has \$10,000 or more in
20 such fund; otherwise, by the Comptroller. The charge made by
21 the Comptroller for such examination shall be based upon the
22 total amount of care funds held by the cemetery authority as of
23 the end of the calendar or fiscal year for which a report is
24 required by Section 12 of this Act and shall be in accordance
25 with the following schedule:

- 26 less than \$10,000..... no charge;
- 27 \$10,000 or more but less than
- 28 \$50,000..... \$10;
- 29 \$50,000 or more but less than
- 30 \$100,000 \$40;
- 31 \$100,000 or more but less than
- 32 \$250,000 \$80;
- 33 \$250,000 or more \$100.

34 Any licensee which is not required to be examined annually
35 shall submit an annual report to the Comptroller containing

1 such information as the Comptroller reasonably may request.

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

10 (1) material and unverified changes or fluctuations in
11 trust balances;

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

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

16 (4) failure to maintain or produce documentation
17 required by this Act for deposits into trust accounts or
18 trust investment activities.

19 Prior to ordering an additional audit or examination, the
20 Comptroller shall request the licensee to respond and comment
21 upon the factors identified by the Comptroller as warranting
22 the subsequent examination or audit. The licensee shall have 30
23 days to provide a response to the Comptroller. If the
24 Comptroller decides to proceed with the additional examination
25 or audit, the licensee shall bear the full cost of that
26 examination or audit, up to a maximum of \$7,500. The
27 Comptroller may elect to pay for the examination or audit and
28 receive reimbursement from the licensee. Payment of the costs
29 of the examination or audit by a licensee shall be a condition
30 of receiving or maintaining a license under this Act. All
31 moneys received by the Comptroller for examination or audit
32 fees shall be maintained in a separate account to be known as
33 the Comptroller's Administrative Fund. This Fund, subject to
34 appropriation by the General Assembly, may be utilized by the
35 Comptroller for enforcing this Act and other purposes that may
36 be authorized by law.

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

2 (760 ILCS 100/15) (from Ch. 21, par. 64.15)

3 Sec. 15. The Comptroller may, upon 10 days' notice to the
4 licensee, by United States mail directed to the licensee at the
5 address set forth in the license, stating the contemplated
6 action and, in general, the grounds therefor, and upon
7 reasonable opportunity to be heard prior to such action, revoke
8 of fail to renew any license issued hereunder if he finds that:

9 (a) The licensee has failed to make the annual report or to
10 maintain in effect the required bond or to comply with an
11 order, decision, or finding of the Comptroller made pursuant to
12 this Act; or that

13 (b) The licensee has violated any provision of this Act or
14 any regulation or direction made by the Comptroller under this
15 Act; or that

16 (c) Any fact or condition exists which would constitute
17 grounds for denying an application for a new license or license
18 renewal.

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

20 (760 ILCS 100/15.3) (from Ch. 21, par. 64.15-3)

21 Sec. 15.3. Every license issued hereunder shall remain in
22 force until the same expires or has been surrendered or revoked
23 in accordance with this Act, but the Comptroller may on his own
24 motion, issue new licenses to a licensee whose license or
25 licenses have been revoked if no fact or condition then exists
26 which clearly would have warranted the Comptroller in refusing
27 originally the issuance of such license under this Act.

28 (Source: P.A. 78-592.)

29 (760 ILCS 100/15.4) (from Ch. 21, par. 64.15-4)

30 Sec. 15.4. No license shall be revoked or not renewed until
31 the licensee has had at least 10 days' notice of a hearing
32 thereon and an opportunity to be heard. When any license is so
33 revoked or not renewed, the Comptroller shall within 20 days

1 thereafter, prepare and keep on file in his office the
2 transcript of the evidence taken and a written order or
3 decision of revocation, and shall send by United States mail a
4 copy of such order or decision of revocation or failure to
5 renew to the licensee at the address set forth in the license
6 within 5 days after the filing in his office of such order,
7 finding or decision. A review of any such order, finding or
8 decision may be had as provided in Section 19 of this Act.

9 (Source: P.A. 83-333.)

