

1 AN ACT concerning State government.

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

4 Article 5.

5 General Provisions

6 Section 5-1. Short title. This Act may be cited as the  
7 Cemetery Oversight Act.

8 Section 5-5. Findings and purpose. The citizens of  
9 Illinois have a compelling interest in the expectation that  
10 their loved ones will be treated with the same dignity and  
11 respect in death as they are entitled to be treated in life.  
12 The laws of the State should provide adequate protection in  
13 upholding the sanctity of the handling and disposition of human  
14 remains and the preservation of final resting places, but  
15 without unduly restricting family, ethnic, cultural, and  
16 religious traditions. The purpose of this Act is to ensure that  
17 the deceased be accorded equal treatment and respect for human  
18 dignity without reference to ethnic origins, cultural  
19 backgrounds, or religious affiliations.

20 Section 5-10. Declaration of public policy. The practice  
21 of cemetery operation in the State of Illinois is hereby

1 declared to affect the public health, safety, and well-being of  
2 its citizens and to be subject to regulation and control in the  
3 public interest. It is further declared that cemetery  
4 operation, as defined in this Act, should merit the confidence  
5 of the public and that only qualified persons shall be  
6 authorized to own, operate, manage, or otherwise control a  
7 cemetery in the State of Illinois. This Act shall be liberally  
8 construed to best carry out this purpose.

9 Section 5-15. Definitions. In this Act:

10 "Address of record" means the designated address recorded  
11 by the Department in the applicant's or licensee's application  
12 file or license file. It is the duty of the applicant or  
13 licensee to inform the Department of any change of address  
14 within 14 days either through the Department's website or by  
15 contacting the Department's licensure maintenance unit. The  
16 address of record for a cemetery authority shall be the  
17 permanent street address of the cemetery.

18 "Applicant" means a person applying for licensure under  
19 this Act as a cemetery authority, cemetery manager, or customer  
20 service employee. Any applicant or any person who holds himself  
21 or herself out as an applicant is considered a licensee for  
22 purposes of enforcement, investigation, hearings, and the  
23 Illinois Administrative Procedure Act.

24 "Burial permit" means a permit for the disposition of a  
25 dead human body that is filed with the Illinois Department of

1 Public Health.

2 "Care" means the maintenance of a cemetery and of the lots,  
3 graves, crypts, niches, family mausoleums, memorials, and  
4 markers therein, including: (i) the cutting and trimming of  
5 lawn, shrubs, and trees at reasonable intervals; (ii) keeping  
6 in repair the drains, water lines, roads, buildings, fences,  
7 and other structures, in keeping with a well-maintained  
8 cemetery as provided for in Section 20-5 of this Act and  
9 otherwise as required by rule; (iii) maintenance of machinery,  
10 tools, and equipment for such care; (iv) compensation of  
11 cemetery workers, any discretionary payment of insurance  
12 premiums, and any reasonable payments for workers' pension and  
13 other benefits plans; and (v) the payment of expenses necessary  
14 for such purposes and for maintaining necessary records of lot  
15 ownership, transfers, and burials.

16 "Care funds", as distinguished from receipts from annual  
17 charges or gifts for current or annual care, means any realty  
18 or personalty impressed with a trust by the terms of any gift,  
19 grant, contribution, payment, legacy, or pursuant to contract,  
20 accepted by any cemetery authority or by any trustee, licensee,  
21 agent, or custodian for the same, under Article 15 of this Act,  
22 and any income accumulated therefrom, where legally so directed  
23 by the terms of the transaction by which the principal was  
24 established.

25 "Cemetery" means any land or structure in this State  
26 dedicated to and used, or intended to be used, for the

1 interment, inurnment, or entombment of human remains.

2 "Cemetery association" means an association of 6 or more  
3 persons, and their successors in trust, who have received  
4 articles of organization from the Secretary of State to operate  
5 a cemetery; the articles of organization shall be in perpetuity  
6 and in trust for the use and benefit of all persons who may  
7 acquire burial lots in a cemetery.

8 "Cemetery authority" means any individual or legal entity  
9 that owns or controls cemetery lands or property.

10 "Cemetery manager" means an individual who is engaged in,  
11 or responsible for, or holding himself or herself out as  
12 engaged in, those activities involved in or incidental to  
13 supervising the following: the maintenance, operation,  
14 development, or improvement of a cemetery licensed under this  
15 Act; the interment of human remains; or the care, preservation,  
16 and embellishment of cemetery property. This definition  
17 includes, without limitation, an employee, an individual that  
18 is an independent contractor, an individual employed or  
19 contracted by an independent contractor, a third-party vendor,  
20 or an individual employed or contracted by a third-party vendor  
21 who is engaged in, or holding himself or herself out as engaged  
22 in, those activities involved in or incidental to supervising  
23 the following: the maintenance, operation, development, or  
24 improvement of a cemetery licensed under this Act; the  
25 interment of human remains; or the care, preservation, and  
26 embellishment of cemetery property.

1 "Cemetery operation" means to engage or attempt to engage  
2 in the interment, inurnment, or entombment of human remains or  
3 to engage in or attempt to engage in the care of a cemetery.

4 "Cemetery Oversight Database" means a database certified  
5 by the Department as effective in tracking the interment,  
6 entombment, or inurnment of human remains.

7 "Cemetery worker" means an individual, including an  
8 independent contractor or third-party vendor, who performs any  
9 work at the cemetery that is customarily performed by one or  
10 more cemetery employees, including openings and closings of  
11 vaults and graves, stone settings, inurnments, interments,  
12 entombments, administrative work, handling of any official  
13 burial records, the preparation of foundations for memorials,  
14 and routine cemetery maintenance. This definition does not  
15 include uncompensated, volunteer workers.

16 "Certificate of organization" means the document received  
17 by a cemetery association from the Secretary of State that  
18 indicates that the cemetery association shall be deemed fully  
19 organized as a body corporate under the name adopted and in its  
20 corporate name may sue and be sued.

21 "Comptroller" means the Comptroller of the State of  
22 Illinois.

23 "Consumer" means a person, or the persons given priority  
24 for the disposition of an individual's remains under the  
25 Disposition of Remains Act, who purchases or is considering  
26 purchasing cemetery, burial, or cremation products or services

1 from a cemetery authority or crematory authority, whether for  
2 themselves or for another person.

3 "Customer service employee" means an individual who has  
4 direct contact with consumers and explains cemetery  
5 merchandise or services or negotiates, develops, or finalizes  
6 contracts with consumers. This definition includes, without  
7 limitation, an employee, an individual that is an independent  
8 contractor, an individual that is employed or contracted by an  
9 independent contractor, a third-party vendor, or an individual  
10 that is employed or contracted by a third-party vendor, who has  
11 direct contact with consumers and explains cemetery  
12 merchandise or services or negotiates, develops, or finalizes  
13 contracts with consumers. This definition does not include an  
14 employee, an individual that is an independent contractor or an  
15 individual that is employed or contracted by an independent  
16 contractor, a third party vendor, or an individual that is  
17 employed or contracted by a third party vendor, who merely  
18 provides a printed cemetery list to a consumer, processes  
19 payment from a consumer, or performs sales functions related  
20 solely to incidental merchandise like flowers, souvenirs, or  
21 other similar items.

22 "Department" means the Department of Financial and  
23 Professional Regulation.

24 "Employee" means an individual who works for a cemetery  
25 authority where the cemetery authority has the right to control  
26 what work is performed and the details of how the work is

1 performed regardless of whether federal or State payroll taxes  
2 are withheld.

3 "Entombment right" means the right to place individual  
4 human remains or individual cremated human remains in a  
5 specific mausoleum crypt or lawn crypt selected by a consumer  
6 for use as a final resting place.

7 "Family burying ground" means a cemetery in which no lots  
8 are sold to the public and in which interments are restricted  
9 to the immediate family or a group of individuals related to  
10 each other by blood or marriage.

11 "Full exemption" means an exemption granted to a cemetery  
12 authority pursuant to subsection (a) of Section 5-20.

13 "Funeral director" means a funeral director as defined by  
14 the Funeral Directors and Embalmers Licensing Code.

15 "Grave" means a space of ground in a cemetery used or  
16 intended to be used for burial.

17 "Green burial or cremation disposition" means burial or  
18 cremation practices that reduce the greenhouse gas emissions,  
19 waste, and toxic chemicals ordinarily created in burial or  
20 cremation or, in the case of greenhouse gas emissions, mitigate  
21 or offset emissions. Such practices include standards for  
22 burial or cremation certified by the Green Burial Council or  
23 any other organization or method that the Department may name  
24 by rule.

25 "Immediate family" means the designated agent of a person  
26 or the persons given priority for the disposition of a person's

1 remains under the Disposition of Remains Act and shall include  
2 a person's spouse, parents, grandparents, children,  
3 grandchildren and siblings.

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

6 "Independent contractor" means a person who performs work  
7 for a cemetery authority where the cemetery authority has the  
8 right to control or direct only the result of the work and not  
9 the means and methods of accomplishing the result.

10 "Individual" means a natural person.

11 "Interment right" means the right to place individual human  
12 remains or cremated human remains in a specific underground  
13 location selected by a consumer for use as a final resting  
14 place.

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

18 "Investment Company Act of 1940" means Title 15 of the  
19 United States Code, Sections 80a-1 to 80a-64, inclusive, as  
20 amended.

21 "Investment company" means any issuer (a) whose securities  
22 are purchasable only with care funds or trust funds, or both;  
23 (b) that is an open and diversified management company as  
24 defined in and registered under the Investment Company Act of  
25 1940; and (c) that has entered into an agreement with the  
26 Department containing such provisions as the Department by



1 regulation requires for the proper administration of this Act.

2 "Lawn crypt" means a permanent underground crypt installed  
3 in multiple units for the interment of human remains.

4 "Licensee" means a person licensed under this Act as a  
5 cemetery authority, cemetery manager, or customer service  
6 employee. Anyone who holds himself or herself out as a licensee  
7 or who is accused of unlicensed practice is considered a  
8 licensee for purposes of enforcement, investigation, hearings,  
9 and the Illinois Administrative Procedure Act. This definition  
10 does not include a cemetery worker.

11 "Mausoleum crypt" means a space in a mausoleum used or  
12 intended to be used, above or underground, to entomb human  
13 remains.

14 "Niche" means a space in a columbarium or mausoleum used,  
15 or intended to be used, for inurnment of cremated human  
16 remains.

17 "Partial exemption" means an exemption granted to a  
18 cemetery authority pursuant to subsection (b) of Section 5-20.

19 "Parcel identification number" means a unique number  
20 assigned to a grave, plot, crypt, or niche that enables the  
21 Department to ascertain the precise location of a decedent's  
22 remains interred, entombed, or inurned after the effective date  
23 of this Act.

24 "Person" means any individual, firm, partnership,  
25 association, corporation, limited liability company, trustee,  
26 government or political subdivision, or other entity.

1 "Public cemetery" means a cemetery owned, operated,  
2 controlled, or managed by the federal government, by any state,  
3 county, city, village, incorporated town, township,  
4 multi-township, public cemetery district, or other municipal  
5 corporation, political subdivision, or instrumentality thereof  
6 authorized by law to own, operate, or manage a cemetery.

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

13 "Secretary" means the Secretary of Financial and  
14 Professional Regulation.

15 "Term burial" means a right of interment sold to a consumer  
16 in which the cemetery authority retains the right to disinter  
17 and relocate the remains, subject to the provisions of  
18 subsection (d) of Section 35-15 of this Act.

19 "Trustee" means any person authorized to hold funds under  
20 this Act.

21 "Unique personal identifier" means the parcel  
22 identification number in addition to the term of burial in  
23 years; the numbered level or depth in the grave, plot, crypt,  
24 or niche; and the year of death for human remains interred,  
25 entombed, or inurned after the effective date of this Act.

1 Section 5-20. Exemptions.

2 (a) Notwithstanding any provision of law to the contrary,  
3 this Act does not apply to (1) any cemetery authority operating  
4 as a family burying ground, (2) any cemetery authority that has  
5 not engaged in an interment, inurnment, or entombment of human  
6 remains within the last 10 years and does not accept or  
7 maintain care funds, or (3) any cemetery authority that is less  
8 than 2 acres and does not accept or maintain care funds. For  
9 purposes of determining the applicability of this subsection,  
10 the number of interments, inurnments, and entombments shall be  
11 aggregated for each calendar year. A cemetery authority  
12 claiming a full exemption shall apply for exempt status as  
13 provided for in Article 10 of this Act. A cemetery authority  
14 that performs activities that would disqualify it from a full  
15 exemption is required to apply for licensure within one year  
16 following the date on which its activities would disqualify it  
17 for a full exemption. A cemetery authority that previously  
18 qualified for and maintained a full exemption that fails to  
19 timely apply for licensure shall be deemed to have engaged in  
20 unlicensed practice and shall be subject to discipline in  
21 accordance with Article 25 of this Act.

22 (b) Notwithstanding any provision of law to the contrary, a  
23 cemetery authority that does not qualify for a full exemption  
24 that is operating as a cemetery authority (i) that engages in  
25 25 or fewer interments, inurnments, or entombments of human  
26 remains for each of the preceding 2 calendar years and does not

1 accept or maintain care funds, (ii) that is operating as a  
2 public cemetery, or (iii) that is operating as a religious  
3 cemetery is exempt from this Act, but is required to comply  
4 with Sections 20-5(a), 20-5(b), 20-5(b-5), 20-5(c), 20-5(d),  
5 20-6, 20-8, 20-10, 20-11, 20-12, 20-30, 25-3, and 25-120 and  
6 Article 35 of this Act. Cemetery authorities claiming a partial  
7 exemption shall apply for the partial exemption as provided in  
8 Article 10 of this Act. A cemetery authority that changes to a  
9 status that would disqualify it from a partial exemption is  
10 required to apply for licensure within one year following the  
11 date on which it changes its status. A cemetery authority that  
12 maintains a partial exemption that fails to timely apply for  
13 licensure shall be deemed to have engaged in unlicensed  
14 practice and shall be subject to discipline in accordance with  
15 Article 25 of this Act.

16 (c) Nothing in this Act applies to the City of Chicago in  
17 its exercise of its powers under the O'Hare Modernization Act  
18 or limits the authority of the City of Chicago to acquire  
19 property or otherwise exercise its powers under the O'Hare  
20 Modernization Act, or requires the City of Chicago, or any  
21 person acting on behalf of the City of Chicago, to comply with  
22 the licensing, regulation, investigation, or mediation  
23 requirements of this Act in exercising its powers under the  
24 O'Hare Modernization Act.

25 Section 5-25. Powers of the Department. Subject to the

1 provisions of this Act, the Department may exercise the  
2 following powers:

3 (1) Authorize written examinations to ascertain the  
4 qualifications and fitness of applicants for licensing as a  
5 licensed cemetery manager or as a customer service employee to  
6 ascertain whether they possess the requisite level of knowledge  
7 for such position.

8 (2) Examine and audit a licensed cemetery authority's care  
9 funds, records from any year, and records of care funds from  
10 any year, or any other aspects of cemetery operation as the  
11 Department deems appropriate.

12 (3) Investigate any and all cemetery-related activity.

13 (4) Conduct hearings on proceedings to refuse to issue or  
14 renew licenses or to revoke, suspend, place on probation,  
15 reprimand, or otherwise discipline a license under this Act or  
16 take other non-disciplinary action.

17 (5) Adopt reasonable rules required for the administration  
18 of this Act.

19 (6) Prescribe forms to be issued for the administration and  
20 enforcement of this Act.

21 (7) Maintain rosters of the names and addresses of all  
22 licensees and all persons whose licenses have been suspended,  
23 revoked, denied renewal, or otherwise disciplined within the  
24 previous calendar year. These rosters shall be available upon  
25 written request and payment of the required fee as established  
26 by rule.

## 1 Article 10.

## 2 Licensing and Registration Provisions

3 Section 10-5. Restrictions and limitations. No person  
4 shall, without a valid license issued by the Department, (i)  
5 hold himself or herself out in any manner to the public as a  
6 licensed cemetery authority, licensed cemetery manager, or  
7 customer service employee; (ii) attach the title "licensed  
8 cemetery authority", "licensed cemetery manager", or "licensed  
9 customer service employee" to his or her name; (iii) render or  
10 offer to render services constituting the practice of cemetery  
11 operation; or (iv) accept care funds within the meaning of this  
12 Act or otherwise hold funds for care and maintenance unless  
13 such person is holding and managing funds on behalf of a  
14 cemetery authority and is authorized to conduct a trust  
15 business under the Corporate Fiduciary Act or the federal  
16 National Bank Act.

17 Section 10-10. Persons licensed under the Cemetery Care Act  
18 or Cemetery Association Act. A person acting as a licensed  
19 cemetery authority under the Cemetery Care Act or Cemetery  
20 Association Act prior to their repeal on March 1, 2012 must  
21 comply with those Acts until the Department takes action on the  
22 person's application for a cemetery authority license in  
23 accordance with this Act. The application for a cemetery

1 authority license under this Article must be submitted to the  
2 Department within 9 months after the effective date of this  
3 Act. If the person fails to submit the application within this  
4 period, then the person shall be considered to be engaged in  
5 unlicensed practice and shall be subject to discipline in  
6 accordance with Article 25 of this Act.

7 Section 10-15. Persons not licensed under the Cemetery Care  
8 Act or the Cemetery Association Act. A cemetery manager, a  
9 customer service employee, or a person acting as a cemetery  
10 authority who was not required to obtain licensure prior to the  
11 effective date of this Act need not comply with the licensure  
12 requirement in this Article until the Department takes action  
13 on the person's application for a license. The application for  
14 a cemetery authority license must be submitted to the  
15 Department within 6 months after the effective date of this  
16 Act. For cemetery managers already working for a cemetery  
17 authority at the time of cemetery authority application for  
18 licensure, the application for a cemetery manager license must  
19 be submitted at the same time as the original application for  
20 licensure as a cemetery authority pursuant to this Section or  
21 Section 10-10, whichever the case may be. Any applicant for  
22 licensure as a cemetery manager of a cemetery authority that is  
23 already licensed under this Act or that has a pending  
24 application for licensure under this Act must submit his or her  
25 application to the Department on or before his or her first day

1 of work. The application for a customer service employee  
2 license must be submitted to the Department within 10 days  
3 after the cemetery authority for which he or she works becomes  
4 licensed under this Act or on or before his or her first day of  
5 work, whichever the case may be. If the person fails to submit  
6 the application within the required period, the person shall be  
7 considered to be engaged in unlicensed practice and shall be  
8 subject to discipline in accordance with Article 25 of this  
9 Act.

10 Section 10-20. Application for original license or  
11 exemption.

12 (a) Applications for original licensure as a cemetery  
13 authority, cemetery manager, or customer service employee  
14 authorized by this Act, or application for exemption from  
15 licensure as a cemetery authority, shall be made to the  
16 Department on forms prescribed by the Department, which shall  
17 include the applicant's Social Security number or FEIN number,  
18 or both, and shall be accompanied by the required fee as set by  
19 rule. Applications for partial or full exemption from licensure  
20 as a cemetery authority shall be submitted to the Department  
21 within 12 months after the Department adopts rules under this  
22 Act. If the person fails to submit the application for partial  
23 or full exemption within this period, the person shall be  
24 subject to discipline in accordance with Article 25 of this  
25 Act. If a cemetery authority seeks to practice at more than one



1 location, it shall meet all licensure requirements at each  
2 location as required by this Act and by rule, including  
3 submission of an application and fee. A person licensed as a  
4 cemetery manager or customer service employee need not submit a  
5 Worker's Statement in accordance with Section 10-22 of this  
6 Act.

7 (b) If the application for licensure as a cemetery  
8 authority does not claim a full exemption or partial exemption,  
9 then the cemetery authority license application shall be  
10 accompanied by a fidelity bond, proof of self-insurance, or  
11 letter of credit in the amount required by rule. Such bond,  
12 self-insurance, or letter of credit shall run to the Department  
13 for the benefit of the care funds held by such cemetery  
14 authority or by the trustee of the care funds of such cemetery  
15 authority. If care funds of a cemetery authority are held by  
16 any entity authorized to do a trust business under the  
17 Corporate Fiduciary Act or held by an investment company, then  
18 the Department shall waive the requirement of a bond,  
19 self-insurance, or letter of credit as established by rule. If  
20 the Department finds at any time that the bond, self-insurance  
21 or letter of credit is insecure or exhausted or otherwise  
22 doubtful, then an additional bond, form of self-insurance, or  
23 letter of credit in like amount to be approved by the  
24 Department shall be filed by the cemetery authority applicant  
25 or licensee within 30 days after written demand is served upon  
26 the applicant or licensee by the Department. In addition, if

1 the cemetery authority application does not claim a full  
2 exemption or partial exemption, then the license application  
3 shall be accompanied by proof of liability insurance, proof of  
4 self-insurance, or a letter of credit in the amount required by  
5 rule. The procedure by which claims on the liability insurance,  
6 self-insurance, or letter of credit are made and paid shall be  
7 determined by rule. Any bond obtained pursuant to this  
8 subsection shall be issued by a bonding company authorized to  
9 do business in this State. Any letter of credit obtained  
10 pursuant to this subsection shall be issued by a financial  
11 institution authorized to do business in this State.  
12 Maintaining the bonds, self-insurance, or letters of credit  
13 required under this subsection is a continuing obligation for  
14 licensure. A bonding company may terminate a bond, a financial  
15 institution may terminate a letter of credit, or an insurance  
16 company may terminate liability insurance and avoid further  
17 liability by filing a 60-day notice of termination with the  
18 Department and at the same time sending the same notice to the  
19 cemetery authority.

20 (c) After initial licensure, if any person comes to obtain  
21 at least 51% of the ownership over the licensed cemetery  
22 authority, then the cemetery authority shall have to apply for  
23 a new license and receive licensure in the required time as set  
24 by rule. The current license remains in effect until the  
25 Department takes action on the application for a new license.

26 (d) All applications shall contain the information that, in

1 the judgment of the Department, will enable the Department to  
2 pass on the qualifications of the applicant for an exemption  
3 from licensure or for a license to practice as a cemetery  
4 authority, cemetery manager, or customer service employee as  
5 set by rule.

6 Section 10-21. Qualifications for licensure.

7 (a) A cemetery authority shall apply for licensure on forms  
8 prescribed by the Department and pay the required fee. An  
9 applicant is qualified for licensure as a cemetery authority if  
10 the applicant meets all of the following qualifications:

11 (1) The applicant is of good moral character and has  
12 not committed any act or offense in any jurisdiction that  
13 would constitute the basis for discipline under this Act.  
14 In determining good moral character, the Department shall  
15 take into consideration the following:

16 (A) the applicant's record of compliance with the  
17 Code of Professional Conduct and Ethics, and whether  
18 the applicant has been found to have engaged in any  
19 unethical or dishonest practices in the cemetery  
20 business;

21 (B) whether the applicant has been adjudicated,  
22 civilly or criminally, to have committed fraud or to  
23 have violated any law of any state involving unfair  
24 trade or business practices, has been convicted of a  
25 misdemeanor of which fraud is an essential element or

1           which involves any aspect of the cemetery business, or  
2           has been convicted of any felony;

3           (C) whether the applicant has willfully violated  
4           any provision of this Act or a predecessor law or any  
5           regulations relating thereto;

6           (D) whether the applicant has been permanently or  
7           temporarily suspended, enjoined, or barred by any  
8           court of competent jurisdiction in any state from  
9           engaging in or continuing any conduct or practice  
10          involving any aspect of the cemetery or funeral  
11          business; and

12          (E) whether the applicant has ever had any license  
13          to practice any profession or occupation suspended,  
14          denied, fined, or otherwise acted against or  
15          disciplined by the applicable licensing authority.

16          If the applicant is a corporation, limited liability  
17          company, partnership, or other entity permitted by law,  
18          then each principal, owner, member, officer, and  
19          shareholder holding 25% or more of corporate stock is to be  
20          of good moral character. Good moral character is a  
21          continuing requirement of licensure.

22          (2) The applicant provides evidence satisfactory to  
23          the Department that the applicant has financial resources  
24          sufficient to comply with the maintenance and  
25          record-keeping provisions in Section 20-5 of this Act.  
26          Maintaining sufficient financial resources is a continuing

1 requirement for licensure.

2 (3) The applicant has not, within the preceding 10  
3 years, been convicted of or entered a plea of guilty or  
4 nolo contendere to (i) a Class X felony or (ii) a felony,  
5 an essential element of which was fraud or dishonesty under  
6 the laws of this State, another state, the United States,  
7 or a foreign jurisdiction. If the applicant is a  
8 corporation, limited liability company, partnership, or  
9 other entity permitted by law, then each principal, owner,  
10 member, officer, and shareholder holding 25% or more of  
11 corporate stock has not, within the preceding 10 years,  
12 been convicted of or entered a plea of guilty or nolo  
13 contendere to (i) a Class X felony or (ii) a felony, an  
14 essential element of which was fraud or dishonesty under  
15 the laws of this State, another state, the United States,  
16 or a foreign jurisdiction.

17 (4) The applicant submits his or her fingerprints in  
18 accordance with subsection (c) of this Section.

19 (5) The applicant has complied with all other  
20 requirements of this Act and the rules adopted for the  
21 implementation of this Act.

22 (b) The cemetery manager and customer service employees of  
23 a licensed cemetery authority shall apply for licensure as a  
24 cemetery manager or customer service employee on forms  
25 prescribed by the Department and pay the required fee. A person  
26 is qualified for licensure as a cemetery manager or customer

1 service employee if he or she meets all of the following  
2 requirements:

3 (1) Is at least 18 years of age.

4 (2) Is of good moral character. Good moral character is  
5 a continuing requirement of licensure. In determining good  
6 moral character, the Department shall take into  
7 consideration the factors outlined in item (1) of  
8 subsection (a) of this Section.

9 (3) Submits proof of successful completion of a high  
10 school education or its equivalent as established by rule.

11 (4) Submits his or her fingerprints in accordance with  
12 subsection (c) of this Section.

13 (5) Has not committed a violation of this Act or any  
14 rules adopted under this Act that, in the opinion of the  
15 Department, renders the applicant unqualified to be a  
16 cemetery manager.

17 (6) Successfully passes the examination authorized by  
18 the Department for cemetery manager or customer service  
19 employee, whichever is applicable.

20 (7) Has not, within the preceding 10 years, been  
21 convicted of or entered a plea of guilty or nolo contendere  
22 to (i) a Class X felony or (ii) a felony, an essential  
23 element of which was fraud or dishonesty under the laws of  
24 this State, another state, the United States, or a foreign  
25 jurisdiction.

26 (8) Can be reasonably expected to treat consumers

1           professionally, fairly, and ethically.

2           (9) Has complied with all other requirements of this  
3           Act and the rules adopted for implementation of this Act.

4           (c) Each applicant for a cemetery authority, cemetery  
5           manager, or customer service employee license shall have his or  
6           her fingerprints submitted to the Department of State Police in  
7           an electronic format that complies with the form and manner for  
8           requesting and furnishing criminal history record information  
9           that is prescribed by the Department of State Police. These  
10          fingerprints shall be checked against the Department of State  
11          Police and Federal Bureau of Investigation criminal history  
12          record databases. The Department of State Police shall charge  
13          applicants a fee for conducting the criminal history records  
14          check, which shall be deposited in the State Police Services  
15          Fund and shall not exceed the actual cost of the records check.  
16          The Department of State Police shall furnish, pursuant to  
17          positive identification, records of Illinois convictions to  
18          the Department. The Department may require applicants to pay a  
19          separate fingerprinting fee, either to the Department or  
20          directly to a designated fingerprint vendor. The Department, in  
21          its discretion, may allow an applicant who does not have  
22          reasonable access to a designated fingerprint vendor to provide  
23          his or her fingerprints in an alternative manner. The  
24          Department, in its discretion, may also use other procedures in  
25          performing or obtaining criminal background checks of  
26          applicants. Instead of submitting his or her fingerprints, an

1 individual may submit proof that is satisfactory to the  
2 Department that an equivalent security clearance has been  
3 conducted. If the applicant for a cemetery authority license is  
4 a corporation, limited liability company, partnership, or  
5 other entity permitted by law, then each principal, owner,  
6 member, officer, and shareholder holding 25% or more of  
7 corporate stock shall have his or her fingerprints submitted in  
8 accordance with this subsection (c).

9 Section 10-22. Worker's Statement.

10 (a) (1) No cemetery worker shall perform work at the  
11 cemetery of a licensed cemetery authority without submitting a  
12 Worker's Statement on or before the first day the cemetery  
13 worker commences work at the cemetery. No licensed cemetery  
14 authority shall allow a cemetery worker to perform work at his  
15 or her cemetery without submitting a Worker's Statement on or  
16 before the first day the cemetery worker commences work at the  
17 cemetery. The Worker's Statement shall be on forms prescribed  
18 by the Department and shall set forth the following:

19 (i) The individual's full name, age, and residence  
20 address.

21 (ii) The individual's work history for the 5 years  
22 immediately preceding the date of the execution of the  
23 statement, the place where the business or occupation  
24 was engaged in, and the names of employers, if any.

25 (iii) That the individual has not had licensure as



1 a cemetery authority, cemetery manager, or customer  
2 service employee denied, revoked, or suspended under  
3 this Act within the previous year.

4 (iv) Any declaration of incompetence by a court of  
5 competent jurisdiction that has not been restored.

6 (2) The cemetery authority shall retain a copy of the  
7 Worker's Statement and shall transmit a copy to the  
8 Department. A cemetery authority, however, shall not  
9 transmit copies of Worker's Statements until the cemetery  
10 authority receives a license under this Act. The Department  
11 shall issue a cemetery worker card or other record of  
12 acknowledgment to an individual who submits a Worker's  
13 Statement, but in no event shall the Department impose a  
14 fee to comply with the requirements of this Section.

15 (b) Each cemetery authority shall maintain a record of each  
16 cemetery worker that is accessible to the Department. The  
17 record shall contain the following information:

18 (1) A photograph taken within 10 days of the date that  
19 the cemetery worker commences work with the cemetery  
20 authority. The photograph shall be replaced with a current  
21 photograph no later than 4 calendar years after the date on  
22 which the cemetery worker commences work and every 4 years  
23 thereafter. The photo may consist of the worker's driver's  
24 license.

25 (2) The Worker's Statement specified in subsection (a)  
26 of this Section.

1           (3) All correspondence or documents relating to the  
2           character and integrity of the cemetery worker received by  
3           the cemetery authority from any former employer, cemetery  
4           association, government agency, or law enforcement agency.

5           (c) A cemetery authority may furnish a worker  
6           identification card to each cemetery worker. If the cemetery  
7           authority issues worker identification cards, then it shall  
8           confiscate the worker identification card of any worker whose  
9           employment or contract is terminated.

10           Section 10-23. Code of Professional Conduct and Ethics. The  
11           Department shall adopt a Code of Professional Conduct and  
12           Ethics by rule. Cemetery authorities, cemetery managers, and  
13           customer service employees shall abide by the Code of  
14           Professional Conduct and Ethics.

15           Section 10-25. Examination; failure or refusal to take the  
16           examination.

17           (a) The Department shall authorize examinations of  
18           cemetery manager and customer service employee applicants at  
19           such times and places as it may determine. The examinations  
20           shall fairly test an applicant's qualifications to practice as  
21           cemetery manager or customer service employee, whatever the  
22           case may be, and knowledge of the theory and practice of  
23           cemetery operation and management or cemetery customer  
24           service, whichever is applicable. The examination shall

1 further test the extent to which the applicant understands and  
2 appreciates that the final disposal of a deceased human body  
3 should be attended with appropriate observance and  
4 understanding, having due regard and respect for the reverent  
5 care of the human body and for those bereaved and for the  
6 overall spiritual dignity of an individual.

