



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1968

by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

225 ILCS 411/5-15
225 ILCS 411/5-20
225 ILCS 411/10-21
225 ILCS 411/15-20 new
225 ILCS 411/15-30 new
225 ILCS 411/15-40
225 ILCS 411/22-4

Amends the Cemetery Oversight Act. Provides that a parcel identification number shall be assigned by the Cemetery Oversight Database. Provides a full exemption from the Act for any (i) cemetery authority operating as a family burying ground or religious burying ground, (ii) any cemetery authority that has not engaged in an interment, inurnment, or entombment of human remains within the last 10 years and maintains less than \$50,000 in care funds during each annual reporting period, or (iii) any cemetery authority that is less than 2 acres and maintains less than \$50,000 in care funds during each annual reporting period. Provides that if a cemetery authority does not qualify for a full exemption and (i) engages in 25 or fewer interments, inurnments, or entombments of human remains for each of the preceding 2 calendar years and maintains less than \$50,000 in care funds during each annual reporting period, (ii) operates as a public cemetery, or (iii) operates as a religious cemetery, then the cemetery authority is exempt from this Act but shall be required to comply with certain provisions of this Act. Provides that the Department shall adopt rules to establish the criteria and procedure to grant a waiver to a cemetery authority that does not qualify for a full or partial exemption where application of this Act may result in a financial or other hardship. Provides that no cemetery authority shall enter into a contract to furnish certain specified care for a cemetery, lot, grave, crypt, niche, family mausoleum, memorial, marker, or monument unless (i) the care is furnished solely from the net income derived from funds held in trust or (ii) the contract provides that the principal of the amount paid under the contract shall be used to furnish the care.

LRB097 07856 CEL 47970 b

1 AN ACT concerning regulation.

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

4 Section 5. The Cemetery Oversight Act is amended by
5 changing Sections 5-15, 5-20, 10-21, 15-40, and 22-4 and by
6 adding Sections 15-20 and 15-30 as follows:

7 (225 ILCS 411/5-15)

8 (Section scheduled to be repealed on January 1, 2021)

9 Sec. 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.

1 "Burial permit" means a permit for the disposition of a
2 dead human body that is filed with the Illinois Department of
3 Public Health.

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

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

1 "Cemetery" means any land or structure in this State
2 dedicated to and used, or intended to be used, for the
3 interment, inurnment, or entombment of human remains.

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

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

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

1 interment of human remains; or the care, preservation, and
2 embellishment of cemetery property. This definition does not
3 include an uncompensated, volunteer cemetery manager who
4 receives no compensation, either directly or indirectly for his
5 or her work as customer service employee.

6 "Cemetery operation" means to engage or attempt to engage
7 in the interment, inurnment, or entombment of human remains or
8 to engage in or attempt to engage in the care of a cemetery.

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

12 "Cemetery worker" means an individual, including an
13 independent contractor or third-party vendor, who performs any
14 work at the cemetery that is customarily performed by one or
15 more cemetery employees, including openings and closings of
16 vaults and graves, stone settings, inurnments, interments,
17 entombments, administrative work, handling of any official
18 burial records, the preparation of foundations for memorials,
19 and routine cemetery maintenance. This definition does not
20 include uncompensated, volunteer workers nor does it include
21 individuals performing work at the cemetery who are not
22 employees of the cemetery or individuals performing work at the
23 cemetery under a contract in which the cemetery authority is
24 not a party to the contract.

25 "Certificate of organization" means the document received
26 by a cemetery association from the Secretary of State that

1 indicates that the cemetery association shall be deemed fully
2 organized as a body corporate under the name adopted and in its
3 corporate name may sue and be sued.

4 "Comptroller" means the Comptroller of the State of
5 Illinois.

6 "Consumer" means a person, or the persons given priority
7 for the disposition of an individual's remains under the
8 Disposition of Remains Act, who purchases or is considering
9 purchasing cemetery, burial, or cremation products or services
10 from a cemetery authority or crematory authority, whether for
11 themselves or for another person.