10 (760 ILCS 100/18) (from Ch. 21, par. 64.18)

11 Sec. 18. Application; when bond is unnecessary. The
12 provisions of this Act as to the (a) registration, (b)
13 application for license or license renewal, (c) filing of a
14 fidelity bond, (d) filing of an annual report, and (e)
15 examination by the Comptroller, apply to a cemetery authority
16 owning, operating, controlling or managing a privately
17 operated cemetery whether the care funds are held by such
18 cemetery authority as trustee or by any independent trustee for
19 the same. However, no bond need be filed with the Comptroller
20 as to care funds of such cemetery authority held as trustee by
21 a bank or trust company authorized to do business in this State
22 as a trust company in accordance with Section 2-10 of the
23 Corporate Fiduciary Act or held by an investment company.

24 Upon application by such cemetery authority to the
25 Comptroller, and upon a showing that all of the care funds of
26 such cemetery authority are held by such bank or trust company
27 as trustee for such cemetery authority pursuant to an agreement
28 in writing approved from time to time by the Comptroller for
29 the handling and management of all of the care funds of such
30 cemetery authority, or are held by an investment company, the
31 Comptroller in writing may permit the licensee to operate
32 without the filing of any bond as to such care funds except
33 such fidelity bond as he or she may require for the protection
34 of such cemetery authority against defaults by its employees
35 engaged in the handling and collection of funds.

1 (Source: P.A. 88-477; 89-615, eff. 8-9-96.)

2 Section 20. The Illinois Pre-Need Cemetery Sales Act is
3 amended by changing Sections 7, 8, 9, 12, and 14 and by adding
4 Sections 6a, 6b, 6c, and 6d as follows:

5 (815 ILCS 390/6a new)

6 Sec. 6a. Term of license.

7 (a) Any license that was issued under this Act before the
8 effective date of this amendatory Act of the 94th General
9 Assembly shall expire according to a schedule developed by the
10 Comptroller pursuant to the original date of issuance and must
11 thereafter be renewed as provided in this Act. Beginning on the
12 effective date of this amendatory Act of the 94th General
13 Assembly, a license or license renewal shall be issued for a
14 5-year term, which shall expire as provided in this Act.

15 (b) The Comptroller by rule may adopt a system under which
16 licenses must be renewed by various dates during the year,
17 coinciding with the due date of the annual report of the
18 licensee or any extensions thereof.

19 (815 ILCS 390/6b new)

20 Sec. 6b. Requirements for license renewal. In order to
21 complete the license renewal process, the licensee shall submit
22 a license renewal application to the Comptroller in writing
23 under oath, signed by the licensee and in the form furnished by
24 the Comptroller upon the date of renewal. The Comptroller may
25 prescribe abbreviated license renewal application forms for
26 persons holding multiple licenses issued by the Comptroller.
27 Each renewal application (except abbreviated applications)
28 shall contain all of the following:

29 (1) An affirmative statement indicating the licensee's
30 desire for renewal and agreement to abide by all applicable
31 statutes and rules.

32 (2) A \$25 nonrefundable renewal fee.

33 (3) A completed annual report.

1 (4) The following information for the licensee, and
2 each member, officer, and director thereof, if the licensee
3 is a firm, partnership, association, or corporation, and
4 each shareholder holding more than 10% of the corporate
5 stock, if the licensee is a corporation:

6 (A) His or her name and current address (both
7 residence and place of business).

8 (B) A detailed statement of the individual's
9 business experience for the 10 years immediately
10 preceding the application.

11 (C) Any present or prior connection between the
12 individual and any other person engaged in pre-need
13 sales.

14 (D) Any felony or misdemeanor convictions of which
15 fraud was an essential element and any charges or
16 complaints lodged against the individual of which
17 fraud was an essential element and that resulted in
18 civil or criminal litigation.

19 (E) Any failure of the individual to satisfy an
20 enforceable judgment entered against him or her based
21 upon fraud.

22 (F) Any other information requested by the
23 Comptroller relating to past business practices of the
24 individual.

25 Since the information required by this item (4) and item
26 (5) may be confidential or contain proprietary
27 information, this information shall not be available to
28 other licensees or the general public and shall be used
29 only for the lawful purposes of the Comptroller in
30 enforcing this Act.

31 (5) A detailed statement of the licensee's current
32 assets and liabilities.

33 (6) The current name and address of the licensee's
34 principal place of business at which the books, accounts,
35 and records are available for examination by the
36 Comptroller as required by this Act.