7 (a-5) The examinations for cemetery manager and customer  
8 service employee shall be appropriate for cemetery  
9 professionals and shall not cover mortuary science.

10 (a-10) The examinations for cemetery manager and customer  
11 service employee applicants shall be tiered, as determined by  
12 rule, to account for the different amount of knowledge needed  
13 by such applicants depending on their job duties and the number  
14 of interments, inurnments, and entombments per year at the  
15 cemetery at which they work.

16 (b) Applicants for examinations shall pay, either to the  
17 Department or to the designated testing service, a fee covering  
18 the cost of providing the examination. Failure to appear for  
19 the examination on the scheduled date at the time and place  
20 specified after the application for examination has been  
21 received and acknowledged by the Department or the designated  
22 testing service shall result in forfeiture of the examination  
23 fee.

24 (c) If the applicant neglects, fails, or refuses to take an  
25 examination or fails to pass an examination for a license under  
26 this Act within one year after filing an application, then the

1 application shall be denied. However, the applicant may  
2 thereafter submit a new application accompanied by the required  
3 fee. The applicant shall meet the requirements in force at the  
4 time of making the new application.

5 (d) The Department may employ consultants for the purpose  
6 of preparing and conducting examinations.

7 (e) The Department shall have the authority to adopt or  
8 recognize, in part or in whole, examinations prepared,  
9 administered, or graded by other organizations in the cemetery  
10 industry that are determined appropriate to measure the  
11 qualifications of an applicant for licensure.

12 Section 10-30. Continuing education. The Department shall  
13 adopt rules for continuing education of cemetery managers and  
14 customer service employees. The continuing education  
15 requirements for cemetery managers and customer service  
16 employees shall be tiered, as determined by rule, to account  
17 for the different amount of knowledge needed by such applicants  
18 depending on their job duties and the number of interments,  
19 inurnments, and entombments per year at the cemetery at which  
20 they work. The Department shall strive to keep the costs of any  
21 continuing education program imposed on a cemetery authority  
22 minimal. The requirements of this Section apply to any person  
23 seeking renewal or restoration under Section 10-40 of this Act.

24 Section 10-40. Expiration and renewal of license. The

1 expiration date, renewal period, and other requirements for  
2 each license shall be set by rule.

3 Section 10-45. Transfer or sale, preservation of license,  
4 liability for shortage.

5 (a) In the case of a sale of any cemetery or any part  
6 thereof or of any related personal property by a cemetery  
7 authority to a purchaser or pursuant to foreclosure  
8 proceedings, except the sale of burial rights, services, or  
9 merchandise to a person for his or her personal or family  
10 burial or interment, the purchaser is liable for any shortages  
11 existing before or after the sale in the care funds required to  
12 be maintained in a trust pursuant to this Act and shall honor  
13 all instruments issued under Article 15 of this Act for that  
14 cemetery. Any shortages existing in the care funds constitute a  
15 prior lien in favor of the trust for the total value of the  
16 shortages and notice of such lien shall be provided in all  
17 sales instruments.

18 (b) In the event of a sale or transfer of all or  
19 substantially all of the assets of the cemetery authority, the  
20 sale or transfer of the controlling interest of the corporate  
21 stock of the cemetery authority, if the cemetery authority is a  
22 corporation, or the sale or transfer of the controlling  
23 interest of the partnership, if the cemetery authority is a  
24 partnership, or the sale or transfer of the controlling  
25 membership, if the cemetery authority is a limited liability

1 company, the cemetery authority shall, at least 30 days prior  
2 to the sale or transfer, notify the Department, in writing, of  
3 the pending date of sale or transfer so as to permit the  
4 Department to audit the books and records of the cemetery  
5 authority. The audit must be commenced within 10 business days  
6 of the receipt of the notification and completed within the  
7 30-day notification period unless the Department notifies the  
8 cemetery authority during that period that there is a basis for  
9 determining a deficiency that will require additional time to  
10 finalize. The sale or transfer may not be completed by the  
11 cemetery authority unless and until:

12 (1) the Department has completed the audit of the  
13 cemetery authority's books and records;

14 (2) any delinquency existing in the care funds has been  
15 paid by the cemetery authority or arrangements  
16 satisfactory to the Department have been made by the  
17 cemetery authority on the sale or transfer for the payment  
18 of any delinquency; and

19 (3) the Department issues a new cemetery authority  
20 license upon application of the newly controlled  
21 corporation or partnership, which license must be applied  
22 for at least 30 days prior to the anticipated date of the  
23 sale or transfer, subject to the payment of any  
24 delinquencies, if any, as stated in item (2) of this  
25 subsection (b).

26 (c) In the event of a sale or transfer of any cemetery

1 land, including any portion of cemetery land in which no human  
2 remains have been interred, a licensee shall, at least 45 days  
3 prior to the sale or transfer, notify the Department, in  
4 writing, of the pending sale or transfer. With the  
5 notification, the cemetery authority shall submit information  
6 to the Department, which may include a copy of a portion of the  
7 cemetery map showing the land to be sold or transferred, to  
8 enable the Department to determine whether any human remains  
9 are interred, inurned, or entombed within the land to be sold  
10 or transferred and whether consumers have rights of interment,  
11 inurnment, or entombment within the land to be sold or  
12 transferred.

13 (d) For purposes of this Section, a person who acquires the  
14 cemetery through a real estate foreclosure shall be subject to  
15 the provisions of this Section pertaining to the purchaser,  
16 including licensure.

17 Section 10-50. Dissolution. Where any licensed cemetery  
18 authority or any trustee thereof has accepted care funds within  
19 the meaning of this Act, and dissolution is sought by such  
20 cemetery authority in any manner, by resolution of such  
21 cemetery authority, or the trustees thereof, notice shall be  
22 given to the Department of such intention to dissolve and  
23 proper disposition shall be made of the care funds so held for  
24 the general benefit of such lot owners by or for the benefit of  
25 such cemetery authority, as provided by law, or in accordance

1 with the trust provisions of any gift, grant, contribution,  
2 payment, legacy, or pursuant to any contract whereby such funds  
3 were created. The Department, represented by the Attorney  
4 General, may apply to the circuit court for the appointment of  
5 a receiver, trustee, successor in trust, or for directions of  
6 such court as to the proper disposition to be made of such care  
7 funds, to the end that the uses and purposes for which such  
8 trust or care funds were created may be accomplished, and for  
9 proper continued operation of the cemetery.

10 Section 10-55. Fees.

11 (a) Except as provided in subsection (b) of this Section,  
12 the fees for the administration and enforcement of this Act,  
13 including, but not limited to, original licensure, renewal, and  
14 restoration fees, shall be set by the Department by rule. The  
15 fees shall be reasonable and shall not be refundable.

16 (b) Applicants for examination shall be required to pay,  
17 either to the Department or the designated testing service, a  
18 fee covering the cost of providing the examination.

19 (c) All fees and other moneys collected under this Act  
20 shall be deposited in the Cemetery Oversight Licensing and  
21 Disciplinary Fund.

22 Section 10-60. Returned checks; fines. Any person who  
23 delivers a check or other payment to the Department that is  
24 returned to the Department unpaid by the financial institution



1 upon which it is drawn shall pay to the Department, in addition  
2 to the amount already owed to the Department, a fine of \$50.  
3 The fines imposed by this Section are in addition to any other  
4 discipline provided under this Act for unlicensed practice or  
5 practice on a non-renewed license. The Department shall notify  
6 the person that payment of fees and fines shall be paid to the  
7 Department by certified check or money order within 30 calendar  
8 days of the notification. If, after the expiration of 30 days  
9 from the date of the notification, the person has failed to  
10 submit the necessary remittance, the Department shall  
11 automatically terminate the license or deny the application,  
12 without hearing.

13 If, after termination or denial, the person seeks a  
14 license, then he or she shall apply to the Department for  
15 restoration or issuance of the license and pay all fees and  
16 fines due to the Department. The Department may establish a fee  
17 for the processing of an application for restoration of a  
18 license to pay all expenses of processing this application. The  
19 Secretary may waive the fines due under this Section in  
20 individual cases where the Secretary finds that the fines would  
21 be unreasonable or unnecessarily burdensome.

22 Article 15.

23 Trust Funds

24 Section 15-5. Gifts and contributions; trust funds.

1 (a) A licensed cemetery authority is hereby authorized and  
2 empowered to accept any gift, grant, contribution, payment,  
3 legacy, or pursuant to contract, any sum of money, funds,  
4 securities, or property of any kind, or the income or avails  
5 thereof, and to establish a trust fund to hold the same in  
6 perpetuity for the care of its cemetery, or for the care of any  
7 lot, grave, crypt, or niche in its cemetery, or for the special  
8 care of any lot, grave, crypt, or niche or of any family  
9 mausoleum or memorial, marker, or monument in its cemetery. Not  
10 less than the following amounts will be set aside and deposited  
11 in trust:

12 (1) For interment rights, \$1 per square foot of the  
13 space sold or 15% of the sales price or imputed value,  
14 whichever is the greater, with a minimum of \$25 for each  
15 individual interment right.

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

19 (3) For inurnment rights, not less than 10% of the  
20 sales price or imputed value with a minimum of \$15 for each  
21 individual inurnment right.

22 (4) For any transfer of interment rights, entombment  
23 rights, or inurnment rights recorded in the records of the  
24 cemetery authority, a minimum of \$25 for each such right  
25 transferred. This does not apply to transfers between a  
26 transferor and his or her spouse, parents, grandparents,

1 children, grandchildren, or siblings.

2 (5) Upon an interment, entombment, or inurnment in a  
3 grave, crypt, or niche in which rights of interment,  
4 entombment, or inurnment were originally acquired from a  
5 cemetery authority prior to January 1, 1948, a minimum of  
6 \$25 for each such right exercised.

7 (6) For the special care of any lot, grave, crypt, or  
8 niche or of a family mausoleum, memorial, marker, or  
9 monument, the full amount received.

10 (b) The cemetery authority shall act as trustee of all  
11 amounts received for care until they have been deposited with a  
12 corporate fiduciary as defined in Section 1-5.05 of the  
13 Corporate Fiduciary Act. All trust deposits shall be made  
14 within 30 days after receipt.

15 (c) No gift, grant, legacy, payment, or other contribution  
16 shall be invalid by reason of any indefiniteness or uncertainty  
17 as to the beneficiary designated in the instrument creating the  
18 gift, grant, legacy, payment, or other contribution. If any  
19 gift, grant, legacy, payment, or other contribution consists of  
20 non-income producing property, then the cemetery authority  
21 accepting it is authorized and empowered to sell such property  
22 and to invest the funds obtained in accordance with subsection  
23 (d) of this Section.

24 (d) The care funds authorized by this Section and provided  
25 for in this Article shall be held intact and, unless otherwise  
26 restricted by the terms of the gift, grant, legacy,

1 contribution, payment, contract, or other payment, as to  
2 investments made after June 11, 1951, the trustee of the care  
3 funds of the cemetery authority, in acquiring, investing,  
4 reinvesting, exchanging, retaining, selling, and managing  
5 property for any such trust, shall act in accordance with the  
6 duties for trustees set forth in the Illinois Trusts and  
7 Trustees Act. Within the limitations of the foregoing standard,  
8 the trustee of the care funds of the cemetery authority is  
9 authorized to acquire and retain every kind of property, real,  
10 personal, or mixed, and every kind of investment, including  
11 specifically, but without limiting the generality of the  
12 foregoing, bonds, debentures and other corporate obligations,  
13 preferred or common stocks and real estate mortgages, which  
14 persons of prudence, discretion, and intelligence acquire or  
15 retain for their own account. Within the limitations of the  
16 foregoing standard, the trustee is authorized to retain  
17 property properly acquired, without limitation as to time and  
18 without regard to its suitability for original purchase. The  
19 care funds authorized by this Section may be commingled with  
20 other trust funds received by such cemetery authority for the  
21 care of its cemetery or for the care or special care of any  
22 lot, grave, crypt, niche, private mausoleum, memorial, marker,  
23 or monument in its cemetery, whether received by gift, grant,  
24 legacy, contribution, payment, contract, or other conveyance  
25 made to such cemetery authority. Such care funds may be  
26 invested with common trust funds as provided in the Common

1 Trust Fund Act. The net income only from the investment of such  
2 care funds shall be allocated and used for the purposes  
3 specified in the transaction by which the principal was  
4 established in the proportion that each contribution bears to  
5 the entire sum invested.

6 Section 15-10. Restrictions on loans, gifts, and  
7 investments.

8 (a) No loan; investment; purchase of insurance on the life  
9 of any trustee, cemetery owner, cemetery worker, or independent  
10 contractor; purchase of any real estate; or any other  
11 transaction using care funds by any trustee, licensee, cemetery  
12 manager, or any other cemetery worker or independent contractor  
13 shall be made to or for the benefit of any person, officer,  
14 director, trustee, or party owning or having any interest in  
15 any licensee, or to any firm, corporation, trade association or  
16 partnership in which any officer, director, trustee, or party  
17 has any interest, is a member of, or serves as an officer or  
18 director. A violation of this Section shall constitute the  
19 intentional and improper withdrawal of trust funds under  
20 Section 25-105 of this Act.

21 (b) No loan or investment in any unproductive real estate  
22 or real estate outside of this State or in permanent  
23 improvements of the cemetery or any of its facilities shall be  
24 made, unless specifically authorized by the instrument whereby  
25 the principal fund was created. No commission or brokerage fee

1 for the purchase or sale of any property shall be paid in  
2 excess of that usual and customary at the time and in the  
3 locality where such purchase or sale is made, and all such  
4 commissions and brokerage fees shall be fully reported in the  
5 next annual statement of such cemetery authority or trustee.

6 (c) The prohibitions provided for in this Section apply to  
7 and include the spouse of and immediate family living with the  
8 officer, member, director, trustee, party owning any portion of  
9 such cemetery authority, or licensee under this Act.

10 Section 15-15. Care funds; deposits; investments.

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

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

1 administering the trust, shall be deemed the net income).

2 (c) The setting-aside and deposit of care funds shall be  
3 made by such cemetery authority no later than 30 days after the  
4 close of the month in which the cemetery authority gave away  
5 for an imputed value or received the final payment on the  
6 purchase price of interment rights, entombment rights, or  
7 inurnment rights, or received the final payment for the general  
8 or special care of a lot, grave, crypt, or niche or of a family  
9 mausoleum, memorial, marker, or monument, and such amounts  
10 shall be held by the trustee of the care funds of such cemetery  
11 authority in trust and in perpetuity for the specific purposes  
12 stated in the written instrument described in subsection (b).  
13 For all care funds received by a cemetery authority, except for  
14 care funds received by a cemetery authority pursuant to a  
15 specific gift, grant, contribution, payment, legacy, or  
16 contract that are subject to investment restrictions more  
17 restrictive than the investment provisions set forth in this  
18 Act, and except for care funds otherwise subject to a trust  
19 agreement executed by a person or persons responsible for  
20 transferring the specific gift, grant, contribution, payment,  
21 or legacy to the cemetery authority that contains investment  
22 restrictions more restrictive than the investment provisions  
23 set forth in this Act, the cemetery authority may, without the  
24 necessity of having to obtain prior approval from any court in  
25 this State, designate a new trustee in accordance with this Act  
26 and invest the care funds in accordance with this Section,

1 notwithstanding any contrary limitation contained in the trust  
2 agreement.

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

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

23 (f) The trust authorized by this Section shall be a single  
24 purpose trust fund. In the event of the cemetery authority's  
25 bankruptcy, insolvency, or assignment for the benefit of  
26 creditors, or an adverse judgment, the trust funds shall not be



1 available to any creditor as assets of the cemetery authority  
2 or to pay any expenses of any bankruptcy or similar proceeding,  
3 but shall be retained intact to provide for the future  
4 maintenance of the cemetery. Except in an action by the  
5 Department to revoke a license issued pursuant to this Act and  
6 for creation of a receivership as provided in this Act, the  
7 trust shall not be subject to judgment, execution, garnishment,  
8 attachment, or other seizure by process in bankruptcy or  
9 otherwise, nor to sale, pledge, mortgage, or other alienation,  
10 and shall not be assignable except as approved by the  
11 Department.

12 Section 15-25. Funds purpose and exemptions. The trust  
13 funds authorized by this Article, and the income therefrom, and  
14 any funds received under a contract to furnish care of a burial  
15 space for a definite number of years, shall be held for the  
16 general benefit of the lot owners and are exempt from taxation.  
17 The trust funds authorized by the provisions of this Article,  
18 and the income therefrom, are exempt from the operation of all  
19 laws of mortmain and the laws against perpetuities and  
20 accumulations.

21 Section 15-40. Trust examinations and audits.

22 (a) The Department shall examine at least annually every  
23 licensee who holds \$250,000 or more in its care funds. For that  
24 purpose, the Department shall have free access to the office

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

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

21 (1) material and unverified changes or fluctuations in  
22 trust balances;

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

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



1 debris.

2 Reasonable maintenance by the cemetery authority shall not  
3 preclude the exercise of lawful rights by the owner of an  
4 interment, inurnment, or entombment right, or by the decedent's  
5 immediate family or other heirs, in accordance with reasonable  
6 rules and regulations of the cemetery or other agreement of the  
7 cemetery authority.

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

13 The Department shall adopt rules to provide greater detail  
14 as to what constitutes the reasonable maintenance required  
15 under this Section. The rules shall differentiate between  
16 cemeteries based on, among other things, the size and financial  
17 strength of the cemeteries. The rules shall also provide a  
18 reasonable opportunity for a cemetery authority accused of  
19 violating the provisions of this Section to cure any such  
20 violation in a timely manner given the weather conditions,  
21 climate, and season before the Department initiates formal  
22 proceedings.

23 (b) A cemetery authority, before commencing cemetery  
24 operations or within 6 months after the effective date of this  
25 Act, shall cause an overall map of its cemetery property,  
26 delineating all lots or plots, blocks, sections, avenues,

1 walks, alleys, and paths and their respective designations, to  
2 be filed at its on-site office, or if it does not maintain an  
3 on-site office, at its principal place of business. A cemetery  
4 manager's certificate acknowledging, accepting, and adopting  
5 the map shall also be included with the map. The Department may  
6 order that the cemetery authority obtain a cemetery plat and  
7 that it be filed at its on-site office, or if it does not  
8 maintain an on-site office, at its principal place of business  
9 only in the following circumstances:

10 (1) the cemetery authority is expanding or altering the  
11 cemetery grounds; or

12 (2) a human body that should have been interred,  
13 entombed, or inurned at the cemetery is missing, displaced,  
14 or dismembered and the cemetery map contains serious  
15 discrepancies.

16 In exercising this discretion, the Department shall  
17 consider whether the cemetery authority would experience an  
18 undue hardship as a result of obtaining the plat. The cemetery  
19 plat, as with all plats prepared under this Act, shall comply  
20 with the Illinois Professional Land Surveyor Act of 1989 and  
21 shall delineate, describe, and set forth all lots or plots,  
22 blocks, sections, avenues, walks, alleys, and paths and their  
23 respective designations. A cemetery manager's certificate  
24 acknowledging, accepting, and adopting the plat shall also be  
25 included with the plat.

26 (b-5) A cemetery authority shall maintain an index that

1 associates the identity of deceased persons interred,  
2 entombed, or inurned after the effective date of this Act with  
3 their respective place of interment, entombment, or inurnment.

4 (c) The cemetery authority shall open the cemetery map or  
5 plat to public inspection. The cemetery authority shall make  
6 available a copy of the overall cemetery map or plat upon  
7 written request and shall, if practical, provide a copy of a  
8 segment of the cemetery plat where interment rights are located  
9 upon the payment of reasonable photocopy fees. Any unsold lots,  
10 plots, or parts thereof, in which there are not human remains,  
11 may be resurveyed and altered in shape or size and properly  
12 designated on the cemetery map or plat. However, sold lots,  
13 plots, or parts thereof in which there are human remains may  
14 not be renumbered or renamed. Nothing contained in this  
15 subsection, however, shall prevent the cemetery authority from  
16 enlarging an interment right by selling to its owner the excess  
17 space next to the interment right and permitting interments  
18 therein, provided reasonable access to the interment right and  
19 to adjoining interment rights is not thereby eliminated.

20 (d) A cemetery authority shall keep a record of every  
21 interment, entombment, and inurnment completed after the  
22 effective date of this Act. The record shall include the  
23 deceased's name, age, date of burial, and parcel identification  
24 number identifying where the human remains are interred,  
25 entombed, or inurned. The record shall also include the unique  
26 personal identifier as may be further defined by rule, which is

1 the parcel identification number in addition to the term of  
2 burial in years; the numbered level or depth in the grave,  
3 plot, crypt, or niche; and the year of death.

4 (e) (Blank).

5 (f) A cemetery authority shall make available for  
6 inspection and, upon reasonable request and the payment of a  
7 reasonable copying fee, provide a copy of its rules and  
8 regulations. A cemetery authority shall make available for  
9 viewing and provide a copy of its current prices of interment,  
10 inurnment, or entombment rights.

11 (g) A cemetery authority shall provide access to the  
12 cemetery under the cemetery authority's reasonable rules and  
13 regulations.

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

17 (i) Any corporate or other business organization trustee of  
18 the care funds of every licensed cemetery authority shall be  
19 located in or a resident of this State. The licensed cemetery  
20 authority and the trustee of care funds shall keep in this  
21 State and use in its business such books, accounts, and records  
22 as will enable the Department to determine whether such  
23 licensee or trustee is complying with the provisions of this  
24 Act and with the rules, regulations, and directions made by the  
25 Department under this Act. The licensed cemetery authority  
26 shall keep the books, accounts, and records in electronic or

1 written format at the location identified in the license issued  
2 by the Department or as otherwise agreed by the Department in  
3 writing. The books, accounts, and records shall be accessible  
4 for review upon demand of the Department.

5 Section 20-6. Cemetery Oversight Database.

6 (a) Within 10 business days after an interment, entombment,  
7 or inurnment of human remains, the cemetery manager shall cause  
8 a record of the interment, entombment, or inurnment to be  
9 entered into the Cemetery Oversight Database. The requirement  
10 of this subsection (a) also applies in any instance in which  
11 human remains are relocated.

12 (b) Within 9 months after the effective date of this Act,  
13 the Department shall certify a database as the Cemetery  
14 Oversight Database. Upon certifying the database, the  
15 Department shall:

16 (1) provide reasonable notice to cemetery authorities  
17 identifying the database; and

18 (2) immediately upon certification, require each  
19 cemetery authority to use the Cemetery Oversight Database  
20 as a means of complying with subsection (a).

21 (c) In certifying the Cemetery Oversight Database, the  
22 Department shall ensure that the database:

23 (1) provides real-time access through an Internet  
24 connection or, if real-time access through an Internet  
25 connection becomes unavailable due to technical problems



1 with the Cemetery Oversight Database incurred by the  
2 database provider or if obtaining use of an Internet  
3 connection would be an undue hardship on the cemetery  
4 authority, through alternative mechanisms, including, but  
5 not limited to, telephone;

6 (2) is accessible to the Department and to cemetery  
7 managers in order to ensure compliance with this Act and in  
8 order to provide any other information that the Department  
9 deems necessary;

10 (3) requires cemetery authorities to input whatever  
11 information required by the Department;

12 (4) maintains a real-time copy of the required  
13 reporting information that is available to the Department  
14 at all times and is the property of the Department; and

15 (5) contains safeguards to ensure that all information  
16 contained in the Cemetery Oversight Database is secure.

17 (d) A cemetery authority may rely on the information  
18 contained in the Cemetery Oversight Database as accurate and is  
19 not subject to any administrative penalty or liability as a  
20 result of relying on inaccurate information contained in the  
21 database.

22 (e) The Cemetery Oversight Database provider shall  
23 indemnify cemetery authorities against all claims and actions  
24 arising from illegal, willful, or wanton acts on the part of  
25 the Database provider. The Cemetery Oversight Database  
26 provider shall at all times maintain an electronic backup copy

1 of the information it receives pursuant to subsection (a).

2 Section 20-8. Vehicle traffic control. A cemetery  
3 authority shall use its reasonable best efforts to ensure that  
4 funeral processions entering and exiting the cemetery grounds  
5 do not obstruct traffic on any street for a period in excess of  
6 10 minutes, except where such funeral procession is  
7 continuously moving or cannot be moved by reason of  
8 circumstances over which the cemetery authority has no  
9 reasonable control. The cemetery authority shall use its  
10 reasonable best efforts to help prevent multiple funeral  
11 processions from arriving at the cemetery simultaneously.  
12 Notwithstanding any provision of this Act to the contrary, a  
13 cemetery authority that violates the provisions of this Section  
14 shall be guilty of a business offense and punishable by a fine  
15 of not more than \$500 for each offense.

16 Section 20-10. Contract. At the time cemetery arrangements  
17 are made and prior to rendering the cemetery services, a  
18 cemetery authority shall create a written contract to be  
19 provided to the consumer, signed by both parties, that shall  
20 contain: (i) contact information, as set out in Section 20-11,  
21 and the date on which the arrangements were made; (ii) the  
22 price of the service selected and the services and merchandise  
23 included for that price; (iii) the supplemental items of  
24 service and merchandise requested and the price of each item;

1 (iv) the terms or method of payment agreed upon; and (v) a  
2 statement as to any monetary advances made on behalf of the  
3 family. The cemetery authority shall maintain a copy of such  
4 written contract in its permanent records.

5 Section 20-11. Contact information in a contract. All  
6 cemetery authorities shall include in the contract described in  
7 Section 20-10 the name, address, and telephone number of the  
8 cemetery authority, except for a cemetery authority that is  
9 operating as a religious cemetery or public cemetery, which  
10 shall include in the contract described in Section 20-10 the  
11 name, address, and telephone number of the cemetery manager.  
12 Upon written request to a cemetery authority by a consumer, the  
13 cemetery authority shall provide: (1) the cemetery authority's  
14 registered agent, if any; (2) the cemetery authority's  
15 proprietor, if the cemetery authority is an individual; (3)  
16 every partner, if the cemetery authority is a partnership; (4)  
17 the president, secretary, executive and senior vice  
18 presidents, directors, and individuals owning 25% or more of  
19 the corporate stock, if the cemetery authority is a  
20 corporation; and (5) the manager, if the cemetery authority is  
21 a limited liability company.

22 Section 20-12. Method of payment; receipt. No cemetery  
23 authority shall require payment for any goods, services, or  
24 easement by cash only. Each cemetery authority subject to this

1 Section shall permit payment by at least one other option,  
2 including, but not limited to, personal check, cashier's check,  
3 money order, or credit or debit card. In addition to the  
4 contract for the sale of cemetery goods, services, or  
5 easements, the cemetery authority shall provide a receipt to  
6 the consumer upon payment in part or full, whatever the case  
7 may be.

8 Section 20-15. Interment or inurnment in cemetery. No  
9 cemetery authority shall interfere with a licensed funeral  
10 director or his or her designated agent observing the final  
11 burial or disposition of a body for which the funeral director  
12 has a contract for services related to that deceased  
13 individual. No funeral director or his or her designated agent  
14 shall interfere with a licensed cemetery authority or its  
15 designated agent's rendering of burial or other disposition  
16 services for a body for which the cemetery authority has a  
17 contract for goods, services, or property related to that  
18 deceased individual.

19 Section 20-20. Display of license. Every cemetery  
20 authority, cemetery manager, and customer service employee  
21 license issued by the Department shall state the number of the  
22 license and the address at which the business is to be  
23 conducted. Such license shall be kept conspicuously posted in  
24 the place of business of the licensee and shall not be

1 transferable or assignable. Nothing in this Act shall prevent  
2 an individual from acting as a licensed cemetery manager or  
3 customer service employee for more than one cemetery. A  
4 cemetery manager or customer service employee who works at more  
5 than one cemetery shall display an original version of his or  
6 her license at each location for which the individual serves as  
7 a cemetery manager or customer service employee.

8 Section 20-25. Annual report. Each licensed cemetery  
9 authority shall annually, on or before April 15, file a report  
10 with the Department giving such information as the Department  
11 may reasonably require concerning the business and operations  
12 during the preceding calendar year as provided for by rule. The  
13 report must be received by the Department on or before April  
14 15, unless such date is extended for reasonable cause up to 90  
15 days by the Department. The report shall be made under oath and  
16 in a form prescribed by the Department. The Department may fine  
17 each licensee an amount as determine by rule for each day  
18 beyond April 15 the report is filed.

19 Section 20-30. Signage. The Department shall create, and  
20 each cemetery authority shall conspicuously post signs in  
21 English and Spanish in each cemetery office that contain the  
22 Department's consumer hotline number, information on how to  
23 file a complaint, and whatever other information that the  
24 Department deems appropriate.

## 1 Article 22.

## 2 Cemetery Associations

3 Section 22-1. Cemetery association requirements. The  
4 requirements of this Article apply to those entities formed as  
5 and acting as cemetery associations that act as a cemetery and  
6 are otherwise exempt from this Act pursuant to Section 5-20 of  
7 this Act. A cemetery association offering or providing services  
8 as a cemetery that is exempt pursuant to Section 5-20 of this  
9 Act shall remain subject to the provisions of this Article and  
10 its requirements, mandates, and discipline in accordance with  
11 the provisions of this Act. Any cemetery association not exempt  
12 in accordance with Section 5-20 of this Act shall obtain a  
13 license from the Department in accordance with the provisions  
14 of this Act and shall remain subject to all provisions of this  
15 Act.

## 16 Section 22-2. Cemetery association formation.

17 (a) Any 6 or more persons may organize a cemetery  
18 association, to be owned, managed, and controlled in the manner  
19 provided in this Article.

20 (b) Whenever 6 or more persons shall present to the  
21 Secretary of State a petition setting forth that they desire to  
22 organize a cemetery association under this Act, which shall  
23 specify the county in which the cemetery association will be

1 located and the name and style of the cemetery association, the  
2 Secretary of State shall issue to such persons and their  
3 successors in trust, a certificate of organization, which shall  
4 be in perpetuity and in trust for the use and benefit of all  
5 persons who may acquire burial lots in the cemetery.

6 Section 22-3. Certificate of organization. Any person who  
7 has received a certificate of organization from the Secretary  
8 of State must record the certificate of organization with the  
9 recorder's office of the county in which the cemetery is  
10 situated, and when so recorded, the association shall be deemed  
11 fully organized as a body corporate under the name adopted and  
12 in its corporate name may sue and be sued. Whenever two-thirds  
13 of the trustees of the cemetery association approve a  
14 resolution to change the name of the cemetery association, a  
15 copy of such resolution and approval thereof duly certified by  
16 the President and Secretary of the association shall be filed  
17 with the Department and upon approval thereof shall be filed in  
18 the Office of the Secretary of State. Whenever two-thirds of  
19 the trustees of a cemetery association approve a resolution to  
20 dissolve the association, a copy of such resolution and  
21 approval of the trustees of the cemetery association duly  
22 certified by the President and Secretary shall be submitted to  
23 the Department, and if approved by the Department, a copy of  
24 such resolution and approval of the Department shall be duly  
25 filed by the Department in the Office of the Secretary of

1 State. If the association has care funds as defined in this  
2 Act, the Department shall not approve the dissolution of any  
3 cemetery association unless proper disposition has been made of  
4 such care funds, as provided by law, and in accordance with  
5 this Act. Upon the filing of the resolution of either change of  
6 name or dissolution of such cemetery association in the Office  
7 of the Secretary of State, such change of name or dissolution  
8 of such cemetery association shall be complete. The Department  
9 shall so notify the trustees of such cemetery association.  
10 Thereupon the trustees shall cause a copy of such resolution of  
11 either change of name or dissolution to be recorded in the  
12 recorder's office of the county where the cemetery is situated.