12 "Customer service employee" means an individual who has
13 direct contact with consumers and explains cemetery
14 merchandise or services or negotiates, develops, or finalizes
15 contracts with consumers. This definition includes, without
16 limitation, an employee, an individual that is an independent
17 contractor, an individual that is employed or contracted by an
18 independent contractor, a third-party vendor, or an individual
19 that is employed or contracted by a third-party vendor, who has
20 direct contact with consumers and explains cemetery
21 merchandise or services or negotiates, develops, or finalizes
22 contracts with consumers. This definition does not include an
23 employee, an individual that is an independent contractor or an
24 individual that is employed or contracted by an independent
25 contractor, a third party vendor, or an individual that is
26 employed or contracted by a third party vendor, who merely

1 provides a printed cemetery list to a consumer, processes
2 payment from a consumer, or performs sales functions related
3 solely to incidental merchandise like flowers, souvenirs, or
4 other similar items. This definition does not include an
5 uncompensated, volunteer customer service employee who
6 receives no compensation, either directly or indirectly for his
7 or her work as customer service employee.

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

10 "Employee" means an individual who works for a cemetery
11 authority where the cemetery authority has the right to control
12 what work is performed and the details of how the work is
13 performed regardless of whether federal or State payroll taxes
14 are withheld.

15 "Entombment right" means the right to place individual
16 human remains or individual cremated human remains in a
17 specific mausoleum crypt or lawn crypt selected by a consumer
18 for use as a final resting place.

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

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

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

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

3 "Green burial or cremation disposition" means burial or
4 cremation practices that reduce the greenhouse gas emissions,
5 waste, and toxic chemicals ordinarily created in burial or
6 cremation or, in the case of greenhouse gas emissions, mitigate
7 or offset emissions. Such practices include standards for
8 burial or cremation certified by the Green Burial Council or
9 any other organization or method that the Department may name
10 by rule.

11 "Immediate family" means the designated agent of a person
12 or the persons given priority for the disposition of a person's
13 remains under the Disposition of Remains Act and shall include
14 a person's spouse, parents, grandparents, children,
15 grandchildren and siblings.

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

18 "Independent contractor" means a person who performs work
19 for a cemetery authority where the cemetery authority has the
20 right to control or direct only the result of the work and not
21 the means and methods of accomplishing the result.

22 "Individual" means a natural person.

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

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

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

7 "Investment company" means any issuer (a) whose securities
8 are purchasable only with care funds or trust funds, or both;
9 (b) that is an open and diversified management company as
10 defined in and registered under the Investment Company Act of
11 1940; and (c) that has entered into an agreement with the
12 Department containing such provisions as the Department by
13 regulation requires for the proper administration of this Act.

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

16 "Licensee" means a person licensed under this Act as a
17 cemetery authority, cemetery manager, or customer service
18 employee. Anyone who holds himself or herself out as a licensee
19 or who is accused of unlicensed practice is considered a
20 licensee for purposes of enforcement, investigation, hearings,
21 and the Illinois Administrative Procedure Act. This definition
22 does not include a cemetery worker.

23 "Mausoleum crypt" means a space in a mausoleum used or
24 intended to be used, above or underground, to entomb human
25 remains.

26 "Niche" means a space in a columbarium or mausoleum used,

1 or intended to be used, for inurnment of cremated human
2 remains.

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

5 "Parcel identification number" means a unique number
6 assigned by the Cemetery Oversight Database to a grave, plot,
7 crypt, or niche that enables the Department to ascertain the
8 precise location of a decedent's remains interred, entombed, or
9 inurned after the effective date of this Act.

10 "Person" means any individual, firm, partnership,
11 association, corporation, limited liability company, trustee,
12 government or political subdivision, or other entity.

13 "Public cemetery" means a cemetery owned, operated,
14 controlled, or managed by the federal government, by any state,
15 county, city, village, incorporated town, township,
16 multi-township, public cemetery district, or other municipal
17 corporation, political subdivision, or instrumentality thereof
18 authorized by law to own, operate, or manage a cemetery.

19 "Religious cemetery" means a cemetery owned, operated,
20 controlled, or managed by any recognized church, religious
21 society, association, or denomination, or by any cemetery
22 authority or any corporation administering, or through which is
23 administered, the temporalities of any recognized church,
24 religious society, association, or denomination.

25 "Secretary" means the Secretary of Financial and
26 Professional Regulation.

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

5 "Trustee" means any person authorized to hold funds under
6 this Act.

7 "Unique personal identifier" means the parcel
8 identification number in addition to the term of burial in
9 years; the numbered level or depth in the grave, plot, crypt,
10 or niche; and the year of death for human remains interred,
11 entombed, or inurned after the effective date of this Act. The
12 unique personal identifier is assigned by the Cemetery
13 Oversight Database.