1 (7) The current name and address of the licensee's
2 branch locations at which pre-need sales are conducted and
3 that operate under the same license number as the
4 licensee's principal place of business.

5 (8) A current copy of the trust agreement under which
6 the trust funds are to be held as required by this Act.

7 (9) Such other information as the Comptroller may
8 reasonably require in order to determine whether the
9 licensee's renewal application qualifies under this Act.

10 (815 ILCS 390/6c new)

11 Sec. 6c. Remedy for delinquent license renewal.

12 (a) If a licensee continues to conduct activities requiring
13 a license but fails to submit a completed license renewal
14 application to the Comptroller within the time specified in
15 this Act, the Comptroller shall impose upon the licensee a
16 penalty of \$5 for each day the licensee remains delinquent in
17 submitting the application. The Comptroller may abate all or
18 part of the \$5 daily penalty for good cause shown.

19 (b) In the event the renewal application is denied by the
20 Comptroller, the renewal fee paid is not refundable.

21 (815 ILCS 390/6d new)

22 Sec. 6d. License renewal process. Once the licensee has
23 filed for license renewal, the expiring license shall remain in
24 effect until the renewal has been issued. Upon approval of the
25 Comptroller, the Comptroller shall issue a license renewal to
26 be posted in the place of business of the licensee.

27 (815 ILCS 390/7) (from Ch. 21, par. 207)

28 Sec. 7. The Comptroller may refuse to issue or renew a
29 license or may suspend or revoke a license on any of the
30 following grounds:

31 (a) The applicant or licensee has made any
32 misrepresentations or false statements or concealed any
33 material fact;

1 (b) The applicant or licensee is insolvent;

2 (c) The applicant or licensee has been engaged in business
3 practices that work a fraud;

4 (d) The applicant or licensee has refused to give pertinent
5 data to the Comptroller;

6 (e) The applicant or licensee has failed to satisfy any
7 enforceable judgment or decree rendered by any court of
8 competent jurisdiction against the applicant;

9 (f) The applicant or licensee has conducted or is about to
10 conduct business in a fraudulent manner;

11 (g) The trust agreement is not in compliance with State or
12 federal law;

13 (h) The pre-construction performance bond, if applicable,
14 is not satisfactory to the Comptroller;

15 (i) The fidelity bond is not satisfactory to the
16 Comptroller;

17 (j) As to any individual listed in the ~~license~~ application
18 for license or license renewal as required pursuant to Section
19 6 or 6b, that individual has conducted or is about to conduct
20 any business on behalf of the applicant in a fraudulent manner,
21 has been convicted of any felony or misdemeanor an essential
22 element of which is fraud, has had a judgment rendered against
23 him or her based on fraud in any civil litigation, has failed
24 to satisfy any enforceable judgment or decree rendered against
25 him by any court of competent jurisdiction, or has been
26 convicted of any felony or any theft-related offense;

27 (k) The applicant or licensee has failed to make the annual
28 report required by this Act or to comply with a final order,
29 decision, or finding of the Comptroller made pursuant to this
30 Act;

31 (l) The applicant or licensee, including any member,
32 officer, or director thereof if the applicant or licensee is a
33 firm, partnership, association, or corporation and any
34 shareholder holding more than 10% of the corporate stock, has
35 violated any provision of this Act or any regulation or order
36 made by the Comptroller under this Act; or

1 (m) The Comptroller finds any fact or condition existing
2 which, if it had existed at the time of the original
3 application for such license or renewal of such license would
4 have warranted the Comptroller in refusing the issuance or
5 renewal of the license.

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

7 (815 ILCS 390/8) (from Ch. 21, par. 208)

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

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

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

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

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

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

7 (g) Every license issued hereunder shall remain in force
8 until the same expires or has been suspended, surrendered or
9 revoked in accordance with this Act, but the Comptroller, upon
10 the request of an interested person or on his own motion, may
11 issue new licenses to a licensee whose license or licenses have
12 been revoked, if no factor or condition then exists which would
13 have warranted the Comptroller in refusing originally the
14 issuance of such license.