13 Section 22-4. Cemetery association composition; board of  
14 trustees. A cemetery association meeting the requirements set  
15 forth in Section 22-3 of this Act shall proceed to elect from  
16 their own number a board of trustees for the association. The  
17 board shall consist of not less than 6 and not more than 10  
18 members. The trustees, once elected, shall immediately  
19 organize by electing from their own membership a president,  
20 vice president, and treasurer, and shall also elect a  
21 secretary, who may or may not be a member of the board of  
22 trustees. The officers shall hold their respective offices for  
23 and during the period of one year, and until their successors  
24 are duly elected and qualified. Trustees, once elected, shall  
25 divide themselves by lot into 2 classes, the first of which



1 shall hold their offices for a period of 3 years, and the  
2 second of which shall hold their offices for a period of 6  
3 years. Thereafter the term of office of the trustees shall be 6  
4 years. Upon the expiration of the term of office of any of the  
5 trustees, or the resignation or death or removal from the State  
6 of Illinois of any trustees, or their removal from office as  
7 provided in this Act, the remaining trustees shall fill the  
8 vacancy by electing a person residing in the county where the  
9 cemetery is located for a new 6-year term or, if no one can be  
10 nominated, the President of the cemetery association shall  
11 notify the Department of such vacancy or vacancies in writing.  
12 Thereafter the Department shall fill the vacancy or vacancies  
13 by appointing a suitable person or persons as trustees. In  
14 making such appointments, the Department shall exercise its  
15 power such that at least two-thirds of the trustees shall be  
16 selected from suitable persons residing within 15 miles of the  
17 cemetery, or some part thereof, and the other appointees may be  
18 suitable persons interested in said cemetery association  
19 through family interments or otherwise who are citizens of the  
20 State of Illinois.

21 Section 22-5. Right to acquire land. Any cemetery  
22 association shall have the right to acquire the necessary  
23 amount of land for the use of the cemetery association. Land  
24 may be acquired by purchase or by gift, and the association is  
25 authorized to receive by gift or legacy any property, either

1 real, personal, or mixed, which may be donated to the  
2 association to hold and keep inviolate any such property for  
3 the uses of the cemetery association. A cemetery association  
4 may receive and administer endowments for the care and  
5 oversight of such cemetery or any part thereof. All cemetery  
6 associations shall be subject to and shall comply with the  
7 provisions of the other Articles of this Act unless otherwise  
8 exempted by the provisions of this Act.

9 Section 22-6. Plat; plots; recordation. All cemetery  
10 associations may divide and lay out into lots any real estate  
11 that it may acquire. When such division takes place, the lots  
12 shall be of suitable size for burial lots. A plat of any land  
13 that is laid out into lots as provided in this Section shall  
14 comply with the Illinois Professional Land Surveyor Act of 1989  
15 and be filed by the cemetery association at its on-site office,  
16 or if it does not maintain an on-site office, at its principal  
17 place of business. The cemetery association shall have the  
18 right to sell to any person or persons a lot or lots in the  
19 cemetery for burial purposes only, and to convey to such person  
20 or persons a lot by a proper certificate of conveyance. A  
21 person or persons purchasing a lot or lots shall have the right  
22 to use the same for burial purposes as limited by the  
23 reasonable rules of the cemetery association; but no cemetery  
24 association shall make or enforce any rule prohibiting the  
25 erection of any memorial on any lot or lots as may be

1 prescribed or provided by the United States or the State of  
2 Illinois for a soldier, sailor, or marine having served and  
3 been honorably discharged from the Army, Navy, Air Force,  
4 Marine Corps, Coast Guard, National Guard, Reserve Units, or  
5 Merchant Marines of the United States or the State of Illinois  
6 that meets the established and written rules and regulations of  
7 the cemetery.

8 Section 22-7. Funds; loans. The treasurer of a cemetery  
9 association may from time to time loan money that the  
10 association may have that is not needed for the immediate use  
11 of the association by taking proper security for the loan, and  
12 the loan and the security for the loan shall, before the loan  
13 becomes effective, be approved by the board of trustees of the  
14 cemetery association.

15 Section 22-8. Officer trustee compensation; salary. No  
16 officer or trustee of a cemetery association shall receive any  
17 compensation of any kind for any services rendered by him or  
18 her on behalf of the association, except that officers and  
19 trustees may be reimbursed for reasonable expenses, and the  
20 secretary and treasurer of the association may receive such  
21 salary as may be fixed by the board of trustees.

22 Section 22-9. Payment of earnings or dividends. No earnings  
23 or dividends shall be declared or paid to any officer or other

1 person from the funds of a cemetery association. Such earnings  
2 and dividends shall be kept inviolate and be used only for  
3 purposes of the association and the care, preservation, and  
4 ornamentation of the cemetery.

5 Section 22-10. Annual reports. The board of trustees for  
6 any cemetery association that is exempt in accordance with the  
7 provisions of this Act and subject to the provisions of this  
8 Article shall annually prepare and file with the Department the  
9 report required to be filed by a licensee under Section 20-25.  
10 The Department shall examine such report to determine whether  
11 the association has fully complied with the requirements of  
12 this Act. If a cemetery association fails to submit an annual  
13 report to the Department within the time specified in Section  
14 20-25, the Department shall impose upon the cemetery  
15 association a fine as provided for by rule for each and every  
16 day the cemetery licensee remains delinquent in submitting the  
17 report. Any fine established pursuant to this Section shall be  
18 paid within 60 days after the effective date of the order  
19 imposing the fine unless such time is extended, the fine is  
20 reduced, or the fine is otherwise waived. The order shall  
21 constitute a judgment and may be filed and execution had  
22 thereon in the same manner as any judgment from any court of  
23 record.

24 Section 22-11. Fees; fines. Except as otherwise provided in

1 this Act, the fees for the administration and enforcement of  
2 this Article shall be set by rule of the Department. The fees  
3 shall be nonrefundable.

4 Section 22-12. Deposit of fees and fines. All of the fees,  
5 fines, or other moneys collected by the Department from  
6 cemetery associations under this Article shall be deposited  
7 into the Cemetery Oversight Licensing and Disciplinary Fund.

8 Section 22-13. Injunctive relief.

9 (a) If any cemetery association otherwise exempted under  
10 the provisions of this Act violates any of the provisions of  
11 this Article, the Department, any interested party, any person  
12 injured thereby, the Attorney General of the State of Illinois,  
13 or the State's Attorney in the county in which the offense  
14 occurs may petition to the circuit court of the county in which  
15 the violation or some part thereof occurred or of the county  
16 where the association has its principal place of business for  
17 an order enjoining the violation or for an order enforcing  
18 compliance with this Act. Upon the filing of a verified  
19 petition in court, the court may issue a temporary restraining  
20 order, without notice or bond, and may preliminarily and  
21 permanently enjoin the violation. If it is established that the  
22 person has violated or is violating the injunction, the court  
23 may punish the offender for contempt of court. Proceedings  
24 under this Section shall be in addition to, and not in lieu of,

1 all other remedies and penalties provided by this Article.

2 (b) For misconduct in office any trustee of a cemetery  
3 association may be removed from office by a court of competent  
4 jurisdiction. Any trustee of an association who converts any  
5 funds of an association to his or her own use or to a use other  
6 than that intended shall be guilty of embezzlement as provided  
7 by State law.

8 (c) All cemetery associations shall remain subject to the  
9 duties, obligations, and requirements of this Act unless  
10 otherwise exempted by this Act. Those cemetery associations  
11 exempted under this Act shall comply with the provisions of  
12 this Article.

13 Section 22-14. Rules; bond requirement.

14 (a) The board of trustees of the cemetery association may  
15 make any and all rules and regulations for the management of  
16 the association not inconsistent with this Article or this Act.

17 (b) All members of the board of trustees of a cemetery  
18 association that fail to maintain the bond or letter of credit  
19 as required under this Act shall remain jointly and severally  
20 liable for damages and each shall be guilty of a Class A  
21 misdemeanor for the first offense and a Class 4 felony for  
22 second and subsequent offenses.

23 Section 22-15. Conveyance of property. Any cemetery  
24 association organized under this Act may convey any property

1 that it may hold within a city, village, incorporated town,  
2 county not under township organization, or town, to the city,  
3 village, incorporated town, county, or town within which this  
4 property is located and may convey any property that it may  
5 hold within one mile of any city, village, or incorporated town  
6 to such city, village, or incorporated town. If the city,  
7 village, incorporated town, county, or town accepts the  
8 conveyance, then such property shall thereafter be under the  
9 control, management, maintenance, and ownership of the city,  
10 village, incorporated town, county, or town.

11 Section 22-16. Grants. Any cemetery association organized  
12 under this Article shall be authorized to obtain a grant or  
13 grants of federal funds from the United States Government, or  
14 from any proper agency thereof, for the construction of a  
15 memorial gateway and entrance on property of a cemetery  
16 association that is maintained as a national cemetery. Any  
17 cemetery association organized under this Act shall be  
18 authorized to convey in fee simple to the United States  
19 Government, or to any proper agency thereof, such portion of  
20 property of such cemetery as is now or may hereafter be  
21 maintained as a national cemetery.

22 Section 22-17. Taxable property. The property, both real  
23 and personal, of any cemetery association organized under this  
24 Act shall be forever exempt from taxation for any and all

1 purposes.

2 Section 22-18. Additional property. A cemetery association  
3 organized under this Act that has acquired or may hereafter  
4 acquire land by purchase, deed, will, or otherwise, and has  
5 platted, mapped, and used the land for cemetery purposes, may,  
6 when necessary, acquire additional land adjoining or abutting  
7 the cemetery.

8 Section 22-21. Administrative rules. The Department shall  
9 have authority to adopt and implement administrative rules  
10 relating to all Sections under this Article. The rules may  
11 include, but shall not be limited to, rules in those areas  
12 relating to forms, fees, requirements, notices, discipline,  
13 and any other rule necessary to properly implement the intent  
14 of this Article.

15 Article 25.

16 Administration and Enforcement

17 Section 25-1. Denial of license or exemption from  
18 licensure. If the Department determines that an application for  
19 licensure or exemption from licensure should be denied pursuant  
20 to Section 25-10, then the applicant shall be sent a notice of  
21 intent to deny license or exemption from licensure and the  
22 applicant shall be given the opportunity to request, within 20



1 days of the notice, a hearing on the denial. If the applicant  
2 requests a hearing, then the Secretary shall schedule a hearing  
3 within 30 days after the request for a hearing, unless  
4 otherwise agreed to by the parties. The Secretary shall have  
5 the authority to appoint an attorney duly licensed to practice  
6 law in the State of Illinois to serve as the hearing officer.  
7 The hearing officer shall have full authority to conduct the  
8 hearing. The hearing shall be held at the time and place  
9 designated by the Secretary. The Secretary shall have the  
10 authority to prescribe rules for the administration of this  
11 Section.

12 Section 25-3. Exemption, investigation, mediation. All  
13 cemetery authorities maintaining a partial exemption must  
14 submit to the following investigation and mediation procedure  
15 by the Department in the event of a consumer complaint:

16 (a) Complaints to cemetery:

17 (1) the cemetery authority shall make every effort to  
18 first resolve a consumer complaint; and

19 (2) if the complaint is not resolved, then the cemetery  
20 authority shall advise the consumer of his or her right to  
21 seek investigation and mediation by the Department.

22 (b) Complaints to the Department:

23 (1) if the Department receives a complaint, the  
24 Department shall make an initial determination as to  
25 whether the complaint has a reasonable basis and pertains

1 to this Act;

2 (2) if the Department determines that the complaint has  
3 a reasonable basis and pertains to this Act, it shall  
4 inform the cemetery authority of the complaint and give it  
5 30 days to tender a response;

6 (3) upon receiving the cemetery authority's response,  
7 or after the 30 days provided in subsection (2) of this  
8 subsection, whichever comes first, the Department shall  
9 attempt to resolve the complaint telephonically with the  
10 parties involved;

11 (4) if the complaint still is not resolved, then the  
12 Department shall conduct an investigation and mediate the  
13 complaint as provided for by rule;

14 (5) if the Department conducts an on-site  
15 investigation and face-to-face mediation with the parties,  
16 then it may charge the cemetery authority a single  
17 investigation and mediation fee, which fee shall be set by  
18 rule and shall be calculated on an hourly basis; and

19 (6) if all attempts to resolve the consumer complaint  
20 as provided for in paragraphs (1) through (5) fail, then  
21 the cemetery authority may be subject to proceedings for  
22 penalties and discipline under this Article when it is  
23 determined by the Department that the cemetery authority  
24 may have engaged in any of the following: (i) gross  
25 malpractice; (ii) dishonorable, unethical, or  
26 unprofessional conduct of a character likely to deceive,

1 defraud, or harm the public; (iii) gross, willful, or  
2 continued overcharging for services; (iv) incompetence;  
3 (v) unjustified failure to honor its contracts; or (vi)  
4 failure to adequately maintain its premises. The  
5 Department may issue a citation or institute disciplinary  
6 action and cause the matter to be prosecuted and may  
7 thereafter issue and enforce its final order as provided in  
8 this Act.

9 Section 25-5. Citations.

10 (a) The Department may adopt rules to permit the issuance  
11 of citations for non-frivolous complaints. The citation shall  
12 be issued to the licensee and shall contain the licensee's name  
13 and address, the licensee's license number, a brief factual  
14 statement, the Sections of the law allegedly violated, and the  
15 penalty imposed. The citation must clearly state that the  
16 licensee may choose, in lieu of accepting the citation, to  
17 request a hearing. If the licensee does not dispute the matter  
18 in the citation with the Department within 30 days after the  
19 citation is served, then the citation shall become a final  
20 order and shall constitute discipline. The penalty shall be a  
21 fine or other conditions as established by rule.

22 (b) The Department shall adopt rules designating  
23 violations for which a citation may be issued. Such rules shall  
24 designate as citation violations those violations for which  
25 there is no substantial threat to the public health, safety,

1 and welfare. Citations shall not be utilized if there was any  
2 significant consumer harm resulting from the violation.

3 (c) A citation must be issued within 6 months after the  
4 reporting of a violation that is the basis for the citation.

5 (d) Service of a citation may be made by personal service  
6 or certified mail to the licensee at the licensee's address of  
7 record.

8 Section 25-10. Grounds for disciplinary action.

9 (a) The Department may refuse to issue or renew a license  
10 or may revoke, suspend, place on probation, reprimand, or take  
11 other disciplinary action as the Department may deem  
12 appropriate, including imposing fines not to exceed \$10,000 for  
13 each violation, with regard to any license under this Act, for  
14 any one or combination of the following:

15 (1) Material misstatement in furnishing information to  
16 the Department.

17 (2) Violations of this Act, except for Section 20-8, or  
18 of the rules adopted under this Act.

19 (3) Conviction of, or entry of a plea of guilty or nolo  
20 contendere to, any crime within the last 10 years that is a  
21 Class X felony or is a felony involving fraud and  
22 dishonesty under the laws of the United States or any state  
23 or territory thereof.

24 (4) Making any misrepresentation for the purpose of  
25 obtaining licensure or violating any provision of this Act

1 or the rules adopted under this Act.

2 (5) Professional incompetence.

3 (6) Gross malpractice.

4 (7) Aiding or assisting another person in violating any  
5 provision of this Act or rules adopted under this Act.

6 (8) Failing, within 10 business days, to provide  
7 information in response to a written request made by the  
8 Department.

9 (9) Engaging in dishonorable, unethical, or  
10 unprofessional conduct of a character likely to deceive,  
11 defraud, or harm the public.

12 (10) Inability to practice with reasonable judgment,  
13 skill, or safety as a result of habitual or excessive use  
14 of alcohol, narcotics, stimulants, or any other chemical  
15 agent or drug.

16 (11) Discipline by another state, District of  
17 Columbia, territory, or foreign nation, if at least one of  
18 the grounds for the discipline is the same or substantially  
19 equivalent to those set forth in this Section.

20 (12) Directly or indirectly giving to or receiving from  
21 any person, firm, corporation, partnership, or association  
22 any fee, commission, rebate, or other form of compensation  
23 for professional services not actually or personally  
24 rendered.

25 (13) A finding by the Department that the licensee,  
26 after having his or her license placed on probationary

1 status, has violated the terms of probation.

2 (14) Willfully making or filing false records or  
3 reports in his or her practice, including, but not limited  
4 to, false records filed with any governmental agency or  
5 department.

6 (15) Inability to practice the profession with  
7 reasonable judgment, skill, or safety.

8 (16) Failure to file an annual report or to maintain in  
9 effect the required bond or to comply with an order,  
10 decision, or finding of the Department made pursuant to  
11 this Act.

12 (17) Directly or indirectly receiving compensation for  
13 any professional services not actually performed.

14 (18) Practicing under a false or, except as provided by  
15 law, an assumed name.

16 (19) Fraud or misrepresentation in applying for, or  
17 procuring, a license under this Act or in connection with  
18 applying for renewal of a license under this Act.

19 (20) Cheating on or attempting to subvert the licensing  
20 examination administered under this Act.

21 (21) Unjustified failure to honor its contracts.

22 (22) Negligent supervision of a cemetery manager,  
23 customer service employee, cemetery worker, or independent  
24 contractor.

25 (23) A pattern of practice or other behavior which  
26 demonstrates incapacity or incompetence to practice under

1           this Act.

2           (24) Allowing an individual who is not, but is required  
3           to be, licensed under this Act to perform work for the  
4           cemetery authority.

5           (25) Allowing an individual who has not, but is  
6           required to, submit a Worker's Statement in accordance with  
7           Section 10-22 of this Act to perform work at the cemetery.

8           (b) No action may be taken under this Act against a person  
9           licensed under this Act unless the action is commenced within 5  
10          years after the occurrence of the alleged violations. A  
11          continuing violation shall be deemed to have occurred on the  
12          date when the circumstances last existed that give rise to the  
13          alleged violation.

14          Section 25-13. Independent contractors.

15          (a) Notwithstanding any provision of this Act to the  
16          contrary, a cemetery authority may, in exigent circumstances  
17          only, allow an unlicensed independent contractor who otherwise  
18          would be required to become licensed, or an independent  
19          contractor that has not submitted a Worker's Statement who  
20          otherwise would be required to submit a Worker's Statement, to  
21          perform work of an emergency nature on a temporary basis to  
22          prevent an immediate threat to public safety that could not  
23          have been foreseen. The cemetery authority may only permit such  
24          independent contractor to perform such work for so long as is  
25          reasonably necessary to address the emergency, but in no case

1 longer than 10 days unless the Secretary approves a longer  
2 period of time upon the cemetery authority's showing of good  
3 cause. The cemetery authority shall report the use of such  
4 independent contractor to the Department on forms provided by  
5 the Department and according to rules adopted by the  
6 Department.

7 (b) Notwithstanding any provision of this Act to the  
8 contrary, a cemetery authority may allow an unlicensed  
9 independent contractor who otherwise would be required to  
10 become licensed, or an independent contractor that has not  
11 submitted a Worker's Statement who otherwise would be required  
12 to submit a Worker's Statement, to perform work on a special  
13 project basis, and only to perform work other than the  
14 following services: openings and closings of vaults and graves,  
15 stone settings, inurnments, interments, entombments,  
16 administrative work, handling of any official burial records,  
17 and all other work that is customarily performed by one or more  
18 cemetery workers before the effective date of the Act,  
19 including, but not limited to, the preparation of foundations  
20 for memorials and routine cemetery maintenance. For purposes of  
21 this subsection, "routine cemetery maintenance" includes those  
22 activities described in items (1), (2), (3), and (6) of Section  
23 20-5(a) of this Act.

24 Section 25-14. Mandatory reports.

25 (a) If a cemetery authority receives a consumer complaint



1 that is not resolved to the satisfaction of the consumer within  
2 60 days of the complaint, the cemetery authority shall advise  
3 the consumer of the right to seek investigation by the  
4 Department and shall report the consumer complaint to the  
5 Department within the next 30 days. Cemetery authorities shall  
6 report to the Department within 30 days after the settlement of  
7 any liability insurance claim or cause of action, or final  
8 judgment in any cause of action, that alleges negligence,  
9 fraud, theft, misrepresentation, misappropriation, or breach  
10 of contract.

11 (b) The State's Attorney of each county shall report to the  
12 Department all instances in which an individual licensed as a  
13 cemetery manager or customer service employee, or any  
14 individual listed on a licensed cemetery authority's  
15 application under this Act, is convicted or otherwise found  
16 guilty of the commission of any felony. The report shall be  
17 submitted to the Department within 60 days after conviction or  
18 finding of guilty.

19 Section 25-15. Cease and desist.

20 (a) The Secretary may issue an order to cease and desist to  
21 any licensee or other person doing business without the  
22 required license when, in the opinion of the Secretary, the  
23 licensee or other person is violating or is about to violate  
24 any provision of this Act or any rule or requirement imposed in  
25 writing by the Department.

1           (b) The Secretary may issue an order to cease and desist  
2 prior to a hearing and such order shall be in full force and  
3 effect until a final administrative order is entered.

4           (c) The Secretary shall serve notice of his or her action,  
5 designated as an order to cease and desist made pursuant to  
6 this Section, including a statement of the reasons for the  
7 action, either personally or by certified mail, return receipt  
8 requested. Service by certified mail shall be deemed completed  
9 when the notice is deposited in the United States mail and sent  
10 to the address of record or, in the case of unlicensed  
11 activity, the address known to the Department.

12           (d) Within 15 days after service of the order to cease and  
13 desist, the licensee or other person may request, in writing, a  
14 hearing.

15           (e) The Secretary shall schedule a hearing within 30 days  
16 after the request for a hearing unless otherwise agreed to by  
17 the parties.

18           (f) The Secretary shall have the authority to prescribe  
19 rules for the administration of this Section.

20           (g) If, after hearing, it is determined that the Secretary  
21 has the authority to issue the order to cease and desist, he or  
22 she may issue such orders as may be reasonably necessary to  
23 correct, eliminate, or remedy such conduct.

24           (h) The powers vested in the Secretary by this Section are  
25 additional to any and all other powers and remedies vested in  
26 the Secretary by law and nothing in this Section shall be

1 construed as requiring that the Secretary shall employ the  
2 power conferred in this Section instead of or as a condition  
3 precedent to the exercise of any other power or remedy vested  
4 in the Secretary.

5 Section 25-25. Investigations, notice, hearings.

6 (a) The Department may at any time investigate the actions  
7 of any applicant or of any person or persons rendering or  
8 offering to render services as a cemetery authority, cemetery  
9 manager, or customer service employee of or any person holding  
10 or claiming to hold a license as a licensed cemetery authority,  
11 cemetery manager, or customer service employee. If it appears  
12 to the Department that a person has engaged in, is engaging in,  
13 or is about to engage in any practice declared to be unlawful  
14 by this Act, then the Department may: (1) require that person  
15 to file on such terms as the Department prescribes a statement  
16 or report in writing, under oath or otherwise, containing all  
17 information the Department may consider necessary to ascertain  
18 whether a licensee is in compliance with this Act, or whether  
19 an unlicensed person is engaging in activities for which a  
20 license is required; (2) examine under oath any individual in  
21 connection with the books and records pertaining to or having  
22 an impact upon the operation of a cemetery or trust funds  
23 required to be maintained pursuant to this Act; (3) examine any  
24 books and records of the licensee, trustee, or investment  
25 advisor that the Department may consider necessary to ascertain

1 compliance with this Act; and (4) require the production of a  
2 copy of any record, book, document, account, or paper that is  
3 produced in accordance with this Act and retain it in his or  
4 her possession until the completion of all proceedings in  
5 connection with which it is produced.

6 (b) The Secretary may, after 10 days notice by certified  
7 mail with return receipt requested to the licensee at the  
8 address of record or to the last known address of any other  
9 person stating the contemplated action and in general the  
10 grounds therefor, fine such licensee an amount not exceeding  
11 \$10,000 per violation or revoke, suspend, refuse to renew,  
12 place on probation, or reprimand any license issued under this  
13 Act if he or she finds that:

14 (1) the licensee has failed to comply with any  
15 provision of this Act or any order, decision, finding,  
16 rule, regulation, or direction of the Secretary lawfully  
17 made pursuant to the authority of this Act; or

18 (2) any fact or condition exists which, if it had  
19 existed at the time of the original application for the  
20 license, clearly would have warranted the Secretary in  
21 refusing to issue the license.

22 (c) The Secretary may fine, revoke, suspend, refuse to  
23 renew, place on probation, reprimand, or take any other  
24 disciplinary action as to the particular license with respect  
25 to which grounds for the fine, revocation, suspension, refuse  
26 to renew, probation, or reprimand, or other disciplinary action

1 occur or exist, but if the Secretary finds that grounds for  
2 revocation are of general application to all offices or to more  
3 than one office of the licensee, the Secretary shall fine,  
4 revoke, suspend, refuse to renew, place on probation,  
5 reprimand, or otherwise discipline every license to which such  
6 grounds apply.

7 (d) In every case in which a license is revoked, suspended,  
8 placed on probation, reprimanded, or otherwise disciplined,  
9 the Secretary shall serve the licensee with notice of his or  
10 her action, including a statement of the reasons for his or her  
11 actions, either personally or by certified mail, return receipt  
12 requested. Service by certified mail shall be deemed completed  
13 when the notice is deposited in the United States mail and sent  
14 to the address of record.

15 (e) An order assessing a fine, an order revoking,  
16 suspending, placing on probation, or reprimanding a license or,  
17 an order denying renewal of a license shall take effect upon  
18 service of the order unless the licensee requests, in writing,  
19 within 20 days after the date of service, a hearing. In the  
20 event a hearing is requested, an order issued under this  
21 Section shall be stayed until a final administrative order is  
22 entered.

23 (f) If the licensee requests a hearing, then the Secretary  
24 shall schedule a hearing within 30 days after the request for a  
25 hearing unless otherwise agreed to by the parties. The  
26 Secretary shall have the authority to appoint an attorney duly

1 licensed to practice law in the State of Illinois to serve as  
2 the hearing officer in any disciplinary action with regard to a  
3 license. The hearing officer shall have full authority to  
4 conduct the hearing.

5 (g) The hearing shall be held at the time and place  
6 designated by the Secretary.

7 (h) The Secretary shall have the authority to prescribe  
8 rules for the administration of this Section.

9 (i) Fines imposed and any costs assessed shall be paid  
10 within 60 days.

11 Section 25-30. Consent order. At any point in any  
12 investigation or disciplinary proceeding provided for in this  
13 Act, both parties may agree to a negotiated consent order. The  
14 consent order shall be final upon signature of the Secretary.

15 Section 25-35. Record of proceedings; transcript. The  
16 Department, at its expense, shall preserve a record of all  
17 proceedings at the formal hearing of any case. Any notice, all  
18 documents in the nature of pleadings, written motions filed in  
19 the proceedings, the transcripts of testimony, and orders of  
20 the Department shall be in the record of the proceeding.

21 Section 25-40. Subpoenas; depositions; oaths.

22 (a) The Department has the power to subpoena documents,  
23 books, records, or other materials and to bring before it any

1 individual and to take testimony either orally or by  
2 deposition, or both, with the same fees and mileage and in the  
3 same manner as prescribed in civil cases in the courts of this  
4 State.

5 (b) The Secretary and the designated hearing officer have  
6 the power to administer oaths to witnesses at any hearing that  
7 the Department is authorized to conduct and any other oaths  
8 authorized in any Act administered by the Department.

9 (c) Every individual having taken an oath or affirmation in  
10 any proceeding or matter wherein an oath is required by this  
11 Act, who shall swear willfully, corruptly, and falsely in a  
12 matter material to the issue or point in question, or shall  
13 suborn any other individual to swear as aforesaid, shall be  
14 guilty of perjury or subornation of perjury, as the case may be  
15 and shall be punished as provided by State law relative to  
16 perjury and subornation of perjury.

17 Section 25-45. Compelling testimony. Any circuit court,  
18 upon application of the Department or designated hearing  
19 officer may enter an order requiring the attendance of  
20 witnesses and their testimony, and the production of documents,  
21 papers, files, books, and records in connection with any  
22 hearing or investigation. The court may compel obedience to its  
23 order by proceedings for contempt.

24 Section 25-50. Findings and recommendations.

1           (a) At the conclusion of the hearing, the hearing officer  
2 shall present to the Secretary a written report of its findings  
3 of fact, conclusions of law, and recommendations. The report  
4 shall contain a finding whether the accused person violated  
5 this Act or its rules or failed to comply with the conditions  
6 required in this Act or its rules. The hearing officer shall  
7 specify the nature of any violations or failure to comply and  
8 shall make his or her recommendations to the Secretary. In  
9 making recommendations for any disciplinary actions, the  
10 hearing officer may take into consideration all facts and  
11 circumstances bearing upon the reasonableness of the conduct of  
12 the accused and the potential for future harm to the public,  
13 including, but not limited to, previous discipline of the  
14 accused by the Department, intent, degree of harm to the public  
15 and likelihood of harm in the future, any restitution made by  
16 the accused, and whether the incident or incidents contained in  
17 the complaint appear to be isolated or represent a continuing  
18 pattern of conduct. In making its recommendations for  
19 discipline, the hearing officer shall endeavor to ensure that  
20 the severity of the discipline recommended is reasonably  
21 related to the severity of the violation.

22           (b) The report of findings of fact, conclusions of law, and  
23 recommendation of the hearing officer shall be the basis for  
24 the Department's final order refusing to issue, restore, or  
25 renew a license, or otherwise disciplining a licensee. If the  
26 Secretary disagrees with the recommendations of the hearing



1 officer, the Secretary may issue an order in contravention of  
2 the hearing officer's recommendations. The finding is not  
3 admissible in evidence against the person in a criminal  
4 prosecution brought for a violation of this Act, but the  
5 hearing and finding are not a bar to a criminal prosecution  
6 brought for a violation of this Act.

7 Section 25-55. Rehearing. At the conclusion of the  
8 hearing, a copy of the hearing officer's report shall be served  
9 upon the applicant, licensee, or unlicensed person by the  
10 Department, either personally or as provided in this Act.  
11 Within 20 days after service, the applicant or licensee may  
12 present to the Department a motion in writing for a rehearing,  
13 which shall specify the particular grounds for rehearing. The  
14 Department may respond to the motion for rehearing within 20  
15 days after its service on the Department. If no motion for  
16 rehearing is filed, then upon the expiration of the time  
17 specified for filing such a motion, or if a motion for  
18 rehearing is denied, then upon denial, the Secretary may enter  
19 a final order in accordance with recommendations of the hearing  
20 officer except as provided in Section 25-60 of this Act. If the  
21 applicant, licensee, or unlicensed person orders from the  
22 reporting service and pays for a transcript of the record  
23 within the time for filing a motion for rehearing, the 20-day  
24 period within which a motion may be filed shall commence upon  
25 the delivery of the transcript to the applicant or licensee.

1           Section 25-60. Secretary; rehearing. Whenever the  
2 Secretary believes that substantial justice has not been done  
3 in the revocation, suspension, or refusal to issue, restore, or  
4 renew a license, or other discipline of an applicant or  
5 licensee, he or she may order a rehearing by the same or other  
6 hearing officers.

7           Section 25-65. Order or certified copy; prima facie proof.  
8 An order or certified copy thereof, over the seal of the  
9 Department and purporting to be signed by the Secretary, is  
10 prima facie proof that:

11           (1) the signature is the genuine signature of the  
12 Secretary;

13           (2) the Secretary is duly appointed and qualified; and

14           (3) the hearing officer is qualified to act.

15           Section 25-70. Receivership. In the event a cemetery  
16 authority license is suspended or revoked or where an  
17 unlicensed person has conducted activities requiring cemetery  
18 authority licensure under this Act, the Department, through the  
19 Attorney General, may petition the circuit courts of this State  
20 for appointment of a receiver to administer the care funds of  
21 such licensee or unlicensed person or to operate the cemetery.