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

15 (225 ILCS 411/5-20)

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

17 Sec. 5-20. Exemptions.

18 (a) Except as otherwise provided in this subsection, this
19 Act does not apply to (i) any cemetery authority operating as a
20 family burying ground or religious burying ground, (ii) any
21 cemetery authority that has not engaged in an interment,
22 inurnment, or entombment of human remains within the last 10
23 years and maintains less than \$50,000 in care funds during each
24 annual reporting period as provided in subsection (c) of
25 Section 15-40, or (iii) any cemetery authority that is less

1 than 2 acres and maintains less than \$50,000 in care funds
2 during each annual reporting period as provided in subsection
3 (c) of Section 15-40. Any cemetery authority, other than those
4 operating as family burying grounds, religious burying
5 grounds, public cemeteries, or religious cemeteries qualifying
6 for and applying for a full exemption, but maintaining care
7 funds of less than \$50,000 shall comply with Article 15 of this
8 Act. Notwithstanding any provision of law to the contrary, this
9 Act does not apply to (1) any cemetery authority operating as a
10 family burying ground, (2) any cemetery authority that has not
11 engaged in an interment, inurnment, or entombment of human
12 remains within the last 10 years and does not accept or
13 maintain care funds, or (3) any cemetery authority that is less
14 than 2 acres and does not accept or maintain care funds. For
15 purposes of determining the applicability of this subsection,
16 the number of interments, inurnments, and entombments shall be
17 aggregated for each calendar year. A cemetery authority
18 claiming a full exemption shall apply for exempt status as
19 provided for in Article 10 of this Act. A cemetery authority
20 that performs activities that would disqualify it from a full
21 exemption is required to apply for licensure within one year
22 following the date on which its activities would disqualify it
23 for a full exemption. A cemetery authority that previously
24 qualified for and maintained a full exemption that fails to
25 timely apply for licensure shall be deemed to have engaged in
26 unlicensed practice and shall be subject to discipline in

1 accordance with Article 25 of this Act.

2 (b) If a cemetery authority does not qualify for a full
3 exemption and (i) engages in 25 or fewer interments,
4 inurnments, or entombments of human remains for each of the
5 preceding 2 calendar years and maintains less than \$50,000 in
6 care funds during each annual reporting period as specified in
7 subsection (c) of Section 15-40, (ii) operates as a public
8 cemetery, or (iii) operates as a religious cemetery, then the
9 cemetery authority is exempt from this Act but shall be
10 required to comply with subsections (a), (b), (b-5), (c), (d),
11 and (h) of Section 20-5, Sections 20-6, 20-8, 20-10, 20-11,
12 20-12, 20-30, 25-3, and 25-120, and Article 35 of this Act. Any
13 cemetery authority other than those operating as public or
14 religious cemeteries that qualifies for and applies for a
15 partial exemption but maintains care funds of less than \$50,000
16 must also comply with Article 15 of this Act. Notwithstanding
17 ~~any provision of law to the contrary, a cemetery authority that~~
18 ~~does not qualify for a full exemption that is operating as a~~
19 ~~cemetery authority (i) that engages in 25 or fewer interments,~~
20 ~~inurnments, or entombments of human remains for each of the~~
21 ~~preceding 2 calendar years and does not accept or maintain care~~
22 ~~funds, (ii) that is operating as a public cemetery, or (iii)~~
23 ~~that is operating as a religious cemetery is exempt from this~~
24 ~~Act, but is required to comply with Sections 20-5(a), 20-5(b),~~
25 ~~20-5(b-5), 20-5(c), 20-5(d), 20-6, 20-8, 20-10, 20-11, 20-12,~~
26 ~~20-30, 25-3, and 25-120 and Article 35 of this Act. Cemetery~~

1 authorities claiming a partial exemption shall apply for the
2 partial exemption as provided in Article 10 of this Act. A
3 cemetery authority that changes to a status that would
4 disqualify it from a partial exemption is required to apply for
5 licensure within one year following the date on which it
6 changes its status. A cemetery authority that maintains a
7 partial exemption that fails to timely apply for licensure
8 shall be deemed to have engaged in unlicensed practice and
9 shall be subject to discipline in accordance with Article 25 of
10 this Act.

11 (b-5) The Department shall adopt rules to establish the
12 criteria and procedure that the Department may use to grant a
13 waiver to a cemetery authority that does not qualify for a full
14 or partial exemption under subsections (a) and (b) and where
15 the application of this Act may result in a financial or other
16 hardship that may jeopardize the cemetery authority's ability
17 to continue to perform cemetery operations.