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

16 (815 ILCS 390/9) (from Ch. 21, par. 209)

17 Sec. 9. The Comptroller may upon his own motion investigate
18 the actions of any person providing, selling, or offering
19 pre-need sales contracts or of any applicant or any person or
20 persons holding or claiming to hold a license under this Act.
21 The Comptroller shall make such an investigation on receipt of
22 the verified written complaint of any person setting forth
23 facts which, if proved, would constitute grounds for refusal to
24 issue or renew, suspension, or revocation of a license. Before
25 refusing to issue or renew, and before suspension or revocation
26 of a license, the Comptroller shall hold a hearing to determine
27 whether the applicant or licensee, hereafter called the
28 respondent, is entitled to hold such a license. At least 10
29 days prior to the date set for such hearing, the Comptroller
30 shall notify the respondent in writing that on the date
31 designated a hearing will be held to determine his eligibility
32 for a license and that he may appear in person or by counsel.
33 Such written notice may be served on the respondent personally,
34 or by registered or certified mail sent to the respondent's
35 business address as shown in his latest notification to the

1 Comptroller and shall include sufficient information to inform
2 the respondent of the general nature of the charge. At the
3 hearing, both the respondent and the complainant shall be
4 accorded ample opportunity to present in person or by counsel
5 such statements, testimony, evidence and argument as may be
6 pertinent to the charges or to any defense thereto. The
7 Comptroller may reasonably continue such hearing from time to
8 time.

9 The Comptroller may subpoena any person or persons in this
10 State and take testimony orally, by deposition or by exhibit,
11 in the same manner and with the same fees and mileage as
12 prescribed in judicial proceedings in civil cases.

13 Any authorized agent of the Comptroller may administer
14 oaths to witnesses at any hearing which the Comptroller is
15 authorized to conduct.

16 The Comptroller, at his expense, shall provide a certified
17 shorthand reporter to take down the testimony and preserve a
18 record of all proceedings at the hearing of any case involving
19 the refusal to issue or renew a license, the suspension or
20 revocation of a license, the imposition of a monetary penalty,
21 or the referral of a case for criminal prosecution. The record
22 of any such proceeding shall consist of the notice of hearing,
23 complaint, all other documents in the nature of pleadings and
24 written motions filed in the proceedings, the transcript of
25 testimony and the report and orders of the Comptroller. Copies
26 of the transcript of such record may be purchased from the
27 certified shorthand reporter who prepared the record or from
28 the Comptroller.

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

30 (815 ILCS 390/12) (from Ch. 21, par. 212)

31 Sec. 12. License nonrenewal, revocation, or suspension.

32 (a) The Comptroller may, upon determination that grounds
33 exist for the revocation or suspension or nonrenewal of a
34 license issued under this Act, revoke, ~~or~~ suspend, or fail to
35 renew, if appropriate, the license issued to a licensee or to a

1 particular branch office location with respect to which the
2 grounds for revocation, ~~or~~ suspension, or failure to renew may
3 occur or exist.

4 (b) Upon the nonrenewal, revocation, or suspension of any
5 license, the licensee shall immediately surrender the license
6 or licenses to the Comptroller. If the licensee fails to do so,
7 the Comptroller has the right to seize the license or licenses.
8 (Source: P.A. 92-419, eff. 1-1-02.)

9 (815 ILCS 390/14) (from Ch. 21, par. 214)

10 Sec. 14. Contract required.

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

16 (1) A written sales contract shall be executed in at
17 least 11 point type in duplicate for each pre-need sale
18 made by a licensee, and a signed copy given to the
19 purchaser. Each completed contract shall be numbered and
20 shall contain: (i) the name and address of the purchaser,
21 the principal office of the licensee, and the parent
22 company of the licensee; (ii) the name of the person, if
23 known, who is to receive the cemetery merchandise, cemetery
24 services or the completed interment, entombment or
25 inurnment spaces under the contract; ~~and~~ (iii) specific
26 identification of such merchandise, type of services to be
27 held by cemetery or crematory personnel, or spaces to be
28 provided, if a specific space or spaces are contracted for,
29 and the price of the merchandise, services, or space or
30 spaces; (iv) the location of the spaces to be provided, if
31 a specific space is contracted for, indicated on a copy of
32 an overall map of the site or section of the interment,
33 entombment, or inurnment spaces; and (v) a description of
34 the type of care furnished by a provider holding a valid
35 license under the Cemetery Care Act that is being purchased

1 to maintain the interment, entombment, or inurnment space,
2 if a specific space is contracted for. If no care is
3 included in the contract, the contract shall state in
4 11-point type "This contract does not include maintenance
5 care.", and this statement shall be initialed by the
6 purchaser.