22           (a) The court shall appoint a receiver if the court  
23 determines that a receivership is necessary or advisable:

1           (1) to ensure the orderly and proper conduct of a  
2           licensee's professional business and affairs during or in  
3           the aftermath of the administrative proceeding to revoke or  
4           suspend the cemetery authority's license;

5           (2) for the protection of the public's interest and  
6           rights in the business, premises, or activities of the  
7           person sought to be placed in receivership;

8           (3) upon a showing of actual or constructive  
9           abandonment of premises or business licensed or which was  
10          not but should have been licensed under this Act;

11          (4) upon a showing of serious and repeated violations  
12          of this Act demonstrating an inability or unwillingness of  
13          a licensee to comply with the requirements of this Act;

14          (5) to prevent loss, wasting, dissipation, theft, or  
15          conversion of assets that should be marshaled and held  
16          available for the honoring of obligations under this Act;  
17          or

18          (6) upon proof of other grounds that the court deems  
19          good and sufficient for instituting receivership action  
20          concerning the respondent sought to be placed in  
21          receivership.

22          (b) A receivership under this Section may be temporary, or  
23          for the winding up and dissolution of the business, as the  
24          Department may request and the court determines to be necessary  
25          or advisable in the circumstances. Venue of receivership  
26          proceedings may be, at the Department's election, in Cook

1 County or the county where the subject of the receivership is  
2 located. The appointed receiver shall be the Department or such  
3 person as the Department may nominate and the court shall  
4 approve.

5 (c) The Department may adopt rules for the implementation  
6 of this Section.

7 Section 25-75. Cemetery Relief Fund.

8 (a) A special income-earning fund is hereby created in the  
9 State treasury, known as the Cemetery Relief Fund.

10 (b) Beginning on July 1, 2011, and occurring on an annual  
11 basis every year thereafter, three percent of the moneys in the  
12 Cemetery Oversight Licensing and Disciplinary Fund shall be  
13 deposited into the Cemetery Relief Fund.

14 (c) All monies deposited into the fund together with all  
15 accumulated undistributed income thereon shall be held as a  
16 special fund in the State treasury. The fund shall be used  
17 solely for the purpose of providing grants to units of local  
18 government and not-for-profit organizations, including, but  
19 not limited to, not-for-profit cemetery authorities, to clean  
20 up cemeteries that have been abandoned, neglected, or are  
21 otherwise in need of additional care.

22 (d) The grant program shall be administered by the  
23 Department.

24 Section 25-80. Surrender of license. Upon the revocation

1 or suspension of a license under this Act, the licensee shall  
2 immediately surrender his or her license to the Department. If  
3 the licensee fails to do so, the Department has the right to  
4 seize the license.

5 Section 25-85. Inactive status.

6 (a) Any licensed manager or customer service employee who  
7 notifies the Department in writing on forms prescribed by the  
8 Department as determined by rule, may elect to place his or her  
9 license on an inactive status and shall, subject to rules of  
10 the Department, be excused from payment of renewal fees until  
11 he or she notifies the Department in writing of his or her  
12 desire to resume active status. Any licensed manager or  
13 licensed customer service employee requesting restoration from  
14 inactive status shall pay the current renewal fee and meet  
15 requirements as provided by rule. Any licensee whose license is  
16 in inactive status shall not practice in the State of Illinois.

17 (b) A cemetery authority license may only go on inactive  
18 status by following the provisions for dissolution set forth in  
19 Section 10-50 or transfer in Section 10-45.

20 Section 25-90. Restoration of license from discipline. At  
21 any time after the successful completion of a term of  
22 indefinite probation, suspension, or revocation of a license,  
23 the Department may restore the license to the licensee, unless  
24 after an investigation and a hearing the Secretary determines

1 that restoration is not in the public interest.

2 Section 25-95. Administrative review; venue.

3 (a) All final administrative decisions of the Department  
4 are subject to judicial review under the Administrative Review  
5 Law and its rules. The term "administrative decision" is  
6 defined as in Section 3-101 of the Code of Civil Procedure.

7 (b) Proceedings for judicial review shall be commenced in  
8 the circuit court of the county in which the party applying for  
9 review resides, but if the party is not a resident of Illinois,  
10 the venue shall be in Sangamon County.

11 Section 25-100. Certifications of record; costs. The  
12 Department shall not be required to certify any record to the  
13 court, to file an answer in court, or to otherwise appear in  
14 any court in a judicial review proceeding unless and until the  
15 Department has received from the plaintiff payment of the costs  
16 of furnishing and certifying the record, which costs shall be  
17 determined by the Department. Failure on the part of the  
18 plaintiff to file the receipt in court is grounds for dismissal  
19 of the action.

20 Section 25-105. Violations. Any person who is found to  
21 have violated any provision of this Act or any applicant for  
22 licensure who files with the Department the fingerprints of an  
23 individual other than himself or herself is guilty of a Class A

1 misdemeanor. Upon conviction of a second or subsequent offense  
2 the violator shall be guilty of a Class 4 felony. However,  
3 whoever intentionally fails to deposit the required amounts  
4 into a trust provided for in this Act or intentionally and  
5 improperly withdraws or uses trust funds for his or her own  
6 benefit shall be guilty of a Class 4 felony and each day such  
7 provisions are violated shall constitute a separate offense.

8       Section 25-110. Civil action and civil penalties. In  
9 addition to the other penalties and remedies provided in this  
10 Act, the Department may bring a civil action in the county in  
11 which the cemetery is located against a licensee or any other  
12 person to enjoin any violation or threatened violation of this  
13 Act. In addition to any other penalty provided by law, any  
14 person who violates this Act shall forfeit and pay a civil  
15 penalty to the Department in an amount not to exceed \$10,000  
16 for each violation as determined by the Department. The civil  
17 penalty shall be assessed by the Department in accordance with  
18 the provisions of this Act. Any civil penalty shall be paid  
19 within 60 days after the effective date of the order imposing  
20 the civil penalty. The order shall constitute a judgment and  
21 may be filed and execution had thereon in the same manner as  
22 any judgment from any court of record. All moneys collected  
23 under this Section shall be deposited into the Cemetery  
24 Oversight Licensing and Disciplinary Fund.

1           Section 25-115. Illinois Administrative Procedure Act;  
2 application. The Illinois Administrative Procedure Act is  
3 expressly adopted and incorporated in this Act as if all of the  
4 provisions of that Act were included in this Act, except that  
5 the provision of paragraph (d) of Section 10-65 of the Illinois  
6 Administrative Procedure Act, which provides that at hearings  
7 the licensee has the right to show compliance with all lawful  
8 requirements for retention or continuation or renewal of the  
9 license, is specifically excluded. For the purpose of this Act,  
10 the notice required under Section 10-25 of the Illinois  
11 Administrative Procedure Act is considered sufficient when  
12 mailed to the address of record.

13           Section 25-120. Whistleblower protection.

14           (a) "Retaliatory action" means the reprimand, discharge,  
15 suspension, demotion, denial of promotion or transfer, or  
16 change in the terms and conditions of employment of any  
17 cemetery manager, licensed customer service employee, or  
18 cemetery worker that is taken in retaliation for a cemetery  
19 manager's, customer service employee's, or cemetery worker's  
20 involvement in protected activity, as set forth in this  
21 Section.

22           (b) A cemetery authority shall not take any retaliatory  
23 action against a cemetery manager, customer service employee,  
24 or cemetery worker because the cemetery manager, customer  
25 service employee, or cemetery worker does any of the following:



1           (1) Discloses or threatens to disclose to a supervisor  
2           or to a public body an activity, policy, or practice of a  
3           cemetery manager, customer service employee, or the  
4           cemetery authority that the cemetery manager, customer  
5           service employee, or cemetery worker reasonably believes  
6           is in violation of a law, rule, or regulation.

7           (2) Provides information to or testifies before any  
8           public body conducting an investigation, hearing, or  
9           inquiry into any violation of a law, rule, or regulation by  
10          a cemetery manager or cemetery authority.

11          (3) Assists or participates in a proceeding to enforce  
12          the provisions of this Act.

13          (c) A violation of this Section may be established only  
14          upon a finding that (i) the cemetery manager, customer service  
15          employee, or cemetery worker engaged in conduct described in  
16          subsection (b) of this Section and (ii) that this conduct was a  
17          contributing factor in the retaliatory action alleged by the  
18          cemetery manager, customer service employee, or cemetery  
19          worker. It is not a violation, however, if it is demonstrated  
20          by clear and convincing evidence that the cemetery manager or  
21          cemetery authority would have taken the same unfavorable  
22          personnel action in the absence of that conduct.

23          (d) The cemetery manager, customer service employee, or  
24          cemetery worker may be awarded all remedies necessary to make  
25          the cemetery manager, customer service employee, or cemetery  
26          worker whole and to prevent future violations of this Section.

1 Remedies imposed by the court may include, but are not limited  
2 to, all of the following:

3 (1) reinstatement of the individual to either the same  
4 position held before the retaliatory action or to an  
5 equivalent position;

6 (2) two times the amount of back pay;

7 (3) interest on the back pay;

8 (4) the reinstatement of full fringe benefits and  
9 seniority rights; and

10 (5) the payment of reasonable costs and attorneys'  
11 fees.

12 (e) Nothing in this Section shall be deemed to diminish the  
13 rights, privileges, or remedies of a cemetery manager, customer  
14 service employee, or cemetery worker under any other federal or  
15 State law, rule, or regulation or under any employment  
16 contract.

17 Section 25-125. Cemetery Oversight Board. The Cemetery  
18 Oversight Board is created and shall consist of the Secretary,  
19 who shall serve as its chairperson, and 8 members appointed by  
20 the Secretary. Appointments shall be made within 90 days after  
21 the effective date of this Act. Three members shall represent  
22 the segment of the cemetery industry that does not maintain a  
23 partial exemption or full exemption, one member shall represent  
24 the segment of the cemetery industry that maintains a partial  
25 exemption as a public cemetery, one member shall represent the

1 segment of the cemetery industry that maintains a partial  
2 exemption as a religious cemetery, 2 members shall be consumers  
3 as defined in this Act, and one member shall represent the  
4 general public. No member shall be a licensed professional from  
5 a non-cemetery segment of the death care industry. Board  
6 members shall serve 5-year terms and until their successors are  
7 appointed and qualified. The membership of the Board should  
8 reasonably reflect representation from the geographic areas in  
9 this State. No member shall be reappointed to the Board for a  
10 term that would cause his or her continuous service on the  
11 Board to be longer than 10 successive years. Appointments to  
12 fill vacancies shall be made in the same manner as original  
13 appointments, for the unexpired portion of the vacated term.  
14 Five members of the Board shall constitute a quorum. A quorum  
15 is required for Board decisions. The Secretary may remove any  
16 member of the Board for misconduct, incompetence, neglect of  
17 duty, or for reasons prescribed by law for removal of State  
18 officials. The Secretary may remove a member of the Board who  
19 does not attend 2 consecutive meetings. The Department may, at  
20 any time, seek the expert advice and knowledge of the Board on  
21 any matter relating to the administration or enforcement of  
22 this Act. The Secretary shall consider the recommendations of  
23 the Board in the development of proposed rules under this Act  
24 and for establishing guidelines and examinations as may be  
25 required under this Act. Notice of any proposed rulemaking  
26 under this Act shall be transmitted to the Board and the

1 Department shall review the response of the Board and any  
2 recommendations made therein.

3 Article 35.

4 Consumer Bill of Rights

5 Section 35-5. Penalties. Cemetery authorities shall  
6 respect the rights of consumers of cemetery products and  
7 services as put forth in this Article. Failure to abide by the  
8 cemetery duties listed in this Article or to comply with a  
9 request by a consumer based on a consumer's privileges under  
10 this Article may activate the mediation, citation, or  
11 disciplinary processes in Article 25 of this Act.

12 Section 35-10. Consumer privileges.

13 (a) The record required under this Section shall be open to  
14 public inspection consistent with State and federal law. The  
15 cemetery authority shall make available, consistent with State  
16 and federal law, a true copy of the record upon written request  
17 and payment of reasonable copy costs. At the time of the  
18 interment, entombment, or inurnment, the cemetery authority  
19 shall provide the record of the deceased's name and date of  
20 burial to the person who would have authority to dispose of the  
21 decedent's remains under the Disposition of Remains Act.

22 (b) Consumers have the right to purchase merchandise or  
23 services directly from the cemetery authority when available or

1 through a third-party vendor of the consumer's choice without  
2 incurring a penalty or additional charge by the cemetery  
3 authority; provided, however, that consumers do not have the  
4 right to purchase types of merchandise that would violate  
5 applicable law or the cemetery authority's rules and  
6 regulations.

7 (c) Consumers have the right to complain to the cemetery  
8 authority or to the Department regarding cemetery-related  
9 products and services as well as issues with customer service,  
10 maintenance, or other cemetery activities. Complaints may be  
11 brought by a consumer or the consumer's agent appointed for  
12 that purpose.

13 Section 35-15. Cemetery duties.

14 (a) Prices for all cemetery-related products offered for  
15 sale by the cemetery authority must be disclosed to the  
16 consumer in writing on a standardized price list.  
17 Memorialization pricing may be disclosed in price ranges. The  
18 price list shall include the effective dates of the prices. The  
19 price list shall include not only the range of interment,  
20 inurnment, and entombment rights, and the cost of extending the  
21 term of any term burial, but also any related merchandise or  
22 services offered by the cemetery authority. Charges for  
23 installation of markers, monuments, and vaults in cemeteries  
24 must be the same without regard to where the item is purchased.

25 (b) A contract for the interment, inurnment, or entombment

1 of human remains must be signed by both parties: the consumer  
2 and the cemetery authority or its representative. Before a  
3 contract is signed, the prices for the purchased services and  
4 merchandise must be disclosed on the contract and in plain  
5 language. If a contract is for a term burial, the term, the  
6 option to extend the term, and the subsequent disposition of  
7 the human remains post-term must be in bold print and discussed  
8 with the consumer. Any contract for the sale of a burial plot,  
9 when designated, must disclose the exact location of the burial  
10 plot based on the survey of the cemetery map or plat on file  
11 with the cemetery authority.

12 (c) A cemetery authority that has the legal right to extend  
13 a term burial shall, prior to disinterment, provide the family  
14 or other authorized agent under the Disposition of Remains Act  
15 the opportunity to extend the term of a term burial for the  
16 cost as stated on the cemetery authority's current price list.  
17 Regardless of whether the family or other authorized agent  
18 chooses to extend the term burial, the cemetery authority  
19 shall, prior to disinterment, provide notice to the family or  
20 other authorized agent under the Disposition of Remains Act of  
21 the cemetery authority's intention to disinter the remains and  
22 to inter different human remains in that space.

23 (d) If any rules or regulations, including the operational  
24 or maintenance requirements, of a cemetery change after the  
25 date a contract is signed for the purchase of cemetery-related  
26 or funeral-related products or services, the cemetery may not

1 require the consumer, purchaser, or such individual's relative  
2 or representative to purchase any merchandise or service not  
3 included in the original contract or in the rules and  
4 regulations in existence when the contract was entered unless  
5 the purchase is reasonable or required to make the cemetery  
6 authority compliant with applicable law.

7 (e) No cemetery authority or its agent may engage in  
8 deceptive or unfair practices. The cemetery authority and its  
9 agents may not misrepresent legal or cemetery requirements.

10 (f) The Department may adopt rules regarding green burial  
11 certification, green cremation products and methods, and  
12 consumer education.

13 (g) The contractual requirements contained in this Section  
14 only apply to contracts executed after the effective date of  
15 this Act.

16 Article 75.

17 Administrative Provisions

18 Section 75-5. Conflict of interest. No investigator may  
19 hold an active license issued pursuant to this Act, nor may an  
20 investigator have a financial interest in a business licensed  
21 under this Act. Any individual licensed under this Act who is  
22 employed by the Department shall surrender his or her license  
23 to the Department for the duration of that employment. The  
24 licensee shall be exempt from all renewal fees while employed.

1           Section 75-15. Civil Administrative Code. The Department  
2 shall exercise the powers and duties prescribed by the Civil  
3 Administrative Code of Illinois and shall exercise all other  
4 powers and duties set forth in this Act.

5           Section 75-20. Rules. The Department may adopt rules for  
6 the administration and enforcement of this Act. The rules shall  
7 include standards for licensure, professional conduct, and  
8 discipline.

9           Section 75-25. Home rule. The regulation and licensing as  
10 provided for in this Act are exclusive powers and functions of  
11 the State. A home rule unit may not regulate or license  
12 cemetery authorities, cemetery managers, customer service  
13 employees, cemetery workers, or any activities relating to the  
14 operation of a cemetery. This Section is a denial and  
15 limitation of home rule powers and functions under subsection  
16 (h) of Section 6 of Article VII of the Illinois Constitution.

17           Section 75-35. Roster. The Department shall, upon request  
18 and payment of the required fee, provide a list of the names  
19 and business addresses of all licensees under this Act.

20           Section 75-45. Fees. The Department shall by rule provide  
21 for fees for the administration and enforcement of this Act,



1 and those fees are nonrefundable. All of the fees and fines  
2 collected under this Act shall be deposited into the Cemetery  
3 Oversight Licensing and Disciplinary Fund and be appropriated  
4 to the Department for the ordinary and contingent expenses of  
5 the Department in the administration and enforcement of this  
6 Act.

7 Section 75-50. Burial permits. Notwithstanding any law to  
8 the contrary, a cemetery authority shall ensure that every  
9 burial permit applicable to that cemetery authority contains  
10 the decedent's parcel identification number or other  
11 information as provided by rule regarding the location of the  
12 interment, entombment, or inurnment of the deceased that would  
13 enable the Department to determine the precise location of the  
14 decedent.

15 Section 75-55. Transition.

16 (a) Within 60 days after the effective date of this Act,  
17 the Comptroller shall provide the Department copies of records  
18 in the Comptroller's possession pertaining to the Cemetery Care  
19 Act and the Crematory Regulation Act that are necessary for the  
20 Department's immediate responsibilities under this Act. All  
21 other records pertaining to the Cemetery Care Act and the  
22 Crematory Regulation Act shall be transferred to the Department  
23 by March 1, 2012. In the case of records that pertain both to  
24 the administration of the Cemetery Care Act or the Crematory

1 Regulation Act and to a function retained by the Comptroller,  
2 the Comptroller, in consultation with the Department, shall  
3 determine, within 60 days after the repeal of the Cemetery Care  
4 Act, whether the records shall be transferred, copied, or left  
5 with the Comptroller; until this determination has been made  
6 the transfer shall not occur.

7 (b) A person licensed under one of the Acts listed in  
8 subsection (a) of this Section or regulated under the Cemetery  
9 Association Act shall continue to comply with the provisions of  
10 those Acts until such time as the person is licensed under this  
11 Act or those Acts are repealed or the amendatory changes made  
12 by this amendatory Act of the 96th General Assembly take  
13 effect, as the case may be, whichever is earlier.

14 (c) To support the costs that may be associated with  
15 implementing and maintaining a licensure and regulatory  
16 process for the licensure and regulation of cemetery  
17 authorities, cemetery managers, customer service employees,  
18 and cemetery workers, all cemetery authorities not maintaining  
19 a full exemption or partial exemption shall pay a one-time fee  
20 of \$20 to the Department plus an additional charge of \$1 per  
21 burial unit per year within the cemetery. The Department may  
22 establish forms for the collection of the fee established under  
23 this subsection and shall deposit such fee into the Cemetery  
24 Oversight Licensing and Disciplinary Fund. The Department may  
25 begin to collect the aforementioned fee after the effective  
26 date of this Act. In addition, the Department may establish

1 rules for the collection process, which may include, but shall  
2 not be limited to, dates, forms, enforcement, or other  
3 procedures necessary for the effective collection, deposit,  
4 and overall process regarding this Section.

5 (d) Any cemetery authority that fails to pay to the  
6 Department the required fee or submits the incorrect amount  
7 shall be subject to the penalties provided for in Section  
8 25-110 of this Act.

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

13 (f) All proportionate funds held in the Comptroller's  
14 Administrative Fund related to unexpended moneys collected  
15 under the Cemetery Care Act and the Crematory Regulation Act  
16 shall be transferred to the Cemetery Oversight Licensing and  
17 Disciplinary Fund within 60 days after the effective date of  
18 the repeal of the Cemetery Care Act.

19 (g) Personnel employed by the Comptroller on February 29,  
20 2012, to perform the duties pertaining to the administration of  
21 the Cemetery Care Act and the Crematory Regulation Act, are  
22 transferred to the Department on March 1, 2012.

23 The rights of State employees, the State, and its agencies  
24 under the Comptroller Merit Employment Code and applicable  
25 collective bargaining agreements and retirement plans are not  
26 affected under this Act, except that all positions transferred

1 to the Department shall be subject to the Personnel Code  
2 effective March 1, 2012.

3 All transferred employees who are members of collective  
4 bargaining units shall retain their seniority, continuous  
5 service, salary, and accrued benefits. During the pendency of  
6 the existing collective bargaining agreement, the rights  
7 provided for under that agreement shall not be abridged.

8 The Department shall continue to honor during their  
9 pendency all bargaining agreements in effect at the time of the  
10 transfer and to recognize all collective bargaining  
11 representatives for the employees who perform or will perform  
12 functions transferred by this Act. For all purposes with  
13 respect to the management of the existing agreement and the  
14 negotiation and management of any successor agreements, the  
15 Department shall be deemed the employer of employees who  
16 perform or will perform functions transferred to the Department  
17 by this Act.

18 Article 90.

19 Amendatory Provisions and Repeals

20 Section 90-1. The Regulatory Sunset Act is amended by  
21 adding Section 8.31 as follows:

22 (5 ILCS 80/8.31 new)

23 Sec. 8.31. Acts repealed on January 1, 2021. The following

1 Acts are repealed on January 1, 2021:

2 The Crematory Regulation Act.

3 The Cemetery Oversight Act.

4 Section 90-3. The Freedom of Information Act is amended by  
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 (Text of Section before amendment by P.A. 96-736)

8 Sec. 7. Exemptions.

9 (1) When a request is made to inspect or copy a public  
10 record that contains information that is exempt from disclosure  
11 under this Section, but also contains information that is not  
12 exempt from disclosure, the public body may elect to redact the  
13 information that is exempt. The public body shall make the  
14 remaining information available for inspection and copying.  
15 Subject to this requirement, the following shall be exempt from  
16 inspection and copying:

17 (a) Information specifically prohibited from  
18 disclosure by federal or State law or rules and regulations  
19 implementing federal or State law.

20 (b) Private information, unless disclosure is required  
21 by another provision of this Act, a State or federal law or  
22 a court order.

23 (b-5) Files, documents, and other data or databases  
24 maintained by one or more law enforcement agencies and

1 specifically designed to provide information to one or more  
2 law enforcement agencies regarding the physical or mental  
3 status of one or more individual subjects.

4 (c) Personal information contained within public  
5 records, the disclosure of which would constitute a clearly  
6 unwarranted invasion of personal privacy, unless the  
7 disclosure is consented to in writing by the individual  
8 subjects of the information. "Unwarranted invasion of  
9 personal privacy" means the disclosure of information that  
10 is highly personal or objectionable to a reasonable person  
11 and in which the subject's right to privacy outweighs any  
12 legitimate public interest in obtaining the information.  
13 The disclosure of information that bears on the public  
14 duties of public employees and officials shall not be  
15 considered an invasion of personal privacy.

16 (d) Records in the possession of any public body  
17 created in the course of administrative enforcement  
18 proceedings, and any law enforcement or correctional  
19 agency for law enforcement purposes, but only to the extent  
20 that disclosure would:

21 (i) interfere with pending or actually and  
22 reasonably contemplated law enforcement proceedings  
23 conducted by any law enforcement or correctional  
24 agency that is the recipient of the request;

25 (ii) interfere with active administrative  
26 enforcement proceedings conducted by the public body

1           that is the recipient of the request;

2           (iii) create a substantial likelihood that a  
3 person will be deprived of a fair trial or an impartial  
4 hearing;

5           (iv) unavoidably disclose the identity of a  
6 confidential source, confidential information  
7 furnished only by the confidential source, or persons  
8 who file complaints with or provide information to  
9 administrative, investigative, law enforcement, or  
10 penal agencies; except that the identities of  
11 witnesses to traffic accidents, traffic accident  
12 reports, and rescue reports shall be provided by  
13 agencies of local government, except when disclosure  
14 would interfere with an active criminal investigation  
15 conducted by the agency that is the recipient of the  
16 request;

17           (v) disclose unique or specialized investigative  
18 techniques other than those generally used and known or  
19 disclose internal documents of correctional agencies  
20 related to detection, observation or investigation of  
21 incidents of crime or misconduct, and disclosure would  
22 result in demonstrable harm to the agency or public  
23 body that is the recipient of the request;

24           (vi) endanger the life or physical safety of law  
25 enforcement personnel or any other person; or

26           (vii) obstruct an ongoing criminal investigation

1 by the agency that is the recipient of the request.

2 (e) Records that relate to or affect the security of  
3 correctional institutions and detention facilities.

4 (f) Preliminary drafts, notes, recommendations,  
5 memoranda and other records in which opinions are  
6 expressed, or policies or actions are formulated, except  
7 that a specific record or relevant portion of a record  
8 shall not be exempt when the record is publicly cited and  
9 identified by the head of the public body. The exemption  
10 provided in this paragraph (f) extends to all those records  
11 of officers and agencies of the General Assembly that  
12 pertain to the preparation of legislative documents.

13 (g) Trade secrets and commercial or financial  
14 information obtained from a person or business where the  
15 trade secrets or commercial or financial information are  
16 furnished under a claim that they are proprietary,  
17 privileged or confidential, and that disclosure of the  
18 trade secrets or commercial or financial information would  
19 cause competitive harm to the person or business, and only  
20 insofar as the claim directly applies to the records  
21 requested.

22 ~~(i)~~ All trade secrets and commercial or financial  
23 information obtained by a public body, including a public  
24 pension fund, from a private equity fund or a privately  
25 held company within the investment portfolio of a private  
26 equity fund as a result of either investing or evaluating a



1 potential investment of public funds in a private equity  
2 fund. The exemption contained in this item does not apply  
3 to the aggregate financial performance information of a  
4 private equity fund, nor to the identity of the fund's  
5 managers or general partners. The exemption contained in  
6 this item does not apply to the identity of a privately  
7 held company within the investment portfolio of a private  
8 equity fund, unless the disclosure of the identity of a  
9 privately held company may cause competitive harm.

10 Nothing contained in this paragraph (g) shall be  
11 construed to prevent a person or business from consenting  
12 to disclosure.

13 (h) Proposals and bids for any contract, grant, or  
14 agreement, including information which if it were  
15 disclosed would frustrate procurement or give an advantage  
16 to any person proposing to enter into a contractor  
17 agreement with the body, until an award or final selection  
18 is made. Information prepared by or for the body in  
19 preparation of a bid solicitation shall be exempt until an  
20 award or final selection is made.

21 (i) Valuable formulae, computer geographic systems,  
22 designs, drawings and research data obtained or produced by  
23 any public body when disclosure could reasonably be  
24 expected to produce private gain or public loss. The  
25 exemption for "computer geographic systems" provided in  
26 this paragraph (i) does not extend to requests made by news

1 media as defined in Section 2 of this Act when the  
2 requested information is not otherwise exempt and the only  
3 purpose of the request is to access and disseminate  
4 information regarding the health, safety, welfare, or  
5 legal rights of the general public.

6 (j) The following information pertaining to  
7 educational matters:

8 (i) test questions, scoring keys and other  
9 examination data used to administer an academic  
10 examination;

11 (ii) information received by a primary or  
12 secondary school, college, or university under its  
13 procedures for the evaluation of faculty members by  
14 their academic peers;

15 (iii) information concerning a school or  
16 university's adjudication of student disciplinary  
17 cases, but only to the extent that disclosure would  
18 unavoidably reveal the identity of the student; and

19 (iv) course materials or research materials used  
20 by faculty members.

21 (k) Architects' plans, engineers' technical  
22 submissions, and other construction related technical  
23 documents for projects not constructed or developed in  
24 whole or in part with public funds and the same for  
25 projects constructed or developed with public funds,  
26 including but not limited to power generating and

1 distribution stations and other transmission and  
2 distribution facilities, water treatment facilities,  
3 airport facilities, sport stadiums, convention centers,  
4 and all government owned, operated, or occupied buildings,  
5 but only to the extent that disclosure would compromise  
6 security.

7 (l) Minutes of meetings of public bodies closed to the  
8 public as provided in the Open Meetings Act until the  
9 public body makes the minutes available to the public under  
10 Section 2.06 of the Open Meetings Act.

11 (m) Communications between a public body and an  
12 attorney or auditor representing the public body that would  
13 not be subject to discovery in litigation, and materials  
14 prepared or compiled by or for a public body in  
15 anticipation of a criminal, civil or administrative  
16 proceeding upon the request of an attorney advising the  
17 public body, and materials prepared or compiled with  
18 respect to internal audits of public bodies.

19 (n) Records relating to a public body's adjudication of  
20 employee grievances or disciplinary cases; however, this  
21 exemption shall not extend to the final outcome of cases in  
22 which discipline is imposed.

23 (o) Administrative or technical information associated  
24 with automated data processing operations, including but  
25 not limited to software, operating protocols, computer  
26 program abstracts, file layouts, source listings, object

1 modules, load modules, user guides, documentation  
2 pertaining to all logical and physical design of  
3 computerized systems, employee manuals, and any other  
4 information that, if disclosed, would jeopardize the  
5 security of the system or its data or the security of  
6 materials exempt under this Section.

7 (p) Records relating to collective negotiating matters  
8 between public bodies and their employees or  
9 representatives, except that any final contract or  
10 agreement shall be subject to inspection and copying.

11 (q) Test questions, scoring keys, and other  
12 examination data used to determine the qualifications of an  
13 applicant for a license or employment.

14 (r) The records, documents, and information relating  
15 to real estate purchase negotiations until those  
16 negotiations have been completed or otherwise terminated.  
17 With regard to a parcel involved in a pending or actually  
18 and reasonably contemplated eminent domain proceeding  
19 under the Eminent Domain Act, records, documents and  
20 information relating to that parcel shall be exempt except  
21 as may be allowed under discovery rules adopted by the  
22 Illinois Supreme Court. The records, documents and  
23 information relating to a real estate sale shall be exempt  
24 until a sale is consummated.

25 (s) Any and all proprietary information and records  
26 related to the operation of an intergovernmental risk

1 management association or self-insurance pool or jointly  
2 self-administered health and accident cooperative or pool.  
3 Insurance or self insurance (including any  
4 intergovernmental risk management association or self  
5 insurance pool) claims, loss or risk management  
6 information, records, data, advice or communications.

7 (t) Information contained in or related to  
8 examination, operating, or condition reports prepared by,  
9 on behalf of, or for the use of a public body responsible  
10 for the regulation or supervision of financial  
11 institutions or insurance companies, unless disclosure is  
12 otherwise required by State law.

13 (u) Information that would disclose or might lead to  
14 the disclosure of secret or confidential information,  
15 codes, algorithms, programs, or private keys intended to be  
16 used to create electronic or digital signatures under the  
17 Electronic Commerce Security Act.

18 (v) Vulnerability assessments, security measures, and  
19 response policies or plans that are designed to identify,  
20 prevent, or respond to potential attacks upon a community's  
21 population or systems, facilities, or installations, the  
22 destruction or contamination of which would constitute a  
23 clear and present danger to the health or safety of the  
24 community, but only to the extent that disclosure could  
25 reasonably be expected to jeopardize the effectiveness of  
26 the measures or the safety of the personnel who implement

1           them or the public. Information exempt under this item may  
2           include such things as details pertaining to the  
3           mobilization or deployment of personnel or equipment, to  
4           the operation of communication systems or protocols, or to  
5           tactical operations.

6           (w) (Blank).