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

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

2 (225 ILCS 411/10-21)

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

4 Sec. 10-21. Qualifications for licensure.

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

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

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

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

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

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

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

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

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

26 (3) The applicant has not, within the preceding 10

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

15 (4) The applicant shall authorize the Department to
16 conduct a criminal background check that does not involve
17 fingerprints. ~~The applicant submits his or her~~
18 ~~fingerprints in accordance with subsection (c) of this~~
19 ~~Section.~~

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

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

1 is qualified for licensure as a cemetery manager or customer
2 service employee if he or she meets all of the following
3 requirements:

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

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

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

12 (4) The applicant shall authorize the Department to
13 conduct a criminal background check that does not involve
14 fingerprints. ~~Submits his or her fingerprints in~~
15 ~~accordance with subsection (c) of this Section.~~

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

20 (6) Successfully passes the examination authorized by
21 the Department for cemetery manager or customer service
22 employee, whichever is applicable.

23 (7) Has not, within the preceding 10 years, been
24 convicted of or entered a plea of guilty or nolo contendere
25 to (i) a Class X felony or (ii) a felony, an essential
26 element of which was fraud or dishonesty under the laws of

1 this State, another state, the United States, or a foreign
2 jurisdiction.

3 (8) Can be reasonably expected to treat consumers
4 professionally, fairly, and ethically.

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

7 (c) Each applicant for a cemetery authority, cemetery
8 manager, or customer service employee license shall authorize
9 the Department to conduct a criminal background check that does
10 not involve fingerprinting. The Department shall adopt rules to
11 implement this subsection (c). ~~Each applicant for a cemetery~~
12 ~~authority, cemetery manager, or customer service employee~~
13 ~~license shall have his or her fingerprints submitted to the~~
14 ~~Department of State Police in an electronic format that~~
15 ~~complies with the form and manner for requesting and furnishing~~
16 ~~criminal history record information that is prescribed by the~~
17 ~~Department of State Police. These fingerprints shall be checked~~
18 ~~against the Department of State Police and Federal Bureau of~~
19 ~~Investigation criminal history record databases. The~~
20 ~~Department of State Police shall charge applicants a fee for~~
21 ~~conducting the criminal history records check, which shall be~~
22 ~~deposited in the State Police Services Fund and shall not~~
23 ~~exceed the actual cost of the records check. The Department of~~
24 ~~State Police shall furnish, pursuant to positive~~
25 ~~identification, records of Illinois convictions to the~~
26 ~~Department. The Department may require applicants to pay a~~

1 ~~separate fingerprinting fee, either to the Department or~~
2 ~~directly to a designated fingerprint vendor. The Department, in~~
3 ~~its discretion, may allow an applicant who does not have~~
4 ~~reasonable access to a designated fingerprint vendor to provide~~
5 ~~his or her fingerprints in an alternative manner. The~~
6 ~~Department, in its discretion, may also use other procedures in~~
7 ~~performing or obtaining criminal background checks of~~
8 ~~applicants. Instead of submitting his or her fingerprints, an~~
9 ~~individual may submit proof that is satisfactory to the~~
10 ~~Department that an equivalent security clearance has been~~
11 ~~conducted. If the applicant for a cemetery authority license is~~
12 ~~a corporation, limited liability company, partnership, or~~
13 ~~other entity permitted by law, then each principal, owner,~~
14 ~~member, officer, and shareholder holding 25% or more of~~
15 ~~corporate stock shall have his or her fingerprints submitted in~~
16 ~~accordance with this subsection (c).~~

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

18 (225 ILCS 411/15-20 new)

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

20 Sec. 15-20. Use of care funds by a public cemetery. When
21 the State or any county, city, village, incorporated town,
22 township, multi-township, public cemetery district, or other
23 municipal or political subdivision or instrumentality thereof
24 in Illinois takes over a cemetery or cemetery authority, the
25 care fund and care fund expenditures continue to be subject to

1 the provisions of this Act and the new public cemetery must
2 continue to use the care fund exclusively for the care and
3 maintenance of the cemetery in accordance with this Act.