7 (1.5) Upon request by the purchaser, each contract may
8 include a current copy of the provider's rules and
9 regulations pertaining to the site of the completed
10 interment, entombment, or inurnment spaces, if such spaces
11 are to be provided under the contract.

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

14 "Notwithstanding anything in this contract to the
15 contrary, you are afforded certain specific rights of
16 cancellation and refund under the Illinois Pre-Need
17 Cemetery Sales Act, enacted by the 84th General Assembly of
18 the State of Illinois".

19 (3) All pre-need sales contracts shall be sold on a
20 guaranteed price basis. At the time of performance of the
21 service or delivery of the merchandise, the seller shall be
22 prohibited from assessing the purchaser or his heirs or
23 assigns or duly authorized representative any additional
24 charges for the specific merchandise and services listed on
25 the pre-need sales contract.

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

29 "THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC
30 GOODS, SERVICES, INTERMENT SPACES, ENTOMBMENT SPACES, AND
31 INURNMENT SPACES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY
32 BE REQUIRED FOR DESIGNATED GOODS, SERVICES, AND SPACES.
33 ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED
34 EXPENSES."

35 (5) The pre-need sales contract shall provide that if
36 the particular cemetery services, cemetery merchandise, or

1 spaces specified in the pre-need contract are unavailable
2 at the time of delivery, the seller shall be required to
3 furnish services, merchandise, and spaces similar in style
4 and at least equal in quality of material and workmanship.

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

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

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

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

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

27 (9) Each pre-need contract that authorizes the
28 placement of cemetery merchandise at the site of its
29 ultimate use prior to the time that the merchandise is
30 needed by the beneficiary shall contain the following
31 statement in 12 point bold type:

32 "THIS CONTRACT AUTHORIZES THE PLACEMENT OF MERCHANDISE AT
33 THE SITE OF ITS ULTIMATE USE PRIOR TO THE TIME THAT THE
34 MERCHANDISE IS NEEDED BY THE BENEFICIARY. DELIVERY OF THE
35 MERCHANDISE IN THIS MANNER MAY PRECLUDE REFUND OF SALE
36 PROCEEDS THAT ARE ATTRIBUTABLE TO THE DELIVERED

1 MERCHANDISE."

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

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

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

11 (d) No pre-need sales contract may be entered into in this
12 State unless there is a provider for the cemetery merchandise,
13 cemetery services, and undeveloped interment, inurnment, and
14 entombment spaces being sold. If the seller is not the
15 provider, then the seller must have a binding agreement with a
16 provider, and the identity of the provider and the nature of
17 the agreement between the seller and the provider must be
18 disclosed in the pre-need sales contract at the time of sale
19 and before the receipt of any sale proceeds. The purchaser
20 shall make personal contact with the provider and visit the
21 site of the undeveloped interment, inurnment, or entombment
22 spaces being sold, unless the purchaser waives his or her right
23 to do so. Each pre-need contract that is sold by a seller who
24 is not the provider shall contain the following statements in
25 12-point bold type and the applicable statements shall be
26 initialed by the purchaser:

27 "I HAVE MADE PERSONAL CONTACT WITH THE PROVIDER OF THE
28 CEMETERY MERCHANDISE, CEMETERY SERVICES, OR UNDEVELOPED
29 INTERMENT, INURNMENT, OR ENTOMBMENT SPACES SOLD IN THIS
30 CONTRACT.

31 I HAVE VISITED THE SITE OF THE UNDEVELOPED INTERMENT,
32 INURNMENT, OR ENTOMBMENT SPACES SOLD IN THIS CONTRACT.

33 I HAVE WAIVED MY RIGHT TO MAKE PERSONAL CONTACT AND/OR
34 VISIT THE PROVIDER OF THE CEMETERY MERCHANDISE, CEMETERY
35 SERVICES, OR UNDEVELOPED INTERMENT, INURNMENT, OR
36 ENTOMBMENT SPACES BEING SOLD IN THIS CONTRACT.