7           (x) Maps and other records regarding the location or  
8           security of generation, transmission, distribution,  
9           storage, gathering, treatment, or switching facilities  
10          owned by a utility, by a power generator, or by the  
11          Illinois Power Agency.

12          (y) Information contained in or related to proposals,  
13          bids, or negotiations related to electric power  
14          procurement under Section 1-75 of the Illinois Power Agency  
15          Act and Section 16-111.5 of the Public Utilities Act that  
16          is determined to be confidential and proprietary by the  
17          Illinois Power Agency or by the Illinois Commerce  
18          Commission.

19          (z) ~~(tt)~~ Information about students exempted from  
20          disclosure under Sections 10-20.38 or 34-18.29 of the  
21          School Code, and information about undergraduate students  
22          enrolled at an institution of higher education exempted  
23          from disclosure under Section 25 of the Illinois Credit  
24          Card Marketing Act of 2009.

25          (bb) Information regarding interments, entombments, or  
26          inurnments of human remains that are submitted to the

1           Cemetery Oversight Database under the Cemetery Care Act or  
2           the Cemetery Oversight Act, whichever is applicable.

3           (2) A public record that is not in the possession of a  
4 public body but is in the possession of a party with whom the  
5 agency has contracted to perform a governmental function on  
6 behalf of the public body, and that directly relates to the  
7 governmental function and is not otherwise exempt under this  
8 Act, shall be considered a public record of the public body,  
9 for purposes of this Act.

10          (3) This Section does not authorize withholding of  
11 information or limit the availability of records to the public,  
12 except as stated in this Section or otherwise provided in this  
13 Act.

14          (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;  
15 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;  
16 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;  
17 revised 9-25-09.)

18           (Text of Section after amendment by P.A. 96-736)

19           Sec. 7. Exemptions.

20           (1) When a request is made to inspect or copy a public  
21 record that contains information that is exempt from disclosure  
22 under this Section, but also contains information that is not  
23 exempt from disclosure, the public body may elect to redact the  
24 information that is exempt. The public body shall make the  
25 remaining information available for inspection and copying.

1 Subject to this requirement, the following shall be exempt from  
2 inspection and copying:

3 (a) Information specifically prohibited from  
4 disclosure by federal or State law or rules and regulations  
5 implementing federal or State law.

6 (b) Private information, unless disclosure is required  
7 by another provision of this Act, a State or federal law or  
8 a court order.

9 (b-5) Files, documents, and other data or databases  
10 maintained by one or more law enforcement agencies and  
11 specifically designed to provide information to one or more  
12 law enforcement agencies regarding the physical or mental  
13 status of one or more individual subjects.

14 (c) Personal information contained within public  
15 records, the disclosure of which would constitute a clearly  
16 unwarranted invasion of personal privacy, unless the  
17 disclosure is consented to in writing by the individual  
18 subjects of the information. "Unwarranted invasion of  
19 personal privacy" means the disclosure of information that  
20 is highly personal or objectionable to a reasonable person  
21 and in which the subject's right to privacy outweighs any  
22 legitimate public interest in obtaining the information.  
23 The disclosure of information that bears on the public  
24 duties of public employees and officials shall not be  
25 considered an invasion of personal privacy.

26 (d) Records in the possession of any public body



1 created in the course of administrative enforcement  
2 proceedings, and any law enforcement or correctional  
3 agency for law enforcement purposes, but only to the extent  
4 that disclosure would:

5 (i) interfere with pending or actually and  
6 reasonably contemplated law enforcement proceedings  
7 conducted by any law enforcement or correctional  
8 agency that is the recipient of the request;

9 (ii) interfere with active administrative  
10 enforcement proceedings conducted by the public body  
11 that is the recipient of the request;

12 (iii) create a substantial likelihood that a  
13 person will be deprived of a fair trial or an impartial  
14 hearing;

15 (iv) unavoidably disclose the identity of a  
16 confidential source, confidential information  
17 furnished only by the confidential source, or persons  
18 who file complaints with or provide information to  
19 administrative, investigative, law enforcement, or  
20 penal agencies; except that the identities of  
21 witnesses to traffic accidents, traffic accident  
22 reports, and rescue reports shall be provided by  
23 agencies of local government, except when disclosure  
24 would interfere with an active criminal investigation  
25 conducted by the agency that is the recipient of the  
26 request;

1           (v) disclose unique or specialized investigative  
2 techniques other than those generally used and known or  
3 disclose internal documents of correctional agencies  
4 related to detection, observation or investigation of  
5 incidents of crime or misconduct, and disclosure would  
6 result in demonstrable harm to the agency or public  
7 body that is the recipient of the request;

8           (vi) endanger the life or physical safety of law  
9 enforcement personnel or any other person; or

10           (vii) obstruct an ongoing criminal investigation  
11 by the agency that is the recipient of the request.

12           (e) Records that relate to or affect the security of  
13 correctional institutions and detention facilities.

14           (f) Preliminary drafts, notes, recommendations,  
15 memoranda and other records in which opinions are  
16 expressed, or policies or actions are formulated, except  
17 that a specific record or relevant portion of a record  
18 shall not be exempt when the record is publicly cited and  
19 identified by the head of the public body. The exemption  
20 provided in this paragraph (f) extends to all those records  
21 of officers and agencies of the General Assembly that  
22 pertain to the preparation of legislative documents.

23           (g) Trade secrets and commercial or financial  
24 information obtained from a person or business where the  
25 trade secrets or commercial or financial information are  
26 furnished under a claim that they are proprietary,

1 privileged or confidential, and that disclosure of the  
2 trade secrets or commercial or financial information would  
3 cause competitive harm to the person or business, and only  
4 insofar as the claim directly applies to the records  
5 requested.

6 ~~(i)~~ All trade secrets and commercial or financial  
7 information obtained by a public body, including a public  
8 pension fund, from a private equity fund or a privately  
9 held company within the investment portfolio of a private  
10 equity fund as a result of either investing or evaluating a  
11 potential investment of public funds in a private equity  
12 fund. The exemption contained in this item does not apply  
13 to the aggregate financial performance information of a  
14 private equity fund, nor to the identity of the fund's  
15 managers or general partners. The exemption contained in  
16 this item does not apply to the identity of a privately  
17 held company within the investment portfolio of a private  
18 equity fund, unless the disclosure of the identity of a  
19 privately held company may cause competitive harm.

20 Nothing contained in this paragraph (g) shall be  
21 construed to prevent a person or business from consenting  
22 to disclosure.

23 (h) Proposals and bids for any contract, grant, or  
24 agreement, including information which if it were  
25 disclosed would frustrate procurement or give an advantage  
26 to any person proposing to enter into a contractor

1 agreement with the body, until an award or final selection  
2 is made. Information prepared by or for the body in  
3 preparation of a bid solicitation shall be exempt until an  
4 award or final selection is made.

5 (i) Valuable formulae, computer geographic systems,  
6 designs, drawings and research data obtained or produced by  
7 any public body when disclosure could reasonably be  
8 expected to produce private gain or public loss. The  
9 exemption for "computer geographic systems" provided in  
10 this paragraph (i) does not extend to requests made by news  
11 media as defined in Section 2 of this Act when the  
12 requested information is not otherwise exempt and the only  
13 purpose of the request is to access and disseminate  
14 information regarding the health, safety, welfare, or  
15 legal rights of the general public.

16 (j) The following information pertaining to  
17 educational matters:

18 (i) test questions, scoring keys and other  
19 examination data used to administer an academic  
20 examination;

21 (ii) information received by a primary or  
22 secondary school, college, or university under its  
23 procedures for the evaluation of faculty members by  
24 their academic peers;

25 (iii) information concerning a school or  
26 university's adjudication of student disciplinary

1 cases, but only to the extent that disclosure would  
2 unavoidably reveal the identity of the student; and

3 (iv) course materials or research materials used  
4 by faculty members.

5 (k) Architects' plans, engineers' technical  
6 submissions, and other construction related technical  
7 documents for projects not constructed or developed in  
8 whole or in part with public funds and the same for  
9 projects constructed or developed with public funds,  
10 including but not limited to power generating and  
11 distribution stations and other transmission and  
12 distribution facilities, water treatment facilities,  
13 airport facilities, sport stadiums, convention centers,  
14 and all government owned, operated, or occupied buildings,  
15 but only to the extent that disclosure would compromise  
16 security.

17 (l) Minutes of meetings of public bodies closed to the  
18 public as provided in the Open Meetings Act until the  
19 public body makes the minutes available to the public under  
20 Section 2.06 of the Open Meetings Act.

21 (m) Communications between a public body and an  
22 attorney or auditor representing the public body that would  
23 not be subject to discovery in litigation, and materials  
24 prepared or compiled by or for a public body in  
25 anticipation of a criminal, civil or administrative  
26 proceeding upon the request of an attorney advising the

1 public body, and materials prepared or compiled with  
2 respect to internal audits of public bodies.

3 (n) Records relating to a public body's adjudication of  
4 employee grievances or disciplinary cases; however, this  
5 exemption shall not extend to the final outcome of cases in  
6 which discipline is imposed.

7 (o) Administrative or technical information associated  
8 with automated data processing operations, including but  
9 not limited to software, operating protocols, computer  
10 program abstracts, file layouts, source listings, object  
11 modules, load modules, user guides, documentation  
12 pertaining to all logical and physical design of  
13 computerized systems, employee manuals, and any other  
14 information that, if disclosed, would jeopardize the  
15 security of the system or its data or the security of  
16 materials exempt under this Section.

17 (p) Records relating to collective negotiating matters  
18 between public bodies and their employees or  
19 representatives, except that any final contract or  
20 agreement shall be subject to inspection and copying.

21 (q) Test questions, scoring keys, and other  
22 examination data used to determine the qualifications of an  
23 applicant for a license or employment.

24 (r) The records, documents, and information relating  
25 to real estate purchase negotiations until those  
26 negotiations have been completed or otherwise terminated.

1 With regard to a parcel involved in a pending or actually  
2 and reasonably contemplated eminent domain proceeding  
3 under the Eminent Domain Act, records, documents and  
4 information relating to that parcel shall be exempt except  
5 as may be allowed under discovery rules adopted by the  
6 Illinois Supreme Court. The records, documents and  
7 information relating to a real estate sale shall be exempt  
8 until a sale is consummated.

9 (s) Any and all proprietary information and records  
10 related to the operation of an intergovernmental risk  
11 management association or self-insurance pool or jointly  
12 self-administered health and accident cooperative or pool.  
13 Insurance or self insurance (including any  
14 intergovernmental risk management association or self  
15 insurance pool) claims, loss or risk management  
16 information, records, data, advice or communications.

17 (t) Information contained in or related to  
18 examination, operating, or condition reports prepared by,  
19 on behalf of, or for the use of a public body responsible  
20 for the regulation or supervision of financial  
21 institutions or insurance companies, unless disclosure is  
22 otherwise required by State law.

23 (u) Information that would disclose or might lead to  
24 the disclosure of secret or confidential information,  
25 codes, algorithms, programs, or private keys intended to be  
26 used to create electronic or digital signatures under the

1 Electronic Commerce Security Act.

2 (v) Vulnerability assessments, security measures, and  
3 response policies or plans that are designed to identify,  
4 prevent, or respond to potential attacks upon a community's  
5 population or systems, facilities, or installations, the  
6 destruction or contamination of which would constitute a  
7 clear and present danger to the health or safety of the  
8 community, but only to the extent that disclosure could  
9 reasonably be expected to jeopardize the effectiveness of  
10 the measures or the safety of the personnel who implement  
11 them or the public. Information exempt under this item may  
12 include such things as details pertaining to the  
13 mobilization or deployment of personnel or equipment, to  
14 the operation of communication systems or protocols, or to  
15 tactical operations.

16 (w) (Blank).

17 (x) Maps and other records regarding the location or  
18 security of generation, transmission, distribution,  
19 storage, gathering, treatment, or switching facilities  
20 owned by a utility, by a power generator, or by the  
21 Illinois Power Agency.

22 (y) Information contained in or related to proposals,  
23 bids, or negotiations related to electric power  
24 procurement under Section 1-75 of the Illinois Power Agency  
25 Act and Section 16-111.5 of the Public Utilities Act that  
26 is determined to be confidential and proprietary by the



1 Illinois Power Agency or by the Illinois Commerce  
2 Commission.

3 (z) ~~(ttt)~~ Information about students exempted from  
4 disclosure under Sections 10-20.38 or 34-18.29 of the  
5 School Code, and information about undergraduate students  
6 enrolled at an institution of higher education exempted  
7 from disclosure under Section 25 of the Illinois Credit  
8 Card Marketing Act of 2009.

9 (aa) ~~(ttt)~~ Information the disclosure of which is  
10 exempted under the Viatical Settlements Act of 2009.

11 (bb) Information regarding interments, entombments, or  
12 inurnments of human remains that are submitted to the  
13 Cemetery Oversight Database under the Cemetery Care Act or  
14 the Cemetery Oversight Act, whichever is applicable.

15 (2) A public record that is not in the possession of a  
16 public body but is in the possession of a party with whom the  
17 agency has contracted to perform a governmental function on  
18 behalf of the public body, and that directly relates to the  
19 governmental function and is not otherwise exempt under this  
20 Act, shall be considered a public record of the public body,  
21 for purposes of this Act.

22 (3) This Section does not authorize withholding of  
23 information or limit the availability of records to the public,  
24 except as stated in this Section or otherwise provided in this  
25 Act.

26 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;

1 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;  
2 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;  
3 96-736, eff. 7-1-10; revised 9-25-09.)

4 Section 90-5. The Human Skeletal Remains Protection Act is  
5 amended by changing Section 1 as follows:

6 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

7 Sec. 1. Definitions. For the purposes of this Act:

8 (a) "Human skeletal remains" include the bones and  
9 decomposed fleshy parts of a deceased human body.

10 (b) "Unregistered graves" are any graves or locations where  
11 a human body has been buried or deposited; is over 100 years  
12 old; and is not in a cemetery under the authority of the  
13 Illinois Department of Financial and Professional Regulation  
14 pursuant to the Cemetery Oversight Act ~~registered with the~~  
15 ~~State Comptroller under the Cemetery Care Act.~~

16 (c) "Grave artifacts" are any item of human manufacture or  
17 use that is associated with the human skeletal remains in an  
18 unregistered grave.

19 (d) "Grave markers" are any tomb, monument, stone,  
20 ornament, mound, or other item of human manufacture that is  
21 associated with an unregistered grave.

22 (e) "Person" means any natural individual, firm, trust,  
23 estate, partnership, association, joint stock company, joint  
24 venture, corporation or a receiver, trustee, guardian or other

1 representatives appointed by order of any court, the Federal  
2 and State governments, including State Universities created by  
3 statute or any city, town, county or other political  
4 subdivision of this State.

5 (f) "Disturb" includes excavating, removing, exposing,  
6 defacing, mutilating, destroying, molesting, or desecrating in  
7 any way human skeletal remains, unregistered graves, and grave  
8 markers.

9 (Source: P.A. 86-151.)

10 Section 90-10. The State Finance Act is amended by adding  
11 Sections 5.775 and 5.776 as follows:

12 (30 ILCS 105/5.775 new)

13 Sec. 5.775. The Cemetery Oversight Licensing and  
14 Disciplinary Fund.

15 (30 ILCS 105/5.776 new)

16 Sec. 5.776. The Cemetery Relief Fund.

17 Section 90-25. The Crematory Regulation Act is amended by  
18 changing Sections 5, 10, 11, 11.5, 13, 20, 22, 25, 40, 55, 60,  
19 62, 62.5, 62.10, 62.15, 62.20, 65, and 80 and by adding  
20 Sections 7, 85, 87, 88, 89, 90, 91, 92, 93, 94, and 95 as  
21 follows:

1 (410 ILCS 18/5)

2 Sec. 5. Definitions. As used in this Act:

3 "Address of record" means the designated address recorded  
4 by the Department in the applicant's or licensee's application  
5 file or license file. It is the duty of the applicant or  
6 licensee to inform the Department of any change of address  
7 within 14 days, and such changes must be made either through  
8 the Department's website or by contacting the Department's  
9 licensure maintenance unit. The address of record shall be the  
10 permanent street address of the crematory.

11 "Alternative container" means a receptacle, other than a  
12 casket, in which human remains are transported to the crematory  
13 and placed in the cremation chamber for cremation. An  
14 alternative container shall be (i) composed of readily  
15 combustible materials suitable for cremation, (ii) able to be  
16 closed in order to provide a complete covering for the human  
17 remains, (iii) resistant to leakage or spillage, (iv) rigid  
18 enough for handling with ease, and (v) able to provide  
19 protection for the health, safety, and personal integrity of  
20 crematory personnel.

21 "Authorizing agent" means a person legally entitled to  
22 order the cremation and final disposition of specific human  
23 remains.

24 "Body parts" means limbs or other portions of the anatomy  
25 that are removed from a person or human remains for medical  
26 purposes during treatment, surgery, biopsy, autopsy, or

1 medical research; or human bodies or any portion of bodies that  
2 have been donated to science for medical research purposes.

3 "Burial transit permit" means a permit for disposition of a  
4 dead human body as required by Illinois law.

5 "Casket" means a rigid container that is designed for the  
6 encasement of human remains, is usually constructed of wood,  
7 metal, or like material and ornamented and lined with fabric,  
8 and may or may not be combustible.

9 ~~"Change of ownership" means a transfer of more than 50% of~~  
10 ~~the stock or assets of a crematory authority.~~

11 "Comptroller" means the Comptroller of the State of  
12 Illinois.

13 "Cremated remains" means all human remains recovered after  
14 the completion of the cremation, which may possibly include the  
15 residue of any foreign matter including casket material,  
16 bridgework, or eyeglasses, that was cremated with the human  
17 remains.

18 "Cremation" means the technical process, using heat and  
19 flame, that reduces human remains to bone fragments. The  
20 reduction takes place through heat and evaporation. Cremation  
21 shall include the processing, and may include the  
22 pulverization, of the bone fragments.

23 "Cremation chamber" means the enclosed space within which  
24 the cremation takes place.

25 "Cremation interment container" means a rigid outer  
26 container that, subject to a cemetery's rules and regulations,

1 is composed of concrete, steel, fiberglass, or some similar  
2 material in which an urn is placed prior to being interred in  
3 the ground, and which is designed to withstand prolonged  
4 exposure to the elements and to support the earth above the  
5 urn.

6 "Cremation room" means the room in which the cremation  
7 chamber is located.

8 "Crematory" means the building or portion of a building  
9 that houses the cremation room and the holding facility.

10 "Crematory authority" means the legal entity which is  
11 licensed by the Department ~~Comptroller~~ to operate a crematory  
12 and to perform cremations.

13 "Department" means the Illinois Department of Financial  
14 and Professional Regulation ~~Illinois Department of Public~~  
15 ~~Health~~.

16 "Final disposition" means the burial, cremation, or other  
17 disposition of a dead human body or parts of a dead human body.

18 "Funeral director" means a person known by the title of  
19 "funeral director", "funeral director and embalmer", or other  
20 similar words or titles, licensed by the State to practice  
21 funeral directing or funeral directing and embalming.

22 "Funeral establishment" means a building or separate  
23 portion of a building having a specific street address and  
24 location and devoted to activities relating to the shelter,  
25 care, custody, and preparation of a deceased human body and may  
26 contain facilities for funeral or wake services.

1 "Holding facility" means an area that (i) is designated for  
2 the retention of human remains prior to cremation, (ii)  
3 complies with all applicable public health law, (iii) preserves  
4 the health and safety of the crematory authority personnel, and  
5 (iv) is secure from access by anyone other than authorized  
6 persons. A holding facility may be located in a cremation room.

7 "Human remains" means the body of a deceased person,  
8 including any form of body prosthesis that has been permanently  
9 attached or implanted in the body.

10 "Licensee" means an entity licensed under this Act. An  
11 entity that holds itself as a licensee or that is accused of  
12 unlicensed practice is considered a licensee for purposes of  
13 enforcement, investigation, hearings, and the Illinois  
14 Administrative Procedure Act.

15 "Niche" means a compartment or cubicle for the  
16 memorialization and permanent placement of an urn containing  
17 cremated remains.

18 "Person" means any person, partnership, association,  
19 corporation, limited liability company, or other entity, and in  
20 the case of any such business organization, its officers,  
21 partners, members, or shareholders possessing 25% or more of  
22 ownership of the entity.

23 "Processing" means the reduction of identifiable bone  
24 fragments after the completion of the cremation process to  
25 unidentifiable bone fragments by manual or mechanical means.

26 "Pulverization" means the reduction of identifiable bone

1 fragments after the completion of the cremation process to  
2 granulated particles by manual or mechanical means.

3 "Scattering area" means an area which may be designated by  
4 a cemetery and located on dedicated cemetery property where  
5 cremated remains, which have been removed from their container,  
6 can be mixed with, or placed on top of, the soil or ground  
7 cover.

8 "Secretary" means the Secretary of Financial and  
9 Professional Regulation.

10 "Temporary container" means a receptacle for cremated  
11 remains, usually composed of cardboard, plastic or similar  
12 material, that can be closed in a manner that prevents the  
13 leakage or spillage of the cremated remains or the entrance of  
14 foreign material, and is a single container of sufficient size  
15 to hold the cremated remains until an urn is acquired or the  
16 cremated remains are scattered.

17 "Urn" means a receptacle designed to encase the cremated  
18 remains.

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

20 (410 ILCS 18/7 new)

21 Sec. 7. Powers and duties of the Department. Subject to the  
22 provisions of this Act, the Department may exercise any of the  
23 following powers and duties:

24 (1) Authorize standards to ascertain the  
25 qualifications and fitness of applicants for licensing as



1 licensed crematory authorities and pass upon the  
2 qualifications of applicants for licensure.

3 (2) Examine and audit a licensed crematory authority's  
4 records, crematory, or any other aspects of crematory  
5 operation as the Department deems appropriate.

6 (3) Investigate any and all unlicensed activity.

7 (4) Conduct hearings on proceedings to refuse to issue  
8 licenses or to revoke, suspend, place on probation,  
9 reprimand, or otherwise discipline licensees and to refuse  
10 to issue licenses or to revoke, suspend, place on  
11 probation, reprimand, or otherwise discipline licensees.

12 (5) Formulate rules required for the administration of  
13 this Act.

14 (6) Maintain rosters of the names and addresses of all  
15 licensees, and all entities whose licenses have been  
16 suspended, revoked, or otherwise disciplined. These  
17 rosters shall be available upon written request and payment  
18 of the required fee as established by rule.

19 (410 ILCS 18/10)

20 Sec. 10. Establishment of crematory and licensing of  
21 crematory authority.

22 (a) Any person doing business in this State, or any  
23 cemetery, funeral establishment, corporation, partnership,  
24 joint venture, voluntary organization or any other entity, may  
25 erect, maintain, and operate a crematory in this State and

1 provide the necessary appliances and facilities for the  
2 cremation of human remains in accordance with this Act.

3 (b) A crematory shall be subject to all local, State, and  
4 federal health and environmental protection requirements and  
5 shall obtain all necessary licenses and permits from the  
6 Department of Financial and Professional Regulation, the  
7 Department of Public Health, the federal Department of Health  
8 and Human Services, and the Illinois and federal Environmental  
9 Protection Agencies, or such other appropriate local, State, or  
10 federal agencies.

11 (c) A crematory may be constructed on or adjacent to any  
12 cemetery, on or adjacent to any funeral establishment, or at  
13 any other location consistent with local zoning regulations.

14 (d) An application for licensure as a crematory authority  
15 shall be in writing on forms furnished by the Department  
16 ~~Comptroller~~. Applications shall be accompanied by a reasonable  
17 fee determined by rule ~~of \$50~~ and shall contain all of the  
18 following:

19 (1) The full name and address, both residence and  
20 business, of the applicant if the applicant is an  
21 individual; the full name and address of every member if  
22 the applicant is a partnership; the full name and address  
23 of every member of the board of directors if the applicant  
24 is an association; and the name and address of every  
25 officer, director, and shareholder holding more than 25% of  
26 the corporate stock if the applicant is a corporation.

1 (2) The address and location of the crematory.

2 (3) A description of the type of structure and  
3 equipment to be used in the operation of the crematory,  
4 including the operating permit number issued to the  
5 cremation device by the Illinois Environmental Protection  
6 Agency.

7 ~~(3.5) Attestation by the owner that cremation services~~  
8 ~~shall be by a person trained in accordance with the~~  
9 ~~requirements of Section 22 of this Act.~~

10 ~~(3.10) A copy of the certification or certifications~~  
11 ~~issued by the certification program to the person or~~  
12 ~~persons who will operate the cremation device.~~

13 (4) Any further information that the Department  
14 ~~Comptroller~~ reasonably may require as established by rule.

15 (e) Each crematory authority shall file an annual report  
16 with the Department Comptroller, accompanied with a reasonable  
17 ~~\$25~~ fee determined by rule, providing (i) an affidavit signed  
18 by the owner of the crematory authority that at the time of the  
19 report the cremation device was in proper operating condition,  
20 (ii) the total number of all cremations performed at the  
21 crematory during the past year, (iii) attestation by the  
22 licensee that all applicable permits and certifications are  
23 valid, ~~and~~ (iv) either (A) any changes required in the  
24 information provided under subsection (d) or (B) an indication  
25 that no changes have occurred, and (v) any other information  
26 that the Department may require as established by rule. The

1 annual report shall be filed by a crematory authority on or  
2 before March 15 of each calendar year, ~~in the Office of the~~  
3 ~~Comptroller. If the fiscal year of a crematory authority is~~  
4 ~~other than on a calendar year basis, then the crematory~~  
5 ~~authority shall file the report required by this Section within~~  
6 ~~75 days after the end of its fiscal year. The Comptroller~~  
7 ~~shall, for good cause shown, grant an extension for the filing~~  
8 ~~of the annual report upon the written request of the crematory~~  
9 ~~authority. An extension shall not exceed 60 days. If the fiscal~~  
10 ~~year of a crematory authority is other than on a calendar year~~  
11 ~~basis, then the crematory authority shall file the report~~  
12 ~~required by this Section within 75 days after the end of its~~  
13 ~~fiscal year.~~ If a crematory authority fails to submit an annual  
14 report to the Department Comptroller within the time specified  
15 in this Section, the Department Comptroller shall impose upon  
16 the crematory authority a penalty as provided for by rule ~~of \$5~~  
17 for each and every day the crematory authority remains  
18 delinquent in submitting the annual report. The Department  
19 ~~Comptroller~~ may abate all or part of the ~~\$5 daily~~ penalty for  
20 good cause shown.

21 (f) All records required to be maintained under this Act,  
22 including but not limited to those relating to the license and  
23 annual report of the crematory authority required to be filed  
24 under this Section, shall be subject to inspection by the  
25 Comptroller upon reasonable notice.

26 (g) The Department Comptroller may inspect crematory

1 records at the crematory authority's place of business to  
2 review the licensee's compliance with this Act. The inspection  
3 must include verification that:

4 (1) the crematory authority has complied with  
5 record-keeping requirements of this Act;

6 (2) a crematory device operator's certification of  
7 training is conspicuously displayed at the crematory;

8 (3) the cremation device has a current operating permit  
9 issued by the Illinois Environmental Protection Agency and  
10 the permit is conspicuously displayed in the crematory;

11 (4) the crematory authority is in compliance with local  
12 zoning requirements; and

13 (5) the crematory authority license issued by the  
14 Department Comptroller is conspicuously displayed at the  
15 crematory.

16 (6) other details as determined by rule.

17 (h) The Department Comptroller shall issue licenses under  
18 this Act to the crematories that are registered with the  
19 Comptroller as of on March 1, 2012 ~~July 1, 2003~~ without  
20 requiring the previously registered crematories to complete  
21 license applications.

22 (Source: P.A. 92-419, eff. 1-1-02; 92-675, eff. 7-1-03.)

23 (410 ILCS 18/11)

24 Sec. 11. Grounds for denial or discipline ~~refusal of~~  
25 ~~license or suspension or revocation of license.~~

1 (a) In this Section, "applicant" means a person who has  
2 applied for a license under this Act including those persons  
3 whose names are listed on a license application in Section 10  
4 of this Act.

5 (b) The Department ~~Comptroller~~ may refuse to issue a  
6 license, place on probation, reprimand, or take other  
7 disciplinary action that the Department may deem appropriate,  
8 including imposing fines not to exceed \$10,000 for each  
9 violation, with regard to any ~~a~~ license under this Act, or may  
10 suspend or revoke a license issued under this Act, on any of  
11 the following grounds:

12 (1) The applicant or licensee has made any  
13 misrepresentation or false statement or concealed any  
14 material fact in furnishing information to the Department  
15 ~~connection with a license application or licensure under~~  
16 ~~this Act.~~

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

19 (3) The applicant or licensee has refused to give  
20 information required under this Act to be disclosed to the  
21 Department or failing, within 30 days, to provide  
22 information in response to a written request made by the  
23 Department ~~Comptroller~~.

24 (4) Engaging in dishonorable, unethical, or  
25 unprofessional conduct of a character likely to deceive,  
26 defraud, or harm the public. ~~The applicant or licensee has~~

1 ~~conducted or is about to conduct cremation business in a~~  
2 ~~fraudulent manner.~~

3 (5) As to any individual listed in the license  
4 application as required under Section 10, that individual  
5 has conducted or is about to conduct any cremation business  
6 on behalf of the applicant in a fraudulent manner or has  
7 been convicted of any felony or misdemeanor an essential  
8 element of which is fraud.

9 (6) The applicant or licensee has failed to make the  
10 annual report required by this Act or to comply with a  
11 final order, decision, or finding of the Department  
12 ~~Comptroller~~ made under this Act.

13 (7) The applicant or licensee, including any member,  
14 officer, or director of the applicant or licensee if the  
15 applicant or licensee is a firm, partnership, association,  
16 or corporation and including any shareholder holding more  
17 than 25% of the corporate stock of the applicant or  
18 licensee, has violated any provision of this Act or any  
19 regulation or order made by the Department ~~Comptroller~~  
20 under this Act.

21 (8) The Department ~~Comptroller~~ finds any fact or  
22 condition existing that, if it had existed at the time of  
23 the original application for a license under this Act,  
24 would have warranted the Comptroller in refusing the  
25 issuance of the license.

26 (9) Any violation of this Act or of the rules adopted

1       under this Act.

2           (10) Incompetence.

3           (11) Gross malpractice.

4           (12) Discipline by another state, District of  
5 Columbia, territory, or foreign nation, if at least one of  
6 the grounds for the discipline is the same or substantially  
7 equivalent to those set forth in this Section.

8           (13) Directly or indirectly giving to or receiving from  
9 any person, firm, corporation, partnership, or association  
10 any fee, commission, rebate, or other form of compensation  
11 for professional services not actually or personally  
12 rendered.

13           (14) A finding by the Department that the licensee,  
14 after having its license placed on probationary status, has  
15 violated the terms of probation.

16           (15) Willfully making or filing false records or  
17 reports, including, but not limited to, false records filed  
18 with State agencies or departments.

19           (16) Gross, willful, or continued overcharging for  
20 professional services, including filing false statements  
21 for collection of fees for which services are not rendered.

22           (17) Practicing under a false or, except as provided by  
23 law, an assumed name.

24           (18) Cheating on or attempting to subvert this Act's  
25 licensing application process.

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



1 (410 ILCS 18/11.5)

2 Sec. 11.5. License revocation or suspension; surrender of  
3 license.

4 (a) (Blank). ~~Upon determining that grounds exist for the~~  
5 ~~revocation or suspension of a license issued under this Act,~~  
6 ~~the Comptroller, if appropriate, may revoke or suspend the~~  
7 ~~license issued to the licensee.~~

8 (b) Upon the revocation or suspension of a license issued  
9 under this Act, the licensee must immediately surrender the  
10 license to the Department Comptroller. If the licensee fails to  
11 do so, the Department Comptroller may seize the license.