4 (225 ILCS 411/15-30 new)

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

6 Sec. 15-30. Promises of care.

7 (a) Except as provided in subsection (b) of this Section,
8 no cemetery authority shall advertise, represent, guarantee,
9 promise, or enter into a contract to furnish any of the
10 following types of care for a cemetery, lot, grave, crypt,
11 niche, family mausoleum, memorial, marker, or monument:

12 (1) perpetual care;

13 (2) permanent care;

14 (3) perpetual or permanent maintenance;

15 (4) care forever;

16 (5) continuous care;

17 (6) eternal care;

18 (7) everlasting care;

19 (8) care for any number of years; or

20 (9) any similar or equivalent care.

21 (b) A cemetery authority may advertise, represent,
22 guarantee, promise, or enter a contract to furnish care if:

23 (1) the care is furnished solely from the net income
24 derived from funds held in trust as provided in Article 15
25 of this Act; or

1 (2) the contract provides that the principal of the
2 amount paid under the contract shall be used to furnish the
3 care and specifies the type of care and the number of years
4 for which it is to be given.

5 (225 ILCS 411/15-40)

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

7 Sec. 15-40. Trust examinations, audits, and reports ~~and~~
8 audits.

9 (a) The Department shall examine at least annually every
10 licensee who holds \$250,000 or more in its care funds. For that
11 purpose, the Department shall have free access to the office
12 and places of business and to such records of all licensees and
13 of all trustees of the care funds of all licensees as shall
14 relate to the acceptance, use, and investment of care funds.
15 The Department may require the attendance of and examine under
16 oath all persons whose testimony may be required relative to
17 such business. In such cases the Department, or any qualified
18 representative of the Department whom the Department may
19 designate, may administer oaths to all such persons called as
20 witnesses, and the Department, or any such qualified
21 representative of the Department, may conduct such
22 examinations. The cost of an initial examination shall be
23 determined by rule.

24 (b) The Department may order additional audits or
25 examinations as it may deem necessary or advisable to ensure

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

7 (1) material and unverified changes or fluctuations in
8 trust balances;

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

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

13 (4) failure to maintain or produce documentation
14 required by this Act.

15 (c) Each cemetery authority holding care funds other than
16 those operating a public or religious cemetery shall annually,
17 on or before April 15, file a report with the Department giving
18 such information as the Department may reasonably require
19 concerning the maintenance and investment of care funds held in
20 trust and the expenditure of income from the care funds as
21 provided for by rule. The report must be received by the
22 Department on or before April 15, unless the date is extended
23 for a reasonable excuse up to 90 days by the Department. The
24 report shall be made under oath and in a form prescribed by the
25 Department. The Department may fine each cemetery authority an
26 amount determined by rule for each day after April 15 until the

1 report is filed.

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

3 (225 ILCS 411/22-4)

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

5 Sec. 22-4. Cemetery association composition; board of
6 trustees. A cemetery association meeting the requirements set
7 forth in Section 22-3 of this Act shall proceed to elect from
8 their own number a board of trustees for the association. The
9 board shall consist of not less than 6 and not more than 10
10 members. The trustees, once elected, shall immediately
11 organize by electing from their own membership a president,
12 vice president, and treasurer, and shall also elect a
13 secretary, who may or may not be a member of the board of
14 trustees. The officers shall hold their respective offices for
15 and during the period of one year, and until their successors
16 are duly elected and qualified. Trustees, once elected, shall
17 divide themselves by lot into 2 classes, the first of which
18 shall hold their offices for a period of 3 years, and the
19 second of which shall hold their offices for a period of 6
20 years. Thereafter the term of office of the trustees shall be 6
21 years. Upon the expiration of the term of office of any of the
22 trustees, or the resignation or death or removal from the State
23 of Illinois of any trustees, or their removal from office as
24 provided in this Act, the remaining trustees shall fill the
25 vacancy by electing a suitable person or persons interested in

1 said cemetery association through family interments or
2 otherwise who are citizens of the State ~~person residing in the~~
3 ~~county where the cemetery is located~~ for a new 6-year term or,
4 if no one can be nominated, the President of the cemetery
5 association shall notify the Department of such vacancy or
6 vacancies in writing. Thereafter the Department shall fill the
7 vacancy or vacancies by appointing a suitable person or persons
8 ~~as trustees. In making such appointments, the Department shall~~
9 ~~exercise its power such that at least two thirds of the~~
10 ~~trustees shall be selected from suitable persons residing~~
11 ~~within 15 miles of the cemetery, or some part thereof, and the~~
12 ~~other appointees may be suitable persons~~ interested in said
13 cemetery association through family interments or otherwise
14 who are citizens of the State of Illinois.

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