1 A COPY OF THE PROVIDER'S RULES AND REGULATIONS HAS BEEN
2 MADE AVAILABLE TO ME UPON MY REQUEST."

3 A separate completed contract shall be issued for funeral
4 merchandise or funeral services covered by the Illinois Funeral
5 or Burial Funds Act, and not covered by this Act, unless the
6 seller is licensed under both Acts and all disclosures are in
7 compliance with both Acts. The failure to disclose the identity
8 of the provider, the nature of the agreement between the seller
9 and the provider, or any changes thereto to the purchaser and
10 beneficiary, or the failure to make the disclosures required by
11 this Section constitutes an intentional violation of this Act.

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

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

27 (g) The State Comptroller shall develop a booklet for
28 consumers in plain English describing the scope, application,
29 and consumer protections of this Act. After the booklet is
30 developed, no pre-need contract may be sold in this State
31 unless the seller distributes to the purchaser prior to the
32 sale a booklet developed or approved for use by the State
33 Comptroller.

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

35 Section 25. The Consumer Fraud and Deceptive Business

1 Practices Act is amended by adding Section 2VV as follows:

2 (815 ILCS 505/2VV new)

3 Sec. 2VV. Cemetery or funeral contracts. No person
4 authorized by law to sell funeral services on an at-need basis
5 may also sell or arrange for the purchase of cemetery services,
6 cemetery merchandise, or interment, inurnment, or entombment
7 spaces on an at-need basis, unless the person is also
8 authorized by law to sell or arrange for the purchase of such
9 cemetery services, merchandise, or spaces and issues to the
10 consumer a separate contract with the provider of such cemetery
11 services, merchandise, or spaces.

12 Each completed contract shall be numbered and shall
13 contain: (i) the name and address of the purchaser, the name
14 and pertinent information of the person who is to receive the
15 cemetery services, merchandise, or spaces, and the name and
16 address of the seller; (ii) specific identification of such
17 merchandise, type of services to be held by cemetery or
18 crematory personnel, or spaces to be provided and the price of
19 the merchandise, services, or spaces; (iii) the location of the
20 space to be provided, if a specific space is contracted for,
21 indicated on a copy of an overall map of the site or section of
22 the interment, entombment, or inurnment space; and (iv) a
23 description of the type of care furnished by a provider holding
24 a valid license under the Cemetery Care Act that is being
25 purchased to maintain the interment, entombment, or inurnment
26 space, if a specific space is contracted for. If no care is
27 included in the contract, the contract shall state in 11-point
28 bold type: "This contract does not include maintenance care.",
29 and this statement shall be initialed by the purchaser. Upon
30 request by the purchaser, each contract may include a current
31 copy of the provider's rules and regulations pertaining to the
32 site of the interment, entombment, or inurnment spaces, if such
33 spaces are to be provided under the contract. The purchaser
34 shall make personal contact with the provider and visit the
35 site of the undeveloped interment, inurnment, or entombment

1 spaces being sold, unless the purchaser waives his or her right
2 to do so. Each contract that is sold by a seller who is not the
3 provider shall contain the following statements in 12-point
4 bold type and the applicable statements shall be initialed by
5 the purchaser:

6 "I HAVE MADE PERSONAL CONTACT WITH THE PROVIDER OF THE
7 CEMETERY MERCHANDISE, CEMETERY SERVICES, OR INTERMENT,
8 INURNMENT, OR ENTOMBMENT SPACES SOLD IN THIS CONTRACT.

9 I HAVE VISITED THE SITE OF THE INTERMENT, INURNMENT, OR
10 ENTOMBMENT SPACES SOLD IN THIS CONTRACT.

11 I HAVE WAIVED MY RIGHT TO MAKE PERSONAL CONTACT AND
12 VISIT THE PROVIDER OF THE CEMETERY MERCHANDISE, CEMETERY
13 SERVICES, OR INTERMENT, INURNMENT, OR ENTOMBMENT SPACES
14 BEING SOLD IN THIS CONTRACT.

15 A COPY OF THE PROVIDER'S RULES AND REGULATIONS HAS BEEN
16 MADE AVAILABLE TO ME UPON MY REQUEST."

17 Any person who violates this Section commits an unlawful
18 practice within the meaning of this Act.

19 Section 99. Effective date. This Act takes effect January
20 1, 2006.