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

13 (410 ILCS 18/13)

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

15 (a) Every license issued under this Act must state the  
16 number of the license, the business name and address of the  
17 licensee's principal place of business, and the licensee's  
18 parent company, if any. The license must be conspicuously  
19 posted in the place of business operating under the license.

20 (b) After initial licensure, if any person comes to obtain  
21 at least 25% of the ownership over the licensed crematory  
22 authority, then the crematory authority shall have to apply for  
23 a new license and receive licensure in the required time as set  
24 out by rule. ~~No license is transferable or assignable without~~

1 ~~the express written consent of the Comptroller. A transfer of~~  
2 ~~more than 50% of the ownership of any business licensed under~~  
3 ~~this Act shall be deemed to be an attempted assignment of the~~  
4 ~~license originally issued to the licensee for whom consent of~~  
5 ~~the Comptroller is required.~~

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

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

15 (410 ILCS 18/20)

16 Sec. 20. Authorization to cremate.

17 (a) A crematory authority shall not cremate human remains  
18 until it has received all of the following:

19 (1) A cremation authorization form signed by an  
20 authorizing agent. The cremation authorization form shall  
21 be provided by the crematory authority and shall contain,  
22 at a minimum, the following information:

23 (A) The identity of the human remains and the time  
24 and date of death.

25 (B) The name of the funeral director and ~~or~~ funeral

1 establishment, if applicable, that obtained the  
2 cremation authorization.

3 (C) Notification as to whether the death occurred  
4 from a disease declared by the Department of Health to  
5 be infectious, contagious, communicable, or dangerous  
6 to the public health.

7 (D) The name of the authorizing agent and the  
8 relationship between the authorizing agent and the  
9 decedent.

10 (E) A representation that the authorizing agent  
11 does in fact have the right to authorize the cremation  
12 of the decedent, and that the authorizing agent is not  
13 aware of any living person who has a superior priority  
14 right to that of the authorizing agent, as set forth in  
15 Section 15. In the event there is another living person  
16 who has a superior priority right to that of the  
17 authorizing agent, the form shall contain a  
18 representation that the authorizing agent has made all  
19 reasonable efforts to contact that person, has been  
20 unable to do so, and has no reason to believe that the  
21 person would object to the cremation of the decedent.

22 (F) Authorization for the crematory authority to  
23 cremate the human remains.

24 (G) A representation that the human remains do not  
25 contain a pacemaker or any other material or implant  
26 that may be potentially hazardous or cause damage to

1 the cremation chamber or the person performing the  
2 cremation.

3 (H) The name of the person authorized to receive  
4 the cremated remains from the crematory authority.

5 (I) The manner in which final disposition of the  
6 cremated remains is to take place, if known. If the  
7 cremation authorization form does not specify final  
8 disposition in a grave, crypt, niche, or scattering  
9 area, then the form may indicate that the cremated  
10 remains will be held by the crematory authority for 30  
11 days before they are released, unless they are picked  
12 up from the crematory authority prior to that time, in  
13 person, by the authorizing agent. At the end of the 30  
14 days the crematory authority may return the cremated  
15 remains to the authorizing agent if no final  
16 disposition arrangements are made; or at the end of 60  
17 days the crematory authority may dispose of the  
18 cremated remains in accordance with subsection (d) of  
19 Section 40.

20 (J) A listing of any items of value to be delivered  
21 to the crematory authority along with the human  
22 remains, and instructions as to how the items should be  
23 handled.

24 (K) A specific statement as to whether the  
25 authorizing agent has made arrangements for any type of  
26 viewing of the decedent before cremation, or for a

1 service with the decedent present before cremation in  
2 connection with the cremation, and if so, the date and  
3 time of the viewing or service and whether the  
4 crematory authority is authorized to proceed with the  
5 cremation upon receipt of the human remains.

6 (L) The signature of the authorizing agent,  
7 attesting to the accuracy of all representations  
8 contained on the cremation authorization form, except  
9 as set forth in paragraph (M) of this subsection.

10 (M) If a cremation authorization form is being  
11 executed on a pre-need basis, the cremation  
12 authorization form shall contain the disclosure  
13 required by subsection (b) of Section 140 65.

14 (N) The cremation authorization form, other than  
15 pre-need cremation forms, shall also be signed by a  
16 funeral director or other representative of the  
17 funeral establishment that obtained the cremation  
18 authorization. That individual shall merely execute  
19 the cremation authorization form as a witness and shall  
20 not be responsible for any of the representations made  
21 by the authorizing agent, unless the individual has  
22 actual knowledge to the contrary. The information  
23 requested by items (A), (B), (C) and (G) of this  
24 subsection, however, shall be considered to be  
25 representations of the authorizing agent. In addition,  
26 the funeral director or funeral establishment shall

1 warrant to the crematory that the human remains  
2 delivered to the crematory authority are the human  
3 remains identified on the cremation authorization  
4 form.

5 (2) A completed and executed burial transit permit  
6 indicating that the human remains are to be cremated.

7 (3) Any other documentation required by this State.

8 (b) If an authorizing agent is not available to execute a  
9 cremation authorization form in person, that person may  
10 delegate that authority to another person in writing, or by  
11 sending the crematory authority a facsimile transmission that  
12 contains the name, address, and relationship of the sender to  
13 the decedent and the name and address of the individual to whom  
14 authority is delegated. Upon receipt of the written document,  
15 or facsimile transmission, telegram, or other electronic  
16 telecommunications transmission which specifies the individual  
17 to whom authority has been delegated, the crematory authority  
18 shall allow this individual to serve as the authorizing agent  
19 and to execute the cremation authorization form. The crematory  
20 authority shall be entitled to rely upon the cremation  
21 authorization form without liability.

22 (c) An authorizing agent who signs a cremation  
23 authorization form shall be deemed to warrant the truthfulness  
24 of any facts set forth on the cremation authorization form,  
25 including that person's authority to order the cremation;  
26 except for the information required by items (C) and (G) of

1 paragraph (1) of subsection (a) of this Section, unless the  
2 authorizing agent has actual knowledge to the contrary. An  
3 authorizing agent signing a cremation authorization form shall  
4 be personally and individually liable for all damages  
5 occasioned by and resulting from authorizing the cremation.

6 (d) A crematory authority shall have authority to cremate  
7 human remains upon the receipt of a cremation authorization  
8 form signed by an authorizing agent. There shall be no  
9 liability for a crematory authority that cremates human remains  
10 according to an authorization, or that releases or disposes of  
11 the cremated remains according to an authorization, except for  
12 a crematory authority's gross negligence, provided that the  
13 crematory authority performs its functions in compliance with  
14 this Act.

15 (e) After an authorizing agent has executed a cremation  
16 authorization form, the authorizing agent may revoke the  
17 authorization and instruct the crematory authority to cancel  
18 the cremation and to release or deliver the human remains to  
19 another crematory authority or funeral establishment. The  
20 instructions shall be provided to the crematory authority in  
21 writing. A crematory authority shall honor any instructions  
22 given to it by an authorizing agent under this Section if it  
23 receives the instructions prior to beginning the cremation of  
24 the human remains.

25 (Source: P.A. 87-1187.)

1 (410 ILCS 18/22)

2 Sec. 22. Performance of cremation service; training. A  
3 person may not perform a cremation service in this State unless  
4 he or she has completed training in performing cremation  
5 services and received certification by a program recognized by  
6 the Department ~~Comptroller~~. The crematory authority must  
7 conspicuously display the certification at the crematory  
8 authority's place of business. Any new employee shall have a  
9 reasonable time period, as determined by rule ~~not to exceed one~~  
10 ~~year~~, to attend a recognized training program. In the interim,  
11 the new employee may perform a cremation service if he or she  
12 has received training from another person who has received  
13 certification by a program recognized by the Department and is  
14 under the supervision of the trained person ~~Comptroller~~. For  
15 purposes of this Act, the Department may ~~Comptroller shall~~  
16 recognize any training program that provides training in the  
17 operation of a cremation device, in the maintenance of a clean  
18 facility, and in the proper handling of human remains. The  
19 Department may ~~Comptroller shall~~ recognize any course that is  
20 conducted by a death care trade association in Illinois or the  
21 United States or by a manufacturer of a cremation unit that is  
22 consistent with the standards provided in this Act or as  
23 otherwise determined by rule.

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

25 (410 ILCS 18/25)



1           Sec. 25. Recordkeeping.

2           (a) The crematory authority shall furnish to the person who  
3 delivers human remains to the crematory authority a receipt  
4 signed at the time of delivery by both the crematory authority  
5 and the person who delivers the human remains, showing the date  
6 and time of the delivery, the type of casket or alternative  
7 container that was delivered, the name of the person from whom  
8 the human remains were received and the name of the funeral  
9 establishment or other entity with whom the person is  
10 affiliated, the name of the person who received the human  
11 remains on behalf of the crematory authority, and the name of  
12 the decedent. The crematory shall retain a copy of this receipt  
13 in its permanent records.

14           (b) Upon its release of cremated remains, the crematory  
15 authority shall furnish to the person who receives the cremated  
16 remains from the crematory authority a receipt signed by both  
17 the crematory authority and the person who receives the  
18 cremated remains, showing the date and time of the release, the  
19 name of the person to whom the cremated remains were released  
20 and the name of the funeral establishment, cemetery, or other  
21 entity with whom the person is affiliated, the name of the  
22 person who released the cremated remains on behalf of the  
23 crematory authority, and the name of the decedent. The  
24 crematory shall retain a copy of this receipt in its permanent  
25 records.

26           (c) A crematory authority shall maintain at its place of

1 business a permanent record of each cremation that took place  
2 at its facility which shall contain the name of the decedent,  
3 the date of the cremation, and the final disposition of the  
4 cremated remains.

5 (d) The crematory authority shall maintain a record of all  
6 cremated remains disposed of by the crematory authority in  
7 accordance with subsection (d) of Section 40.

8 (e) Upon completion of the cremation, the crematory  
9 authority shall file the burial transit permit as required by  
10 the Illinois Vital Records Act and rules adopted under that Act  
11 and the Illinois Counties Code law, and transmit a photocopy of  
12 the burial transit permit along with the cremated remains to  
13 whoever receives the cremated remains from the authorizing  
14 agent unless the cremated remains are to be interred, entombed,  
15 inurned, or placed in a scattering area, in which case the  
16 crematory authority shall retain a copy of the burial transit  
17 permit and shall send the permit, along with the cremated  
18 remains, to the cemetery, which shall file the permit with the  
19 designated agency after the interment, entombment, inurnment,  
20 or scattering has taken place.

21 (f) All cemeteries shall maintain a record of all cremated  
22 remains that are disposed of on their property, provided that  
23 the cremated remains were properly transferred to the cemetery  
24 and the cemetery issued a receipt acknowledging the transfer of  
25 the cremated remains.

26 (Source: P.A. 87-1187.)

1 (410 ILCS 18/40)

2 Sec. 40. Disposition of cremated remains.

3 (a) The authorizing agent shall be responsible for the  
4 final disposition of the cremated remains.

5 (b) Cremated remains may be disposed of by placing them in  
6 a grave, crypt, or niche, by scattering them in a scattering  
7 area as defined in this Act, or in any manner whatever on the  
8 private property of a consenting owner.

9 (c) Upon the completion of the cremation process, and  
10 except as provided for in item (I) ~~(J)~~ of paragraph (1) of  
11 subsection (a) of Section 20, if the crematory authority has  
12 not been instructed to arrange for the interment, entombment,  
13 inurnment, or scattering of the cremated remains, the crematory  
14 authority shall deliver the cremated remains to the individual  
15 specified on the cremation authorization form, or if no  
16 individual is specified then to the authorizing agent. The  
17 delivery may be made in person or by registered mail. Upon  
18 receipt of the cremated remains, the individual receiving them  
19 may transport them in any manner in this State without a  
20 permit, and may dispose of them in accordance with this  
21 Section. After delivery, the crematory authority shall be  
22 discharged from any legal obligation or liability concerning  
23 the cremated remains.

24 (d) If, after a period of 60 days from the date of the  
25 cremation, the authorizing agent or the agent's designee has

1 not instructed the crematory authority to arrange for the final  
2 disposition of the cremated remains or claimed the cremated  
3 remains, the crematory authority may dispose of the cremated  
4 remains in any manner permitted by this Section. The crematory  
5 authority, however, shall keep a permanent record identifying  
6 the site of final disposition. The authorizing agent shall be  
7 responsible for reimbursing the crematory authority for all  
8 reasonable expenses incurred in disposing of the cremated  
9 remains. Upon disposing of the cremated remains, the crematory  
10 authority shall be discharged from any legal obligation or  
11 liability concerning the cremated remains. Any person who was  
12 in possession of cremated remains prior to the effective date  
13 of this Act may dispose of them in accordance with this  
14 Section.

15 (e) Except with the express written permission of the  
16 authorizing agent, no person shall:

17 (1) Dispose of cremated remains in a manner or in a  
18 location so that the cremated remains are commingled with  
19 those of another person. This prohibition shall not apply  
20 to the scattering of cremated remains at sea, by air, or in  
21 an area located in a dedicated cemetery and used  
22 exclusively for those purposes.

23 (2) Place cremated remains of more than one person in  
24 the same temporary container or urn.

25 (Source: P.A. 87-1187.)

1 (410 ILCS 18/55)

2 Sec. 55. Penalties. Violations of this Act shall be  
3 punishable as follows:

4 (1) Performing a cremation without receipt of a  
5 cremation authorization form signed by an authorizing  
6 agent shall be a Class 4 felony.

7 (2) Signing a cremation authorization form with the  
8 actual knowledge that the form contains false or incorrect  
9 information shall be a Class 4 felony.

10 (3) A Violation of any cremation procedure set forth in  
11 Section 35 shall be a Class 4 felony.

12 (4) Holding oneself out to the public as a crematory  
13 authority, or the operation of a building or structure  
14 within this State as a crematory, without being licensed  
15 under this Act, shall be a Class A misdemeanor.

16 (4.5) Performance of a cremation service by a person  
17 who has not completed a training program as defined in  
18 Section 22 of this Act shall be a Class A misdemeanor.

19 (4.10) Any person who intentionally violates a  
20 provision of this Act or a final order of the Department  
21 ~~Comptroller~~ is liable for a civil penalty not to exceed  
22 \$10,000 ~~\$5,000~~ per violation.

23 (4.15) Any person who knowingly acts without proper  
24 legal authority and who willfully and knowingly destroys or  
25 damages the remains of a deceased human being or who  
26 desecrates human remains is guilty of a Class 3 felony.

1           (5) A violation of any other provision of this Act  
2           shall be a Class B misdemeanor.

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

4           (410 ILCS 18/60)

5           Sec. 60. Failure to file annual report. Whenever a  
6           crematory authority refuses or neglects to file its annual  
7           report in violation of Section 10 of this Act, or fails to  
8           otherwise comply with the requirements of this Act, the  
9           Department shall impose a penalty as provided for by rule for  
10          each and every day the licensee remains delinquent in  
11          submitting the annual report. Such report shall be made under  
12          oath and shall be in a form determined by the Department.  
13          ~~Comptroller may commence an administrative proceeding as~~  
14          ~~authorized by this Act or may communicate the facts to the~~  
15          ~~Attorney General of the State of Illinois who shall thereupon~~  
16          ~~institute such proceedings against the crematory authority or~~  
17          ~~its officers as the nature of the case may require.~~

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

19          (410 ILCS 18/62)

20          Sec. 62. Injunctive action; cease and desist order  
21          ~~Investigation of unlawful practices.~~

22          (a) If any person violates the provisions of this Act, the  
23          Secretary, in the name of the People of the State of Illinois,  
24          through the Attorney General or the State's Attorney of the

1 county in which the violation is alleged to have occurred, may  
2 petition for an order enjoining the violation or for an order  
3 enforcing compliance with this Act. Upon the filing of a  
4 verified petition, the court with appropriate jurisdiction may  
5 issue a temporary restraining order, without notice or bond,  
6 and may preliminarily and permanently enjoin the violation. If  
7 it is established that the person has violated or is violating  
8 the injunction, the court may punish the offender for contempt  
9 of court. Proceedings under this Section are in addition to,  
10 and not in lieu of, all other remedies and penalties provided  
11 by this Act.

12 (b) Whenever, in the opinion of the Department, a person  
13 violates any provision of this Act, the Department may issue a  
14 rule to show cause why an order to cease and desist should not  
15 be entered against that person. The rule shall clearly set  
16 forth the grounds relied upon by the Department and shall allow  
17 at least 7 days from the date of the rule to file an answer  
18 satisfactory to the Department. Failure to answer to the  
19 satisfaction of the Department shall cause an order to cease  
20 and desist to be issued.

21 ~~If the Comptroller has good cause to believe that a person has~~  
22 ~~engaged in, is engaging in, or is about to engage in any~~  
23 ~~practice in violation of this Act, the Comptroller may do any~~  
24 ~~one or more of the following:~~

25 ~~(1) Require that person to file, on terms the~~  
26 ~~Comptroller prescribes, a statement or report in writing,~~

1 ~~under oath or otherwise, containing all information that~~  
2 ~~the Comptroller considers necessary to ascertain whether a~~  
3 ~~licensee is in compliance with this Act, or whether an~~  
4 ~~unlicensed person is engaging in activities for which a~~  
5 ~~license is required under this Act.~~

6 ~~(2) Examine under oath any person in connection with~~  
7 ~~the books and records required to be maintained under this~~  
8 ~~Act.~~

9 ~~(3) Examine any books and records of a licensee that~~  
10 ~~the Comptroller considers necessary to ascertain~~  
11 ~~compliance with this Act.~~

12 ~~(4) Require the production of a copy of any record,~~  
13 ~~book, document, account, or paper that is produced in~~  
14 ~~accordance with this Act and retain it in the Comptroller's~~  
15 ~~possession until the completion of all proceedings in~~  
16 ~~connection with which it is produced.~~

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

18 (410 ILCS 18/62.5)

19 Sec. 62.5. Service of notice. Service by the Department  
20 ~~Comptroller~~ of any notice requiring a person to file a  
21 statement or report under this Act shall be made: (1)  
22 personally by delivery of a duly executed copy of the notice to  
23 the person to be served or, if that person is not a natural  
24 person, in the manner provided in the Civil Practice Law when a  
25 complaint is filed; or (2) by mailing by certified mail a duly



1 executed copy of the notice to the person at his or her address  
2 of record ~~to be served at his or her last known abode or~~  
3 ~~principal place of business within this State.~~

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

5 (410 ILCS 18/62.10)

6 Sec. 62.10. Investigations; notice and hearing  
7 ~~Investigation of actions; hearing.~~ The Department may at any  
8 time investigate the actions of any applicant or of any person,  
9 persons, or entity rendering or offering to render cremation  
10 services or any person or entity holding or claiming to hold a  
11 license as a licensed crematory. The Department shall, before  
12 revoking, suspending, placing on probation, reprimanding, or  
13 taking any other disciplinary action under Section 11 of this  
14 Act, at least 30 days before the date set for the hearing, (i)  
15 notify the accused in writing of the charges made and the time  
16 and place for the hearing on the charges, (ii) direct the  
17 accused applicant or licensee to file a written answer to the  
18 charges with the Department under oath within 20 days after the  
19 service on him or her of the notice, and (iii) inform the  
20 accused that, if he or she fails to answer, default will be  
21 taken against him or her or that his or her license may be  
22 suspended, revoked, placed on probationary status, or other  
23 disciplinary action taken with regard to the license, including  
24 limiting the scope, nature, or extent of his or her practice,  
25 as the Department may consider proper.

1       At the time and place fixed in the notice, the Department  
2 shall proceed to hear the charges and the parties or their  
3 counsel shall be accorded ample opportunity to present any  
4 pertinent statements, testimony, evidence, and arguments. The  
5 Secretary shall have the authority to appoint an attorney duly  
6 licensed to practice law in the State of Illinois to serve as  
7 the hearing officer in any disciplinary action with regard to a  
8 license. The hearing officer shall have full authority to  
9 conduct the hearing. The Department may continue the hearing  
10 from time to time. In case the person, after receiving the  
11 notice, fails to file an answer, his or her license may, in the  
12 discretion of the Department, be suspended, revoked, placed on  
13 probationary status, or the Department may take whatever  
14 disciplinary action considered proper, including limiting the  
15 scope, nature, or extent of the person's practice or the  
16 imposition of a fine, without a hearing, if the act or acts  
17 charged constitute sufficient grounds for that action under  
18 this Act. The written notice may be served by personal delivery  
19 or by certified mail to the address specified by the accused in  
20 his or her last notification with the Department.

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

24       ~~(b) Before refusing to issue, and before suspending or~~  
25 ~~revoking, a license under this Act, the Comptroller shall hold~~  
26 ~~a hearing to determine whether the applicant for a license or~~

1 ~~the licensee ("the respondent") is entitled to hold such a~~  
2 ~~license. At least 10 days before the date set for the hearing,~~  
3 ~~the Comptroller shall notify the respondent in writing that (i)~~  
4 ~~on the designated date a hearing will be held to determine the~~  
5 ~~respondent's eligibility for a license and (ii) the respondent~~  
6 ~~may appear in person or by counsel. The written notice may be~~  
7 ~~served on the respondent personally, or by registered or~~  
8 ~~certified mail sent to the respondent's business address as~~  
9 ~~shown in the respondent's latest notification to the~~  
10 ~~Comptroller. The notice must include sufficient information to~~  
11 ~~inform the respondent of the general nature of the reason for~~  
12 ~~the Comptroller's action.~~

13 ~~(c) At the hearing, both the respondent and the complainant~~  
14 ~~shall be accorded ample opportunity to present in person or by~~  
15 ~~counsel such statements, testimony, evidence, and argument as~~  
16 ~~may be pertinent to the charge or to any defense to the charge.~~  
17 ~~The Comptroller may reasonably continue the hearing from time~~  
18 ~~to time. The Comptroller may subpoena any person or persons in~~  
19 ~~this State and take testimony orally, by deposition, or by~~  
20 ~~exhibit, in the same manner and with the same fees and mileage~~  
21 ~~as prescribed in judicial proceedings in civil cases. Any~~  
22 ~~authorized agent of the Comptroller may administer oaths to~~  
23 ~~witnesses at any hearing that the Comptroller is authorized to~~  
24 ~~conduct.~~

25 ~~(d) The Comptroller, at the Comptroller's expense, shall~~  
26 ~~provide a certified shorthand reporter to take down the~~

1 ~~testimony and preserve a record of every proceeding at the~~  
2 ~~hearing of any case involving the refusal to issue a license~~  
3 ~~under this Act, the suspension or revocation of such a license,~~  
4 ~~the imposition of a monetary penalty, or the referral of a case~~  
5 ~~for criminal prosecution. The record of any such proceeding~~  
6 ~~shall consist of the notice of hearing, the complaint, all~~  
7 ~~other documents in the nature of pleadings and written motions~~  
8 ~~filed in the proceeding, the transcript of testimony, and the~~  
9 ~~report and orders of the Comptroller. Copies of the transcript~~  
10 ~~of the record may be purchased from the certified shorthand~~  
11 ~~reporter who prepared the record or from the Comptroller.~~

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

13 (410 ILCS 18/62.15)

14 Sec. 62.15. Compelling testimony Court order. Any circuit  
15 court, upon application of the Department or designated hearing  
16 officer may enter an order requiring the attendance of  
17 witnesses and their testimony, and the production of documents,  
18 papers, files, books, and records in connection with any  
19 hearing or investigation. The court may compel obedience to its  
20 order by proceedings for contempt. Upon the application of the  
21 Comptroller or of the applicant or licensee against whom  
22 proceedings under Section 62.10 are pending, any circuit court  
23 may enter an order requiring witnesses to attend and testify  
24 and requiring the production of documents, papers, files,  
25 books, and records in connection with any hearing in any

1 ~~proceeding under that Section. Failure to obey such a court~~  
2 ~~order may result in contempt proceedings.~~

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

4 (410 ILCS 18/62.20)

5 Sec. 62.20. Administrative review; venue; certification of  
6 record; costs ~~Judicial review.~~

7 (a) All final administrative decisions of the Department  
8 are subject to judicial review under the Administrative Review  
9 Law and its rules. The term "administrative decision" is  
10 defined as in Section 3-101 of the Code of Civil Procedure.

11 (b) Proceedings for judicial review shall be commenced in  
12 the circuit court of the county in which the party applying for  
13 review resides, but if the party is not a resident of Illinois,  
14 the venue shall be in Sangamon County.

15 (c) The Department shall not be required to certify any  
16 record of the court, file an answer in court, or to otherwise  
17 appear in any court in a judicial review proceeding unless and  
18 until the Department has received from the plaintiff payment of  
19 the costs of furnishing and certifying the record, which costs  
20 shall be determined by the Department. Failure on the part of  
21 the plaintiff to make such payment to the Department is grounds  
22 for dismissal of the action. Any person affected by a final  
23 ~~administrative decision of the Comptroller under this Act may~~  
24 ~~have the decision reviewed judicially by the circuit court of~~  
25 ~~the county where the person resides or, in the case of a~~

1 ~~corporation, where the corporation's registered office is~~  
2 ~~located. If the plaintiff in the judicial review proceeding is~~  
3 ~~not a resident of this State, venue shall be in Sangamon~~  
4 ~~County. The provisions of the Administrative Review Law and any~~  
5 ~~rules adopted under it govern all proceedings for the judicial~~  
6 ~~review of final administrative decisions of the Comptroller~~  
7 ~~under this Act. The term "administrative decision" is defined~~  
8 ~~as in the Administrative Review Law.~~

9 ~~(b) The Comptroller is not required to certify the record~~  
10 ~~of the proceeding unless the plaintiff in the review proceeding~~  
11 ~~has purchased a copy of the transcript from the certified~~  
12 ~~shorthand reporter who prepared the record or from the~~  
13 ~~Comptroller. Exhibits shall be certified without cost.~~

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

15 (410 ILCS 18/65)

16 Sec. 65. Pre-need cremation arrangements.

17 (a) Any person, or anyone who has legal authority to act on  
18 behalf of a person, on a pre-need basis, may authorize his or  
19 her own cremation and the final disposition of his or her  
20 cremated remains by executing, as the authorizing agent, a  
21 cremation authorization form on a pre-need basis. A copy of  
22 this form shall be provided to the person. Any person shall  
23 have the right to transfer or cancel this authorization at any  
24 time prior to death by destroying the executed cremation  
25 authorization form and providing written notice to the

1 crematory authority.

2 (b) Any cremation authorization form that is being executed  
3 by an individual as his or her own authorizing agent on a  
4 pre-need basis shall contain the following disclosure, which  
5 shall be completed by the authorizing agent:

6 "( ) I do not wish to allow any of my survivors the option  
7 of cancelling my cremation and selecting alternative  
8 arrangements, regardless of whether my survivors deem  
9 a change to be appropriate.

10 ( ) I wish to allow only the survivors whom I have  
11 designated below the option of cancelling my cremation  
12 and selecting alternative arrangements, if they deem a  
13 change to be appropriate:....."

14 (c) Except as provided in subsection (b) of this Section,  
15 at the time of the death of a person who has executed, as the  
16 authorizing agent, a cremation authorization form on a pre-need  
17 basis, any person in possession of an executed form and any  
18 person charged with making arrangements for the final  
19 disposition of the decedent who has knowledge of the existence  
20 of an executed form, shall use their best efforts to ensure  
21 that the decedent is cremated and that the final disposition of  
22 the cremated remains is in accordance with the instructions  
23 contained on the cremation authorization form. If a crematory  
24 authority (i) is in possession of a completed cremation  
25 authorization form that was executed on a pre-need basis, (ii)  
26 is in possession of the designated human remains, and (iii) has

1 received payment for the cremation of the human remains and the  
2 final disposition of the cremated remains or is otherwise  
3 assured of payment, then the crematory authority shall be  
4 required to cremate the human remains and dispose of the  
5 cremated remains according to the instructions contained on the  
6 cremation authorization form, and may do so without any  
7 liability.

8 (d) ~~(e)~~ Any pre-need contract sold by, or pre-need  
9 arrangements made with, a cemetery, funeral establishment,  
10 crematory authority, or any other party that includes a  
11 cremation shall specify the final disposition of the cremated  
12 remains, in accordance with Section 40. In the event that no  
13 different or inconsistent instructions are provided to the  
14 crematory authority by the authorizing agent at the time of  
15 death, the crematory authority shall be authorized to release  
16 or dispose of the cremated remains as indicated in the pre-need  
17 agreement. Upon compliance with the terms of the pre-need  
18 agreement, the crematory authority shall be discharged from any  
19 legal obligation concerning the cremated remains. The pre-need  
20 agreement shall be kept as a permanent record by the crematory  
21 authority.

22 (e) ~~(f)~~ This Section shall not apply to any cremation  
23 authorization form or pre-need contract executed prior to the  
24 effective date of this Act. Any cemetery, funeral  
25 establishment, crematory authority, or other party, however,  
26 with the written approval of the authorizing agent or person



1 who executed the pre-need contract, may designate that the  
2 cremation authorization form or pre-need contract shall be  
3 subject to this Act.

4 (Source: P.A. 87-1187.)

5 (410 ILCS 18/80)

6 Sec. 80. Record of proceedings; transcript ~~Home Rule. The~~  
7 Department, at its expense, shall preserve a record of all  
8 proceedings at the formal hearing of any case. Any notice of  
9 hearing, complaint, all other documents in the nature of  
10 pleadings, written motions filed in the proceedings, the  
11 transcripts of testimony, the report of the hearing officer,  
12 and orders of the Department shall be in the record of the  
13 proceeding. The Department shall furnish a transcript of such  
14 record to any person interested in such hearing upon payment of  
15 the fee required under Section 2105-115 of the Department of  
16 Professional Regulation Law. ~~The regulation of crematories and~~  
17 ~~crematory authorities as set forth in this Act is an exclusive~~  
18 ~~power and function of the State. A home rule unit may not~~  
19 ~~regulate crematories or crematory authorities. This Section is~~  
20 ~~a denial and limitation of home rule powers and functions under~~  
21 ~~subsection (h) of Section 6 of Article VII of the Illinois~~  
22 ~~Constitution.~~

23 (Source: P.A. 91-357, eff. 7-29-99.)

24 (410 ILCS 18/85 new)

1       Sec. 85. Subpoenas; depositions; oaths. The Department has  
2 the power to subpoena documents, books, records or other  
3 materials and to bring before it any person and to take  
4 testimony either orally or by deposition, or both, with the  
5 same fees and mileage and in the same manner as prescribed in  
6 civil cases in the courts of this State. The Secretary, the  
7 designated hearing officer, or any qualified person the  
8 Department may designate has the power to administer oaths to  
9 witnesses at any hearing that the Department is authorized to  
10 conduct, and any other oaths authorized in any Act administered  
11 by the Department.

12       Every person having taken an oath or affirmation in any  
13 proceeding or matter wherein an oath is required by this Act,  
14 who shall swear willfully, corruptly and falsely in a matter  
15 material to the issue or point in question, or shall suborn any  
16 other person to swear as aforesaid, shall be guilty of perjury  
17 or subornation of perjury, as the case may be and shall be  
18 punished as provided by State law relative to perjury and  
19 subornation of perjury.

20       (410 ILCS 18/87 new)

21       Sec. 87. Findings and recommendations. At the conclusion of  
22 the hearing, the hearing officer shall present to the Secretary  
23 a written report of its findings of fact, conclusions of law,  
24 and recommendations. The report shall contain a finding whether  
25 or not the accused person violated this Act or its rules or

1 failed to comply with the conditions required in this Act or  
2 its rules. The hearing officer shall specify the nature of any  
3 violations or failure to comply and shall make recommendations  
4 to the Secretary. In making recommendations for any  
5 disciplinary actions, the hearing officer may take into  
6 consideration all facts and circumstances bearing upon the  
7 reasonableness of the conduct of the accused and the potential  
8 for future harm to the public, including but not limited to,  
9 previous discipline of the accused by the Department, intent,  
10 degree of harm to the public and likelihood of harm in the  
11 future, any restitution made by the accused, and whether the  
12 incident or incidents contained in the complaint appear to be  
13 isolated or represent a continuing pattern of conduct. In  
14 making its recommendations for discipline, the hearing officer  
15 shall endeavor to ensure that the severity of the discipline  
16 recommended is reasonably related to the severity of the  
17 violation. The report of findings of fact, conclusions of law,  
18 and recommendation of the hearing officer shall be the basis  
19 for the Department's order refusing to issue, restore, place on  
20 probation, fine, suspend, revoke a license, or otherwise  
21 disciplining a licensee. If the Secretary disagrees with the  
22 recommendations of the hearing officer, the Secretary may issue  
23 an order in contravention of the hearing officer's  
24 recommendations. The finding is not admissible in evidence  
25 against the person in a criminal prosecution brought for a  
26 violation of this Act, but the hearing and finding are not a

1 bar to a criminal prosecution brought for a violation of this  
2 Act.

3 (410 ILCS 18/88 new)

4 Sec. 88. Rehearing. At the conclusion of the hearing, a  
5 copy of the hearing officer's report shall be served upon the  
6 applicant or licensee by the Department, either personally or  
7 as provided in this Act. Within 20 days after service, the  
8 applicant or licensee may present to the Department a motion in  
9 writing for a rehearing, which shall specify the particular  
10 grounds for rehearing. The Department may respond to the motion  
11 for rehearing within 20 days after its service on the  
12 Department. If no motion for rehearing is filed, then upon the  
13 expiration of the time specified for filing such a motion, or  
14 if a motion for rehearing is denied, then upon denial, the  
15 Secretary may enter an order in accordance with recommendations  
16 of the hearing officer except as provided in Section 89 of this  
17 Act.

18 If the applicant or licensee orders from the reporting  
19 service and pays for a transcript of the record within the time  
20 for filing a motion for rehearing, the 20-day period within  
21 which a motion may be filed shall commence upon the delivery of  
22 the transcript to the applicant or licensee.

23 (410 ILCS 18/89 new)

24 Sec. 89. Secretary; rehearing. Whenever the Secretary

1 believes that substantial justice has not been done in the  
2 revocation, suspension, or refusal to issue or restore a  
3 license or other discipline of an applicant or licensee, he or  
4 she may order a rehearing by the same or other hearing  
5 officers.

6 (410 ILCS 18/90 new)

7 Sec. 90. Order or certified copy; prima facie proof. An  
8 order or certified copy thereof, over the seal of the  
9 Department and purporting to be signed by the Secretary, is  
10 prima facie proof that:

11 (a) the signature is the genuine signature of the  
12 Secretary;

13 (b) the Secretary is duly appointed and qualified; and

14 (c) the hearing officer is qualified to act.

15 (410 ILCS 18/91 new)

16 Sec. 91. Civil action and civil penalties. In addition to  
17 the other penalties and remedies provided in this Act, the  
18 Department may bring a civil action in the county of residence  
19 of the licensee or any other person to enjoin any violation or  
20 threatened violation of this Act. In addition to any other  
21 penalty provided by law, any person who violates this Act shall  
22 forfeit and pay a civil penalty to the Department in an amount  
23 not to exceed \$10,000 for each violation as determined by the  
24 Department. The civil penalty shall be assessed by the

1 Department in accordance with the provisions of this Act.

2 Any civil penalty shall be paid within 60 days after the  
3 effective date of the order imposing the civil penalty. The  
4 order shall constitute a judgment and may be filed and  
5 execution had thereon in the same manner as any judgment from  
6 any court of record. All moneys collected under this Section  
7 shall be deposited into the Cemetery Oversight Licensing and  
8 Disciplinary Fund.

9 (410 ILCS 18/92 new)

10 Sec. 92. Consent order. At any point in any investigation  
11 or disciplinary proceedings as provided in this Act, both  
12 parties may agree to a negotiated consent order. The consent  
13 order shall be final upon signature of the Secretary.

14 (410 ILCS 18/93 new)

15 Sec. 93. Illinois Administrative Procedure Act;  
16 application. The Illinois Administrative Procedure Act is  
17 expressly adopted and incorporated in this Act as if all of the  
18 provisions of that Act were included in this Act, except that  
19 the provision of paragraph (d) of Section 10-65 of the Illinois  
20 Administrative Procedure Act, which provides that at hearings  
21 the licensee has the right to show compliance with all lawful  
22 requirements for retention or continuation of the license, is  
23 specifically excluded. For the purpose of this Act, the notice  
24 required under Section 10-25 of the Illinois Administrative

1 Procedure Act is considered sufficient when mailed to the  
2 address of record.

3 (410 ILCS 18/94 new)

4 Sec. 94. Summary suspension of a license. The Secretary may  
5 summarily suspend a license of a licensed crematory without a  
6 hearing, simultaneously with the institution of proceedings  
7 for a hearing provided for in this Act, if the Secretary finds  
8 that evidence in the Secretary's possession indicates that the  
9 licensee's continued practice would constitute an imminent  
10 danger to the public. In the event that the Secretary summarily  
11 suspends the license of a licensed crematory without a hearing,  
12 a hearing must be commenced within 30 days after the suspension  
13 has occurred and concluded as expeditiously as practical. In  
14 the event of a summary suspension, the county coroner or  
15 medical examiner responsible for the area where the crematory  
16 is located shall make arrangements to dispose of any bodies in  
17 the suspended licensee's possession after consulting with the  
18 authorizing agents for those bodies.

19 (410 ILCS 18/95 new)

20 Sec. 95. Home Rule. The regulation of crematories and  
21 crematory authorities as set forth in this Act is an exclusive  
22 power and function of the State. A home rule unit may not  
23 regulate crematories or crematory authorities. This Section is  
24 a denial and limitation of home rule powers and functions under

1 subsection (h) of Section 6 of Article VII of the Illinois  
2 Constitution.

3 Section 90-30. The Vital Records Act is amended by changing  
4 Sections 11 and 18.5 as follows:

5 (410 ILCS 535/11) (from Ch. 111 1/2, par. 73-11)

6 Sec. 11. Information required on forms.

7 (a) The form of certificates, reports, and other returns  
8 required by this Act or by regulations adopted under this Act  
9 shall include as a minimum the items recommended by the federal  
10 agency responsible for national vital statistics, subject to  
11 approval of and modification by the Department. All forms shall  
12 be prescribed and furnished by the State Registrar of Vital  
13 Records.

14 (b) On and after the effective date of this amendatory Act  
15 of 1983, all forms used to collect information under this Act  
16 which request information concerning the race or ethnicity of  
17 an individual by providing spaces for the designation of that  
18 individual as "white" or "black", or the semantic equivalent  
19 thereof, shall provide an additional space for a designation as  
20 "Hispanic".

21 (c) Effective November 1, 1990, the social security numbers  
22 of the mother and father shall be collected at the time of the  
23 birth of the child. These numbers shall not be recorded on the  
24 certificate of live birth. The numbers may be used only for



1 those purposes allowed by Federal law.

2 (d) The social security number of a person who has died  
3 shall be entered on the death certificate; however, failure to  
4 enter the social security number of the person who has died on  
5 the death certificate does not invalidate the death  
6 certificate.

7 (e) If the place of disposition of a dead human body or  
8 cremated remains is in a cemetery, the burial permit shall  
9 include the place of disposition. The place of disposition  
10 shall include the lot, block, section, and plot or niche where  
11 the dead human body or cremated remains are located. This  
12 subsection does not apply to cremated remains scattered in a  
13 cemetery.

14 (Source: P.A. 90-18, eff. 7-1-97.)

15 (410 ILCS 535/18.5)

16 Sec. 18.5. Electronic reporting system for death  
17 registrations. The State Registrar shall ~~may~~ facilitate death  
18 registration by implementing an electronic reporting system.  
19 The system may be used to transfer information to individuals  
20 and institutions responsible for completing and filing  
21 certificates and related reports for deaths that occur in the  
22 State. The system shall be capable of storing and retrieving  
23 accurate and timely data and statistics for those persons and  
24 agencies responsible for vital records registration and  
25 administration. Upon establishment of such an electronic

1 reporting system, but not later than January 1, 2011, the  
2 county clerk in the county in which a death occurred or the  
3 county clerk of the county where a decedent last resided, as  
4 indicated on the decedent's death certificate, shall be  
5 authorized to issue certifications of death records from such  
6 system, and the State Registrar shall cause the electronic  
7 reporting system to provide for such capability. The Department  
8 of Financial and Professional Regulation shall have access to  
9 the system to enhance its enforcement of the Cemetery Oversight  
10 Act.

11 (Source: P.A. 96-327, eff. 8-11-09.)

12 Section 90-33. The Eminent Domain Act is amended by  
13 changing Section 15-5-40 as follows:

14 (735 ILCS 30/15-5-40)

15 Sec. 15-5-40. Eminent domain powers in ILCS Chapters 705  
16 through 820. The following provisions of law may include  
17 express grants of the power to acquire property by condemnation  
18 or eminent domain:

19 (765 ILCS 230/2); Coast and Geodetic Survey Act; United States  
20 of America; for carrying out coast and geodetic surveys.

21 (765 ILCS 505/1); Mining Act of 1874; mine owners and  
22 operators; for roads, railroads, and ditches.

23 (805 ILCS 25/2); Corporation Canal Construction Act; general

1 corporations; for levees, canals, or tunnels for  
2 agricultural, mining, or sanitary purposes.

3 (805 ILCS 30/7); Gas Company Property Act; consolidating gas  
4 companies; for acquisition of stock of dissenting  
5 stockholder.

6 (805 ILCS 120/9); Merger of Not For Profit Corporations Act;  
7 merging or consolidating corporations; for acquisition of  
8 interest of objecting member or owner.

9 ~~(805 ILCS 320/16 through 320/20); Cemetery Association Act;~~  
10 ~~cemetery associations; for cemetery purposes.~~

11 (Source: P.A. 94-1055, eff. 1-1-07.)

12 Section 90-35. The Crime Victims Compensation Act is  
13 amended by changing Section 2 as follows:

14 (740 ILCS 45/2) (from Ch. 70, par. 72)

15 Sec. 2. Definitions. As used in this Act, unless the  
16 context otherwise requires:

17 (a) "Applicant" means any person who applies for  
18 compensation under this Act or any person the Court of Claims  
19 finds is entitled to compensation, including the guardian of a  
20 minor or of a person under legal disability. It includes any  
21 person who was a dependent of a deceased victim of a crime of  
22 violence for his or her support at the time of the death of  
23 that victim.

24 (b) "Court of Claims" means the Court of Claims created by

1 the Court of Claims Act.

2 (c) "Crime of violence" means and includes any offense  
3 defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-11, 11-19.2,  
4 11-20.1, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1,  
5 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14,  
6 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1 of the  
7 Criminal Code of 1961, Sections 1(a) and 1(a-5) of the Cemetery  
8 Protection Act, driving under the influence of intoxicating  
9 liquor or narcotic drugs as defined in Section 11-501 of the  
10 Illinois Vehicle Code, and a violation of Section 11-401 of the  
11 Illinois Vehicle Code, provided the victim was a pedestrian or  
12 was operating a vehicle moved solely by human power or a  
13 mobility device at the time of contact; so long as the offense  
14 did not occur during a civil riot, insurrection or rebellion.  
15 "Crime of violence" does not include any other offense or  
16 accident involving a motor vehicle except those vehicle  
17 offenses specifically provided for in this paragraph. "Crime of  
18 violence" does include all of the offenses specifically  
19 provided for in this paragraph that occur within this State but  
20 are subject to federal jurisdiction and crimes involving  
21 terrorism as defined in 18 U.S.C. 2331.

22 (d) "Victim" means (1) a person killed or injured in this  
23 State as a result of a crime of violence perpetrated or  
24 attempted against him or her, (2) the parent of a person killed  
25 or injured in this State as a result of a crime of violence  
26 perpetrated or attempted against the person, (3) a person

1 killed or injured in this State while attempting to assist a  
2 person against whom a crime of violence is being perpetrated or  
3 attempted, if that attempt of assistance would be expected of a  
4 reasonable person ~~man~~ under the circumstances, (4) a person  
5 killed or injured in this State while assisting a law  
6 enforcement official apprehend a person who has perpetrated a  
7 crime of violence or prevent the perpetration of any such crime  
8 if that assistance was in response to the express request of  
9 the law enforcement official, (5) a person who personally  
10 witnessed a violent crime, (5.1) solely for the purpose of  
11 compensating for pecuniary loss incurred for psychological  
12 treatment of a mental or emotional condition caused or  
13 aggravated by the crime, any other person under the age of 18  
14 who is the brother, sister, half brother, half sister, child,  
15 or stepchild of a person killed or injured in this State as a  
16 result of a crime of violence, ~~or~~ (6) an Illinois resident who  
17 is a victim of a "crime of violence" as defined in this Act  
18 except, if the crime occurred outside this State, the resident  
19 has the same rights under this Act as if the crime had occurred  
20 in this State upon a showing that the state, territory,  
21 country, or political subdivision of a country in which the  
22 crime occurred does not have a compensation of victims of  
23 crimes law for which that Illinois resident is eligible, (7) a  
24 deceased person whose body is dismembered or whose remains are  
25 desecrated as the result of a crime of violence, or (8) solely  
26 for the purpose of compensating for pecuniary loss incurred for

1 psychological treatment of a mental or emotional condition  
2 caused or aggravated by the crime, any parent, spouse, or child  
3 under the age of 18 of a deceased person whose body is  
4 dismembered or whose remains are desecrated as the result of a  
5 crime of violence.

6 (e) "Dependent" means a relative of a deceased victim who  
7 was wholly or partially dependent upon the victim's income at  
8 the time of his or her death and shall include the child of a  
9 victim born after his or her death.

10 (f) "Relative" means a spouse, parent, grandparent,  
11 stepfather, stepmother, child, grandchild, brother,  
12 brother-in-law, sister, sister-in-law, half brother, half  
13 sister, spouse's parent, nephew, niece, uncle or aunt.

14 (g) "Child" means an unmarried son or daughter who is under  
15 18 years of age and includes a stepchild, an adopted child or a  
16 child born out of wedlock.

17 (h) "Pecuniary loss" means, in the case of injury,  
18 appropriate medical expenses and hospital expenses including  
19 expenses of medical examinations, rehabilitation, medically  
20 required nursing care expenses, appropriate psychiatric care  
21 or psychiatric counseling expenses, expenses for care or  
22 counseling by a licensed clinical psychologist, licensed  
23 clinical social worker, or licensed clinical professional  
24 counselor and expenses for treatment by Christian Science  
25 practitioners and nursing care appropriate thereto;  
26 transportation expenses to and from medical and treatment

1 facilities; prosthetic appliances, eyeglasses, and hearing  
2 aids necessary or damaged as a result of the crime; replacement  
3 costs for clothing and bedding used as evidence; costs  
4 associated with temporary lodging or relocation necessary as a  
5 result of the crime, including, but not limited to, the first  
6 month's rent and security deposit of the dwelling that the  
7 claimant relocated to and other reasonable relocation expenses  
8 incurred as a result of the violent crime; locks or windows  
9 necessary or damaged as a result of the crime; the purchase,  
10 lease, or rental of equipment necessary to create usability of  
11 and accessibility to the victim's real and personal property,  
12 or the real and personal property which is used by the victim,  
13 necessary as a result of the crime; the costs of appropriate  
14 crime scene clean-up; replacement services loss, to a maximum  
15 of \$1000 per month; dependents replacement services loss, to a  
16 maximum of \$1000 per month; loss of tuition paid to attend  
17 grammar school or high school when the victim had been enrolled  
18 as a student prior to the injury, or college or graduate school  
19 when the victim had been enrolled as a day or night student  
20 prior to the injury when the victim becomes unable to continue  
21 attendance at school as a result of the crime of violence  
22 perpetrated against him or her; loss of earnings, loss of  
23 future earnings because of disability resulting from the  
24 injury, and, in addition, in the case of death, expenses for  
25 funeral, burial, and travel and transport for survivors of  
26 homicide victims to secure bodies of deceased victims and to

1 transport bodies for burial all of which may not exceed a  
2 maximum of \$5,000 and loss of support of the dependents of the  
3 victim; in the case of dismemberment or desecration of a body,  
4 expenses for funeral and burial, all of which may not exceed a  
5 maximum of \$5,000. Loss of future earnings shall be reduced by  
6 any income from substitute work actually performed by the  
7 victim or by income he or she would have earned in available  
8 appropriate substitute work he or she was capable of performing  
9 but unreasonably failed to undertake. Loss of earnings, loss of  
10 future earnings and loss of support shall be determined on the  
11 basis of the victim's average net monthly earnings for the 6  
12 months immediately preceding the date of the injury or on \$1000  
13 per month, whichever is less. If a divorced or legally  
14 separated applicant is claiming loss of support for a minor  
15 child of the deceased, the amount of support for each child  
16 shall be based either on the amount of support pursuant to the  
17 judgment prior to the date of the deceased victim's injury or  
18 death, or, if the subject of pending litigation filed by or on  
19 behalf of the divorced or legally separated applicant prior to  
20 the injury or death, on the result of that litigation. Real and  
21 personal property includes, but is not limited to, vehicles,  
22 houses, apartments, town houses, or condominiums. Pecuniary  
23 loss does not include pain and suffering or property loss or  
24 damage.

25 (i) "Replacement services loss" means expenses reasonably  
26 incurred in obtaining ordinary and necessary services in lieu



1 of those the injured person would have performed, not for  
2 income, but for the benefit of himself or herself or his or her  
3 family, if he or she had not been injured.

4 (j) "Dependents replacement services loss" means loss  
5 reasonably incurred by dependents or private legal guardians of  
6 minor dependents after a victim's death in obtaining ordinary  
7 and necessary services in lieu of those the victim would have  
8 performed, not for income, but for their benefit, if he or she  
9 had not been fatally injured.

10 (k) "Survivor" means immediate family including a parent,  
11 step-father, step-mother, child, brother, sister, or spouse.

12 (Source: P.A. 96-267, eff. 8-11-09.)

13 Section 90-40. The Burial Lot Perpetual Trust Act is  
14 amended by changing Section 2 as follows:

15 (760 ILCS 90/2) (from Ch. 21, par. 32)

16 Sec. 2. Every company or association incorporated for  
17 cemetery purposes under any general or special law of the State  
18 of Illinois may receive, by gift, legacy, or otherwise, moneys  
19 or real or personal property, or the income or avails of such  
20 moneys or property, in trust, in perpetuity, for the  
21 improvement, maintenance, ornamentation, repair, care and  
22 preservation of any burial lot or grave, vault, tomb, or other  
23 such structures, in any cemetery owned or controlled by such  
24 cemetery company or association, upon such terms and in such

1 manner as may be provided by the terms of such gift, legacy or  
2 other conveyance of such moneys or property in trust and  
3 assented to by such company or association, and subject to the  
4 rules and regulations of such company or association, and every  
5 such company or association owning or controlling any such  
6 cemetery may make contracts with the owner or owners or legal  
7 representatives of any lot, grave, vault, tomb, or other such  
8 structure in such cemetery, for the improvement, maintenance,  
9 ornamentation, care, preservation and repair of any such lot,  
10 grave, vault, tomb, or other such structure in such cemetery  
11 owned or controlled by such cemetery company or association. If  
12 the cemetery is a privately owned cemetery, as defined in  
13 Section 2 of the Cemetery Care Act, or a licensed cemetery  
14 authority under the Cemetery Oversight Act, or if the burial  
15 lot or grave, vault, tomb, or other such structures are in a  
16 privately owned cemetery, as defined in Section 2 of the  
17 Cemetery Care Act, or a licensed cemetery authority under the  
18 Cemetery Oversight Act, then such company or association shall  
19 also comply with the provisions of the Cemetery Care Act or  
20 Cemetery Oversight Act, whichever is applicable. ~~Where the~~  
21 ~~cemetery is a privately operated cemetery, as defined in~~  
22 ~~section 2 of the Cemetery Care Act, approved July 21, 1947, as~~  
23 ~~amended, or where the burial lot or grave, vault, tomb, or~~  
24 ~~other such structures are in a privately operated cemetery, as~~  
25 ~~defined in section 2 of that Act, then such company or~~  
26 ~~association shall also comply with the provisions of the~~

1 ~~Cemetery Care Act.~~

2 (Source: P.A. 83-388.)

3 Section 90-45. The Cemetery Perpetual Trust Authorization  
4 Act is amended by changing Section 2 as follows:

5 (760 ILCS 95/2) (from Ch. 21, par. 64)

6 Sec. 2. Any incorporated cemetery association incorporated  
7 not for pecuniary profit, may if it elects to do so, receive  
8 and hold money, funds and property in perpetual trust pursuant  
9 to the provisions of this act. Such election shall be evidenced  
10 by a by-law or resolution adopted by the board of directors, or  
11 board of trustees of the incorporated cemetery association. Any  
12 person is authorized to give, donate or bequeath any sum of  
13 money or any funds, securities, or property of any kind to the  
14 cemetery association, in perpetual trust, for the maintenance,  
15 care, repair, upkeep or ornamentation of the cemetery, or any  
16 lot or lots, or grave or graves in the cemetery, specified in  
17 the instrument making the gift, donation or legacy. The  
18 cemetery association may receive and hold in perpetual trust,  
19 any such money, funds, securities and property so given,  
20 donated or bequeathed to it, and may convert the property,  
21 funds and securities into money and shall invest and keep  
22 invested the proceeds thereof and the money so given, donated  
23 and bequeathed, in safe and secure income bearing investments,  
24 including investments in income producing real estate,

1 provided the purchase price of the real estate shall not exceed  
2 the fair market value thereof on the date of its purchase as  
3 such value is determined by the board of directors or board of  
4 trustees of the association. The principal of the trust fund  
5 shall be kept intact and the income arising therefrom shall be  
6 perpetually applied for the uses and purposes specified in the  
7 instrument making the gift, donation or legacy and for no other  
8 purpose.

9 The by-laws of the cemetery association shall provide for a  
10 permanent committee to manage and control the trust funds so  
11 given, donated and bequeathed to it. The members of the  
12 committee shall be appointed by the board of directors, or  
13 board of trustees of the cemetery association from among the  
14 members of the board of directors or board of trustees. The  
15 committee shall choose a chairman, a secretary and a treasurer  
16 from among the members, and shall have the management and  
17 control of the trust funds of the cemetery association so  
18 given, donated and bequeathed in trust, under the supervision  
19 of the board of directors or board of trustees. The treasurer  
20 of the committee shall execute a bond to the People of the  
21 State of Illinois for the use of the cemetery association, in a  
22 penal sum of not less than double the amount of the trust funds  
23 coming into his possession as treasurer, conditioned for the  
24 faithful performance of his duties and the faithful accounting  
25 for all money or funds which by virtue of his treasurership  
26 come into his possession, and be in such form and with such

1 securities as may be prescribed and approved by the board of  
2 directors, or board of trustees, and shall be approved by such  
3 board of directors, or board of trustees, and filed with the  
4 secretary of the cemetery association.

5 The treasurer of the committee shall have the custody of  
6 all money, funds and property received in trust by the cemetery  
7 association and shall invest the same in accordance with the  
8 directions of the committee as approved by the board of  
9 directors or board of trustees of the cemetery association, and  
10 shall receive and have the custody of all of the income arising  
11 from such investments and as the income is received by him, he  
12 shall pay it to the treasurer of the cemetery association, and  
13 he shall keep permanent books of record of all such trust funds  
14 and of all receipts arising therefrom and disbursements  
15 thereof, and shall annually make a written report to the board  
16 of directors or board of trustees of the cemetery association,  
17 under oath, showing receipts and disbursements, including a  
18 statement showing the amount and principal of trust funds on  
19 hand and how invested, which report shall be audited by the  
20 board of directors, or board of trustees, and if found correct,  
21 shall be approved, and filed with the secretary of the cemetery  
22 association.

23 The secretary of the committee shall keep, in a book  
24 provided for such purpose, a permanent record of the  
25 proceedings of the committee, signed by the president and  
26 attested by the secretary, and shall also keep a permanent

1 record of the several trust funds, the amounts thereof, and for  
2 what uses and purposes, respectively, and he shall annually, at  
3 the time the treasurer makes his report, make a written report  
4 under oath, to the board of directors or board of trustees,  
5 stating therein substantially the same matter required to be  
6 reported by the treasurer of the committee, which report, if  
7 found to be correct, shall be approved, and filed with the  
8 secretary of the association.

9 The treasurer shall execute a bond to the People of the  
10 State of Illinois, in a penal sum of not less than double the  
11 amount of money or funds coming into his possession as such  
12 treasurer, conditioned for the faithful performance of his  
13 duties and the faithful accounting of all money or funds which  
14 by virtue of his office come into his possession and be in such  
15 form and with such securities as may be prescribed and approved  
16 by the board of directors, or board of trustees, and shall be  
17 approved by such board of directors or board of trustees and  
18 filed with the secretary of the cemetery association.

19 The trust funds, gifts and legacies mentioned in this  
20 section and the income arising therefrom shall be exempt from  
21 taxation and from the operation of all laws of mortmain, and  
22 the laws against perpetuities and accumulations.

23 No loan; investment; purchase of insurance on the life of  
24 any trustee or employee; purchase of any real estate; or any  
25 other transaction using care funds by any trustee, director, or  
26 committee member shall be made to or for the benefit of any

1 person, officer, trustee, or party having any interest, or to  
2 any firm, corporation, trade association, or partnership in  
3 which any officer, director, trustee, or party has any  
4 interest, is a member of, or serves as an officer or director.  
5 A violation of this Section shall constitute the intentional  
6 and improper withdrawal of trust funds.

7 No loan or investment in any unproductive real estate or  
8 real estate outside of this State or in permanent improvements  
9 of the cemetery or any of its facilities shall be made, unless  
10 specifically authorized by the instrument whereby the  
11 principal fund was created. No commission or brokerage fee for  
12 the purchase or sale of any property shall be paid in excess of  
13 that usual and customary at the time and in the locality where  
14 such purchase or sale is made, and all such commissions and  
15 brokerage fees shall be fully reported in the next annual  
16 report filed by such cemetery association or trustee.

17 If the cemetery is a privately owned cemetery, as defined  
18 in Section 2 of the Cemetery Care Act, or a licensed cemetery  
19 authority under the Cemetery Oversight Act, or if the burial  
20 lot or grave, vault, tomb, or other such structures are in a  
21 privately owned cemetery, as defined in Section 2 of the  
22 Cemetery Care Act, or a licensed cemetery authority under the  
23 Cemetery Oversight Act, then such company or association shall  
24 also comply with the provisions of the Cemetery Care Act or  
25 Cemetery Oversight Act, whichever is applicable. ~~Where the~~  
26 cemetery is a privately operated cemetery, as defined in

1 ~~section 2 of the Cemetery Care Act, approved July 21, 1947, as~~  
2 ~~amended, or where the lot or lots or grave or graves are in a~~  
3 ~~privately operated cemetery, as defined in section 2 of that~~  
4 ~~Act, then such cemetery association or such committee, shall~~  
5 ~~also comply with the provisions of the Cemetery Care Act.~~

6 (Source: P.A. 95-331, eff. 8-21-07.)

7 Section 90-50. The Cemetery Protection Act is amended by  
8 changing Sections .01, 1 and 8 as follows:

9 (765 ILCS 835/.01) (from Ch. 21, par. 14.01)

10 Sec. .01. For the purposes of this Act, the term:

11 "Cemetery manager" means an individual who is engaged in,  
12 or holding himself or herself out as engaged in, those  
13 activities involved in or incidental to supervising the  
14 following: the maintenance, operation, development, or  
15 improvement of a cemetery licensed under this Act; the  
16 interment of human remains; or the care, preservation, and  
17 embellishment of cemetery property. This definition also  
18 includes, without limitation, an individual that is an  
19 independent contractor or individuals employed or contracted  
20 by an independent contractor who is engaged in, or holding  
21 himself or herself out as engaged in, those activities involved  
22 in or incidental to supervising the following: the maintenance,  
23 operation, development, or improvement of a cemetery licensed  
24 under this Act; the interment of human remains; or the care,



1 preservation, and embellishment of cemetery property.

2 ~~"Cemetery authority" is defined as in Section 2 of the~~  
3 ~~"Cemetery Care Act", approved July 21, 1947, as now and~~  
4 ~~hereafter amended.~~

5 "Community mausoleum" means a mausoleum owned and operated  
6 by a cemetery authority that contains multiple entombment  
7 rights sold to the public.

8 (Source: P.A. 94-44, eff. 6-17-05.)

9 (765 ILCS 835/1) (from Ch. 21, par. 15)

10 Sec. 1. (a) Any person who acts without proper legal  
11 authority and who willfully and knowingly destroys or damages  
12 the remains of a deceased human being or who desecrates human  
13 remains is guilty of a Class 3 felony.

14 (a-5) Any person who acts without proper legal authority  
15 and who willfully and knowingly removes any portion of the  
16 remains of a deceased human being from a burial ground where  
17 skeletal remains are buried or from a grave, crypt, vault,  
18 mausoleum, or other repository of human remains is guilty of a  
19 Class 4 felony.

20 (b) Any person who acts without proper legal authority and  
21 who willfully and knowingly:

22 (1) obliterates, vandalizes, or desecrates a burial  
23 ground where skeletal remains are buried or a grave, crypt,  
24 vault, mausoleum, or other repository of human remains;

25 (2) obliterates, vandalizes, or desecrates a park or

1 other area clearly designated to preserve and perpetuate  
2 the memory of a deceased person or group of persons;

3 (3) obliterates, vandalizes, or desecrates plants,  
4 trees, shrubs, or flowers located upon or around a  
5 repository for human remains or within a human graveyard or  
6 cemetery; or

7 (4) obliterates, vandalizes, or desecrates a fence,  
8 rail, curb, or other structure of a similar nature intended  
9 for the protection or for the ornamentation of any tomb,  
10 monument, gravestone, or other structure of like  
11 character;

12 is guilty of a Class A misdemeanor if the amount of the damage  
13 is less than \$500, a Class 4 felony if the amount of the damage  
14 is at least \$500 and less than \$10,000, a Class 3 felony if the  
15 amount of the damage is at least \$10,000 and less than  
16 \$100,000, or a Class 2 felony if the damage is \$100,000 or more  
17 and shall provide restitution to the cemetery authority or  
18 property owner for the amount of any damage caused.

19 (b-5) Any person who acts without proper legal authority  
20 and who willfully and knowingly defaces, vandalizes, injures,  
21 or removes a gravestone or other memorial, monument, or marker  
22 commemorating a deceased person or group of persons, whether  
23 located within or outside of a recognized cemetery, memorial  
24 park, or battlefield is guilty of a Class 4 felony for damaging  
25 at least one but no more than 4 gravestones, a Class 3 felony  
26 for damaging at least 5 but no more than 10 gravestones, or a

1 Class 2 felony for damaging more than 10 gravestones and shall  
2 provide restitution to the cemetery authority or property owner  
3 for the amount of any damage caused.

4 (b-7) Any person who acts without proper legal authority  
5 and who willfully and knowingly removes with the intent to  
6 resell a gravestone or other memorial, monument, or marker  
7 commemorating a deceased person or group of persons, whether  
8 located within or outside a recognized cemetery, memorial park,  
9 or battlefield, is guilty of a Class 2 felony.

10 (c) The provisions of this Section shall not apply to the  
11 removal or unavoidable breakage or injury by a cemetery  
12 authority of anything placed in or upon any portion of its  
13 cemetery in violation of any of the rules and regulations of  
14 the cemetery authority, nor to the removal of anything placed  
15 in the cemetery by or with the consent of the cemetery  
16 authority that in the judgment of the cemetery authority has  
17 become wrecked, unsightly, or dilapidated.

18 (d) If an unemancipated minor is found guilty of violating  
19 any of the provisions of subsection (b) of this Section and is  
20 unable to provide restitution to the cemetery authority or  
21 property owner, the parents or legal guardians of that minor  
22 shall provide restitution to the cemetery authority or property  
23 owner for the amount of any damage caused, up to the total  
24 amount allowed under the Parental Responsibility Law.

25 (d-5) Any person who commits any of the following:

26 (1) any unauthorized, non-related third party or

1 person who enters any sheds, crematories, or employee  
2 areas;

3 (2) any non-cemetery personnel who solicits cemetery  
4 mourners or funeral directors on the grounds or in the  
5 offices or chapels of a cemetery before, during, or after a  
6 burial;

7 (3) any person who harasses or threatens any employee  
8 of a cemetery on cemetery grounds; or

9 (4) any unauthorized person who removes, destroys, or  
10 disturbs any cemetery devices or property placed for safety  
11 of visitors and cemetery employees;

12 is guilty of a Class A misdemeanor for the first offense and of  
13 a Class 4 felony for a second or subsequent offense.

14 (e) Any person who shall hunt, shoot or discharge any gun,  
15 pistol or other missile, within the limits of any cemetery, or  
16 shall cause any shot or missile to be discharged into or over  
17 any portion thereof, or shall violate any of the rules made and  
18 established by the board of directors of such cemetery, for the  
19 protection or government thereof, is guilty of a Class C  
20 misdemeanor.

21 (f) Any person who knowingly enters or knowingly remains  
22 upon the premises of a public or private cemetery without  
23 authorization during hours that the cemetery is posted as  
24 closed to the public is guilty of a Class A misdemeanor.

25 (g) All fines when recovered, shall be paid over by the  
26 court or officer receiving the same to the cemetery authority

1 and be applied, as far as possible in repairing the injury, if  
2 any, caused by such offense. Provided, nothing contained in  
3 this Act shall deprive such cemetery authority or the owner of  
4 any interment, entombment, or inurnment ~~inurement~~ right or  
5 monument from maintaining an action for the recovery of damages  
6 caused by any injury caused by a violation of the provisions of  
7 this Act, or of the rules established by the board of directors  
8 of such cemetery authority. Nothing in this Section shall be  
9 construed to prohibit the discharge of firearms loaded with  
10 blank ammunition as part of any funeral, any memorial  
11 observance or any other patriotic or military ceremony.

12 (Source: P.A. 94-44, eff. 6-17-05; 94-608, eff. 8-16-05;  
13 95-331, eff. 8-21-07.)

14 (765 ILCS 835/8) (from Ch. 21, par. 21.1)

15 Sec. 8. If the cemetery is a privately owned cemetery, as  
16 defined in Section 2 of the Cemetery Care Act, or a licensed  
17 cemetery authority under the Cemetery Oversight Act, or if the  
18 burial lot or grave, vault, tomb, or other such structures are  
19 in a privately owned cemetery, as defined in Section 2 of the  
20 Cemetery Care Act, or a licensed cemetery authority under the  
21 Cemetery Oversight Act, then such company or association shall  
22 also comply with the provisions of the Cemetery Care Act or  
23 Cemetery Oversight Act, whichever is applicable. Furthermore,  
24 no cemetery authority company or other legal entity may deny  
25 burial space to any person because of race, creed, marital

1 status, sex, national origin, sexual orientation, or color. A  
2 cemetery company or other entity operating any cemetery may  
3 designate parts of cemeteries or burial grounds for the  
4 specific use of persons whose religious code requires  
5 isolation. Religious institution cemeteries may limit burials  
6 to members of the religious institution and their families.  
7 ~~Where the cemetery is a privately operated cemetery, as defined~~  
8 ~~in Section 2 of the Cemetery Care Act, enacted by the~~  
9 ~~Sixty fifth General Assembly or where the interment,~~  
10 ~~entombment rights in a community mausoleum or lawn crypt~~  
11 ~~section, or inurnment rights in a community columbarium, vault~~  
12 ~~or vaults, tomb or tombs, or other such structures in the~~  
13 ~~cemetery or graveyard are in a privately operated cemetery, as~~  
14 ~~defined in Section 2 of that Act, then such board of directors~~  
15 ~~or managing officers of such cemetery, society or cemetery~~  
16 ~~authority, or the trustees of any public graveyard or the~~  
17 ~~cemetery society or cemetery association, shall also comply~~  
18 ~~with the provisions of the Cemetery Care Act, enacted by the~~  
19 ~~Sixty fifth General Assembly.~~

20 (Source: P.A. 94-44, eff. 6-17-05.)

21 Section 90-57. The Consumer Fraud and Deceptive Business  
22 Practices Act is amended by changing Section 2Z as follows:

23 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

24 Sec. 2Z. Violations of other Acts. Any person who knowingly

1 violates the Automotive Repair Act, the Automotive Collision  
2 Repair Act, the Home Repair and Remodeling Act, the Dance  
3 Studio Act, the Physical Fitness Services Act, the Hearing  
4 Instrument Consumer Protection Act, the Illinois Union Label  
5 Act, the Job Referral and Job Listing Services Consumer  
6 Protection Act, the Travel Promotion Consumer Protection Act,  
7 the Credit Services Organizations Act, the Automatic Telephone  
8 Dialers Act, the Pay-Per-Call Services Consumer Protection  
9 Act, the Telephone Solicitations Act, the Illinois Funeral or  
10 Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care  
11 Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales  
12 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,  
13 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section  
14 3-10 of the Cigarette Tax Act, ~~the Payday Loan Reform Act~~,  
15 subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax  
16 Act, the Electronic Mail Act, the Internet Caller  
17 Identification Act, paragraph (6) of subsection (k) of Section  
18 6-305 of the Illinois Vehicle Code, Section 18d-115, 18d-120,  
19 18d-125, 18d-135, or 18d-150 of the Illinois Vehicle Code,  
20 Article 3 of the Residential Real Property Disclosure Act, the  
21 Automatic Contract Renewal Act, or the Personal Information  
22 Protection Act commits an unlawful practice within the meaning  
23 of this Act.

24 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,  
25 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,  
26 eff. 1-1-08; 95-562, eff. 7-1-08; 95-876, eff. 8-21-08; revised

1 11-4-09.)

2 Section 90-60. The Burial Rights Act is amended by changing  
3 Sections 1 and 2.3 as follows:

4 (820 ILCS 135/1) (from Ch. 21, par. 101)

5 Sec. 1. (a) Every contract, agreement or understanding  
6 between a cemetery authority and a cemetery workers'  
7 association which totally prohibits burials of human remains on  
8 Sundays or legal holidays shall be deemed to be void as against  
9 public policy and wholly unenforceable.

10 (b) Nothing in this Section shall prohibit a cemetery  
11 authority and a cemetery workers' association from entering  
12 into a contract, agreement or understanding which limits Sunday  
13 or holiday burials of human remains to decedents who were  
14 members of religious sects whose tenets or beliefs require  
15 burials within a specified period of time and whose deaths  
16 occurred at such times as to necessitate Sunday or holiday  
17 burials. Such contract, agreement or understanding may provide  
18 that a funeral director notify the cemetery authority within a  
19 reasonable time when a Sunday or holiday burial is necessitated  
20 by reason of the decedent's religious tenets or beliefs.

21 (c) It shall be unlawful for any person to restrain,  
22 prohibit or interfere with the burial of a decedent whose time  
23 of death and religious tenets or beliefs necessitate burial on  
24 a Sunday or legal holiday.



1 (d) A violation of this Section is a Class A misdemeanor.

2 (e) For the purposes of this Act, "cemetery authority"  
3 shall have the meaning ascribed to it in Section 2 of the  
4 Cemetery Care Act or the Cemetery Oversight Act, whichever is  
5 applicable; and "cemetery workers' association" means an  
6 organization of workers who are employed by cemetery  
7 authorities to perform the task of burying human remains or  
8 transporting remains to cemeteries or other places of  
9 interment, and who join together for collective bargaining  
10 purposes or to negotiate terms and conditions of employment.

11 (Source: P.A. 83-384.)

12 (820 ILCS 135/2.3)

13 Sec. 2.3. Sections of cemeteries. No provision of any law  
14 of this State may be construed to prohibit a cemetery authority  
15 from reserving, in a cemetery not owned by a religious  
16 organization or institution, a section of interment rights,  
17 entombment rights, or inurnment rights for sale exclusively to  
18 persons of a particular religion, unless membership in the  
19 religion is restricted on account of race, color, or national  
20 origin. As used in this Section, "interment rights",  
21 "entombment rights", and "inurnment rights" have the meanings  
22 ascribed to those terms in the Cemetery Care Act or the  
23 Cemetery Oversight Act, whichever is applicable.

24 (Source: P.A. 88-659.)

1 (760 ILCS 100/Act rep.)

2 Section 90-90. The Cemetery Care Act is repealed.

3 (805 ILCS 320/16 rep.)

4 (805 ILCS 320/16.5 rep.)

5 (805 ILCS 320/17 rep.)

6 (805 ILCS 320/18 rep.)

7 (805 ILCS 320/19 rep.)

8 (805 ILCS 320/20 rep.)

9 Section 90-92. The Cemetery Association Act is amended by  
10 repealing Sections 16, 16.5, 17, 18, 19, and 20.

11 (805 ILCS 320/Act rep.)

12 Section 90-95. The Cemetery Association Act is repealed.

13 Article 91.

14 Additional Amendatory Provisions

15 Section 91-5. The Funeral Directors and Embalmers  
16 Licensing Code is amended by changing Sections 1-10, 15-50,  
17 15-60, and 15-75 and adding Article 12 and Section 15-76 as  
18 follows:

19 (225 ILCS 41/1-10)

20 (Section scheduled to be repealed on January 1, 2013)

21 Sec. 1-10. Definitions. As used in this Code:

1           "Applicant" means any person making application for a  
2 license or certificate of registration.

3           "Board" means the Funeral Directors and Embalmers  
4 Licensing and disciplinary Board.

5           "Customer service employee" means a funeral establishment,  
6 funeral chapel, funeral home, or mortuary employee who has  
7 direct contact with consumers and explains funeral or burial  
8 merchandise or services or negotiates, develops, or finalizes  
9 contracts with consumers. This definition includes, without  
10 limitation, an individual that is an independent contractor or  
11 an individual employed or contracted by an independent  
12 contractor who has direct contact with consumers and explains  
13 funeral or burial merchandise or services or negotiates,  
14 develops, or finalizes contracts with consumers. This  
15 definition does not include a funeral establishment, funeral  
16 chapel, funeral home, or mortuary employee, an individual who  
17 is an independent contractor, or an individual employed or  
18 contracted by an independent contractor who merely provides a  
19 printed price list to a consumer, processes payment from a  
20 consumer, or performs sales functions related solely to  
21 incidental merchandise like flowers, keepsakes, memorial  
22 tributes, or other similar items.

23           "Department" means the Department of Professional  
24 Regulation.

25           "Director" means the Director of Professional Regulation.

26           "Funeral director and embalmer" means a person who is

1 licensed and qualified to practice funeral directing and to  
2 prepare, disinfect and preserve dead human bodies by the  
3 injection or external application of antiseptics,  
4 disinfectants or preservative fluids and materials and to use  
5 derma surgery or plastic art for the restoring of mutilated  
6 features. It further means a person who restores the remains of  
7 a person for the purpose of funeralization whose organs or bone  
8 or tissue has been donated for anatomical purposes.

9 "Funeral director and embalmer intern" means a person  
10 licensed by the State who is qualified to render assistance to  
11 a funeral director and embalmer in carrying out the practice of  
12 funeral directing and embalming under the supervision of the  
13 funeral director and embalmer.

14 "Embalming" means the process of sanitizing and chemically  
15 treating a deceased human body in order to reduce the presence  
16 and growth of microorganisms, to retard organic decomposition,  
17 to render the remains safe to handle while retaining  
18 naturalness of tissue, and to restore an acceptable physical  
19 appearance for funeral viewing purposes.

20 "Funeral director" means a person, known by the title of  
21 "funeral director" or other similar words or titles, licensed  
22 by the State who practices funeral directing.

23 "Funeral establishment", "funeral chapel", "funeral home",  
24 or "mortuary" means a building or separate portion of a  
25 building having a specific street address or location and  
26 devoted to activities relating to the shelter, care, custody

1 and preparation of a deceased human body and which may contain  
2 facilities for funeral or wake services.

3 "Owner" means the individual, partnership, corporation,  
4 association, trust, estate, or agent thereof, or other person  
5 or combination of persons who owns a funeral establishment or  
6 funeral business.

7 "Person" means any individual, partnership, association,  
8 firm, corporation, trust or estate, or other entity.

9 (Source: P.A. 93-268, eff. 1-1-04.)

10 (225 ILCS 41/Art. 12 heading new)

11 ARTICLE 12. CUSTOMER SERVICE EMPLOYEES

12 (225 ILCS 41/12-5 new)

13 (Section scheduled to be repealed on January 1, 2013)

14 Sec. 12-5. License requirement. Customer service employees  
15 employed by a funeral establishment, funeral chapel, funeral  
16 home, or mortuary must apply for licensure as a customer  
17 service employee on forms prescribed by the Department and pay  
18 the fee established by rule. Funeral directors and embalmers  
19 already licensed under this Act need not obtain a separate  
20 license as a customer service employee. It is unlawful for any  
21 person to act as a customer service employee without a customer  
22 service employee license issued by the Department unless  
23 otherwise exempted under this Section.

24 A person acting as a customer service employee who, prior

1 to the effective date of this amendatory Act of the 96th  
2 General Assembly, was not required to obtain licensure need not  
3 comply with the licensure requirement in this Article until the  
4 Department takes action on the person's application for a  
5 license. The application for a customer service employee  
6 license must be submitted to the Department within 4 months  
7 after the Department adopts rules regarding licensure under  
8 this amendatory Act of the 96th General Assembly. If the person  
9 fails to submit the application within this time period, then  
10 the person shall be considered to be engaged in unlicensed  
11 practice and shall be subject to discipline under this Act.

12 (225 ILCS 41/12-10 new)

13 (Section scheduled to be repealed on January 1, 2013)

14 Sec. 12-10. Qualifications for licensure.

15 (a) A person is qualified for licensure as a customer  
16 service employee if he or she meets all of the following  
17 requirements:

18 (1) Is at least 18 years of age.

19 (2) Is of good moral character, including compliance  
20 with the Code of Professional Conduct and Ethics as  
21 provided for by rule. Good moral character is a continuing  
22 requirement of licensure. In determining good moral  
23 character, the Department may take into consideration  
24 conviction of any crime under the laws of any jurisdiction.

25 (3) Submits proof of successful completion of a high

1 school education or its equivalent as established by rule.

2 (4) Submits his or her fingerprints in accordance with  
3 subsection (b) of this Section.

4 (5) Has not committed a violation of this Act or any  
5 rules adopted under this Act that, in the opinion of the  
6 Department, renders the applicant unqualified to be a  
7 customer service employee.

8 (6) Successfully passes the examination authorized by  
9 the Department for customer service employees.

10 (7) Has complied with all other requirements of this  
11 Act and rules established for the implementation of this  
12 Act.

13 (8) Can be reasonably expected to treat consumers  
14 professionally, fairly, and ethically.

15 (b) Each applicant for a customer service employee license  
16 shall have his or her fingerprints submitted to the Department  
17 of State Police in an electronic format that complies with the  
18 form and manner for requesting and furnishing criminal history  
19 record information that is prescribed by the Department of  
20 State Police. These fingerprints shall be checked against the  
21 Department of State Police and Federal Bureau of Investigation  
22 criminal history record databases. The Department of State  
23 Police shall charge applicants a fee for conducting the  
24 criminal history records check, which shall be deposited in the  
25 State Police Services Fund and shall not exceed the actual cost  
26 of the records check. The Department of State Police shall

1 furnish, pursuant to positive identification, records of  
2 Illinois convictions to the Department. The Department may  
3 require applicants to pay a separate fingerprinting fee, either  
4 to the Department or directly to a designated fingerprint  
5 vendor. The Department, in its discretion, may allow an  
6 applicant who does not have reasonable access to a designated  
7 fingerprint vendor to provide his or her fingerprints in an  
8 alternative manner. The Department, in its discretion, may also  
9 use other procedures in performing or obtaining criminal  
10 background checks of applicants. Instead of submitting his or  
11 her fingerprints, an individual may submit proof that is  
12 satisfactory to the Department that an equivalent security  
13 clearance has been conducted.

14 (225 ILCS 41/12-11 new)

15 (Section scheduled to be repealed on January 1, 2013)

16 Sec. 12-11. Code of Professional Conduct and Ethics. The  
17 Department shall implement a Code of Professional Conduct and  
18 Ethics. Customer service employees shall abide by the Code of  
19 Professional Conduct and Ethics.

20 (225 ILCS 41/12-15 new)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 12-15. Examination; failure or refusal to take the  
23 examination.

24 (a) The Department shall authorize examinations of



1 customer service employee applicants at such times and places  
2 as it may determine. The examinations shall fairly test an  
3 applicant's qualifications to practice as customer service  
4 employee and knowledge of the theory and practice of funeral  
5 home customer service. The examination shall further test the  
6 extent to which the applicant understands and appreciates that  
7 the final disposal of a deceased human body should be attended  
8 with appropriate observance and understanding, having due  
9 regard and respect for the reverent care of the human body and  
10 for those bereaved and for the overall spiritual dignity of an  
11 individual.

12 (b) Applicants for examinations shall pay, either to the  
13 Department or to the designated testing service, a fee covering  
14 the cost of providing the examination. Failure to appear for  
15 the examination on the scheduled date at the time and place  
16 specified after the application for examination has been  
17 received and acknowledged by the Department or the designated  
18 testing service shall result in forfeiture of the examination  
19 fee.

20 (c) If the applicant neglects, fails, or refuses to take an  
21 examination or fails to pass an examination for a license under  
22 this Act within one year after filing an application, then the  
23 application shall be denied. However, the applicant may  
24 thereafter submit a new application accompanied by the required  
25 fee. The applicant shall meet the requirements in force at the  
26 time of making the new application.

1       (d) The Department may employ consultants for the purpose  
2 of preparing and conducting examinations.

3       (e) The Department shall have the authority to adopt or  
4 recognize, in part or in whole, examinations prepared,  
5 administered, or graded by other organizations in the cemetery  
6 industry that are determined appropriate to measure the  
7 qualifications of an applicant for licensure.

8           (225 ILCS 41/12-20 new)

9           (Section scheduled to be repealed on January 1, 2013)

10       Sec. 12-20. Continuing education. The Department shall  
11 adopt rules of continuing education for customer service  
12 employees. The requirements of this Section apply to any person  
13 seeking renewal or restoration under this Code.

14           (225 ILCS 41/15-50)

15           (Section scheduled to be repealed on January 1, 2013)

16       Sec. 15-50. Practice by corporation, partnership, or  
17 association. No corporation, partnership or association of  
18 individuals, as such, shall be issued a license as a licensed  
19 funeral director and embalmer or licensed funeral director, nor  
20 shall any corporation, partnership, firm or association of  
21 individuals, or any individual connected therewith, publicly  
22 advertise any corporation, partnership or association of  
23 individuals as being licensed funeral directors and embalmers  
24 or licensed funeral directors. Nevertheless, nothing in this

1 Act shall restrict funeral director licensees or funeral  
2 director and embalmer licensees from forming professional  
3 service corporations under the Professional Service  
4 Corporation Act or from having these corporations registered  
5 for the practice of funeral directing.

6 No funeral director licensee or funeral director and  
7 embalmer licensee, and no partnership or association of those  
8 licensees, formed since July 1, 1935, shall engage in the  
9 practice of funeral directing and embalming or funeral  
10 directing under a trade name or partnership or firm name unless  
11 in the use and advertising of the trade name, partnership or  
12 firm name there is published in connection with the advertising  
13 the name of the owner or owners as the owner or owners.

14 (Source: P.A. 87-966.)

15 (225 ILCS 41/15-60)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 15-60. Determination of life. Every funeral director  
18 licensee or funeral director and embalmer licensee under this  
19 Code before proceeding to prepare or embalm a human body to  
20 cremate or bury shall determine that life is extinct by  
21 ascertaining that:

22 (a) pulsation has entirely ceased in the radial or other  
23 arteries; and

24 (b) heart or respiratory sounds are not audible with the  
25 use of a stethoscope or with the ear applied directly over the

1 heart.

2 (Source: P.A. 87-966.)

3 (225 ILCS 41/15-75)

4 (Section scheduled to be repealed on January 1, 2013)

5 Sec. 15-75. Violations; grounds for discipline; penalties.

6 (a) Each of the following acts is a Class A misdemeanor for  
7 the first offense, and a Class 4 felony for each subsequent  
8 offense. These penalties shall also apply to unlicensed owners  
9 of funeral homes.

10 (1) Practicing the profession of funeral directing and  
11 embalming or funeral directing, or attempting to practice  
12 the profession of funeral directing and embalming or  
13 funeral directing without a license as a licensed funeral  
14 director and embalmer or funeral director or acting as a  
15 customer service employee without a license as a customer  
16 service employee issued by the Department.

17 (2) Serving as an intern under a licensed funeral  
18 director and embalmer or attempting to serve as an intern  
19 under a licensed funeral director and embalmer without a  
20 license as a licensed funeral director and embalmer intern.

21 (3) Obtaining or attempting to obtain a license,  
22 practice or business, or any other thing of value, by fraud  
23 or misrepresentation.

24 (4) Permitting any person in one's employ, under one's  
25 control or in or under one's service to serve as a funeral

1 director and embalmer, funeral director, or funeral  
2 director and embalmer intern when the person does not have  
3 the appropriate license.

4 (5) Failing to display a license as required by this  
5 Code.

6 (6) Giving false information or making a false oath or  
7 affidavit required by this Code.

8 (b) Each of the following acts or actions is a violation of  
9 this Code for which the Department may refuse to issue or  
10 renew, or may suspend or revoke any license or may take any  
11 disciplinary action as the Department may deem proper including  
12 fines not to exceed \$1,000 for each violation.

13 (1) Obtaining or attempting to obtain a license by  
14 fraud or misrepresentation.

15 (2) Conviction in this State or another state of any  
16 crime that is a felony or misdemeanor under the laws of  
17 this State or conviction of a felony or misdemeanor in a  
18 federal court.

19 (3) Violation of the laws of this State relating to the  
20 funeral, burial or disposal of deceased human bodies or of  
21 the rules and regulations of the Department, or the  
22 Department of Public Health.

23 (4) Directly or indirectly paying or causing to be paid  
24 any sum of money or other valuable consideration for the  
25 securing of business or for obtaining authority to dispose  
26 of any deceased human body.

1           (5) Incompetence or untrustworthiness in the practice  
2 of funeral directing and embalming or funeral directing.

3           (6) False or misleading advertising as a funeral  
4 director and embalmer or funeral director, or advertising  
5 or using the name of a person other than the holder of a  
6 license in connection with any service being rendered in  
7 the practice of funeral directing and embalming or funeral  
8 directing. Nothing in this paragraph shall prevent  
9 including the name of any owner, officer or corporate  
10 director of a funeral business who is not a licensee in any  
11 advertisement used by a funeral home with which the  
12 individual is affiliated if the advertisement specifies  
13 the individual's affiliation with the funeral home.

14           (7) Engaging in, promoting, selling, or issuing burial  
15 contracts, burial certificates, or burial insurance  
16 policies in connection with the profession as a funeral  
17 director and embalmer, funeral director, or funeral  
18 director and embalmer intern in violation of any laws of  
19 the State of Illinois.

20           (8) Refusing, without cause, to surrender the custody  
21 of a deceased human body upon the proper request of the  
22 person or persons lawfully entitled to the custody of the  
23 body.

24           (9) Taking undue advantage of a client or clients as to  
25 amount to the perpetration of fraud.

26           (10) Engaging in funeral directing and embalming or

1 funeral directing without a license.

2 (11) Encouraging, requesting, or suggesting by a  
3 licensee or some person working on his behalf and with his  
4 consent for compensation that a person utilize the services  
5 of a certain funeral director and embalmer, funeral  
6 director, or funeral establishment unless that information  
7 has been expressly requested by the person. This does not  
8 prohibit general advertising or pre-need solicitation.

9 (12) Making or causing to be made any false or  
10 misleading statements about the laws concerning the  
11 disposal of human remains, including, but not limited to,  
12 the need to embalm, the need for a casket for cremation or  
13 the need for an outer burial container.

14 (13) Continued practice by a person having an  
15 infectious or contagious disease.

16 (14) Embalming or attempting to embalm a deceased human  
17 body without express prior authorization of the person  
18 responsible for making the funeral arrangements for the  
19 body. This does not apply to cases where embalming is  
20 directed by local authorities who have jurisdiction or when  
21 embalming is required by State or local law.

22 (15) Making a false statement on a Certificate of Death  
23 where the person making the statement knew or should have  
24 known that the statement was false.

25 (16) Soliciting human bodies after death or while death  
26 is imminent.

1           (17) Performing any act or practice that is a violation  
2 of this Code, the rules for the administration of this  
3 Code, or any federal, State or local laws, rules, or  
4 regulations governing the practice of funeral directing or  
5 embalming.

6           (18) Performing any act or practice that is a violation  
7 of Section 2 of the Consumer Fraud and Deceptive Business  
8 Practices Act.

9           (19) Engaging in unethical or unprofessional conduct  
10 of a character likely to deceive, defraud or harm the  
11 public.

12           (20) Taking possession of a dead human body without  
13 having first obtained express permission from next of kin  
14 or a public agency legally authorized to direct, control or  
15 permit the removal of deceased human bodies.

16           (21) Advertising in a false or misleading manner or  
17 advertising using the name of an unlicensed person in  
18 connection with any service being rendered in the practice  
19 of funeral directing or funeral directing and embalming.  
20 The use of any name of an unlicensed or unregistered person  
21 in an advertisement so as to imply that the person will  
22 perform services is considered misleading advertising.  
23 Nothing in this paragraph shall prevent including the name  
24 of any owner, officer or corporate director of a funeral  
25 home, who is not a licensee, in any advertisement used by a  
26 funeral home with which the individual is affiliated, if



1 the advertisement specifies the individual's affiliation  
2 with the funeral home.

3 (22) Directly or indirectly receiving compensation for  
4 any professional services not actually performed.

5 (23) Failing to account for or remit any monies,  
6 documents, or personal property that belongs to others that  
7 comes into a licensee's possession.

8 (24) Treating any person differently to his detriment  
9 because of race, color, creed, gender, religion, or  
10 national origin.

11 (25) Knowingly making any false statements, oral or  
12 otherwise, of a character likely to influence, persuade or  
13 induce others in the course of performing professional  
14 services or activities.

15 (26) Knowingly making or filing false records or  
16 reports in the practice of funeral directing and embalming.

17 (27) Failing to acquire continuing education required  
18 under this Code.

19 (28) Failing to comply with any of the following  
20 required activities:

21 (A) When reasonably possible, a funeral director  
22 licensee or funeral director and embalmer licensee or  
23 anyone acting on his or her behalf shall obtain the  
24 express authorization of the person or persons  
25 responsible for making the funeral arrangements for a  
26 deceased human body prior to removing a body from the

1 place of death or any place it may be or embalming or  
2 attempting to embalm a deceased human body, unless  
3 required by State or local law. This requirement is  
4 waived whenever removal or embalming is directed by  
5 local authorities who have jurisdiction. If the  
6 responsibility for the handling of the remains  
7 lawfully falls under the jurisdiction of a public  
8 agency, then the regulations of the public agency shall  
9 prevail.

10 (B) A licensee shall clearly mark the price of any  
11 casket offered for sale or the price of any service  
12 using the casket on or in the casket if the casket is  
13 displayed at the funeral establishment. If the casket  
14 is displayed at any other location, regardless of  
15 whether the licensee is in control of that location,  
16 the casket shall be clearly marked and the registrant  
17 shall use books, catalogues, brochures, or other  
18 printed display aids to show the price of each casket  
19 or service.

20 (C) At the time funeral arrangements are made and  
21 prior to rendering the funeral services, a licensee  
22 shall furnish a written statement to be retained by the  
23 person or persons making the funeral arrangements,  
24 signed by both parties, that shall contain: (i) the  
25 name, address and telephone number of the funeral  
26 establishment and the date on which the arrangements

1           were made; (ii) the price of the service selected and  
2           the services and merchandise included for that price;  
3           (iii) a clear disclosure that the person or persons  
4           making the arrangement may decline and receive credit  
5           for any service or merchandise not desired and not  
6           required by law or the funeral director or the funeral  
7           director and embalmer; (iv) the supplemental items of  
8           service and merchandise requested and the price of each  
9           item; (v) the terms or method of payment agreed upon;  
10          and (vi) a statement as to any monetary advances made  
11          by the registrant on behalf of the family.

12          (29) A finding by the Department that the license,  
13          after having his or her license placed on probationary  
14          status or subjected to conditions or restrictions,  
15          violated the terms of the probation or failed to comply  
16          with such terms or conditions.

17          (30) Violation of any final administrative action of  
18          the Director.

19          (31) Being named as a perpetrator in an indicated  
20          report by the Department of Children and Family Services  
21          pursuant to the Abused and Neglected Child Reporting Act  
22          and, upon proof by clear and convincing evidence, being  
23          found to have caused a child to be an abused child or  
24          neglected child as defined in the Abused and Neglected  
25          Child Reporting Act.

26          (c) The Department may refuse to issue or renew, or may

1 suspend, the license of any person who fails to file a return,  
2 to pay the tax, penalty or interest shown in a filed return, or  
3 to pay any final assessment of tax, penalty or interest as  
4 required by any tax Act administered by the Illinois Department  
5 of Revenue, until the time as the requirements of the tax Act  
6 are satisfied.

7 (Source: P.A. 93-268, eff. 1-1-04.)

8 (225 ILCS 41/15-76 new)

9 (Section scheduled to be repealed on January 1, 2013)

10 Sec. 15-76. Vehicle traffic control. A funeral director  
11 licensee or funeral director and embalmer licensee planning a  
12 interment, inurnment, or entombment at a cemetery shall use its  
13 reasonable best efforts to ensure that funeral processions  
14 entering and exiting the cemetery grounds do not obstruct  
15 traffic on any street for a period in excess of 10 minutes,  
16 except where such funeral procession is continuously moving or  
17 cannot be moved by reason of circumstances over which the  
18 cemetery authority has no reasonable control. The funeral  
19 director licensee or funeral director and embalmer licensee  
20 arranging funeral processions to the cemetery shall use its  
21 reasonable best efforts to help prevent multiple funeral  
22 processions from arriving at the cemetery simultaneously.  
23 Notwithstanding any provision of this Act to the contrary, any  
24 funeral director licensee or funeral director and embalmer  
25 licensee who violates the provisions of this Section shall be

1 guilty of a business offense and punishable by a fine of not  
2 more than \$500 for each offense.

3 Article 900.

4 Severability

5 Section 900-5. Severability. This Act is declared to be  
6 severable, and should any word, phrase, sentence, provision or  
7 Section hereof be hereafter declared unconstitutional or  
8 otherwise invalid, the remainder of this Act shall not thereby  
9 be affected, but shall remain valid and in full force and  
10 effect for all intents and purposes.

11 Article 999.

12 Effective date

13 Section 999-5. Effective date. This Act takes effect March  
14 1, 2010, except that Sections 90-25, 90-90, and 90-95 take  
15 effect March 1, 2012 and Sections 90-33, 90-57, 90-92, and  
16 999-5 take effect upon becoming law.