

# HB6264



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

**HB6264**

Introduced 2/11/2016, by Rep. Dan Brady

#### SYNOPSIS AS INTRODUCED:

760 ILCS 100/2

from Ch. 21, par. 64.2

Amends the Cemetery Care Act. Amends the definition of "care funds" to delete language including income accumulated from funds held in trust for the care of the cemetery. Defines "income" as any return received in money or property derived from the use and investment of the principal or corpus of a trust that is subject to the Act, including distributions in the form of a stock dividend and the amount of a net gain or loss realized from proceeds of the sale, redemption, transfer, or other disposition of the trust principal or corpus.

LRB099 18565 HEP 42944 b

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Cemetery Care Act is amended by changing  
5 Section 2 as follows:

6 (760 ILCS 100/2) (from Ch. 21, par. 64.2)

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

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

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

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

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

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

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

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

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

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

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

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

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

12 "Income" means any return received in money or property  
13 derived from the use and investment of the principal or corpus  
14 of a trust that is subject to this Act, including distributions  
15 in the form of a stock dividend and the amount of a net gain or  
16 loss realized from proceeds of the sale, redemption, transfer,  
17 or other disposition of the trust principal or corpus.

18 "Investment Company Act of 1940" means Title 15, of the  
19 United States Code, Sections 80a-1 to 80a-51, 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 and (b) which is an open and diversified management company as  
24 defined in and registered under the "Investment Company Act of  
25 1940"; and (c) which has entered into an agreement with the  
26 Comptroller containing such provisions as the Comptroller by

1 regulation reasonably requires for the proper administration  
2 of this Act.

3 "Municipal cemetery" means a cemetery owned, operated,  
4 controlled or managed by any city, village, incorporated town,  
5 township, county, or other municipal corporation, political  
6 subdivision, or instrumentality thereof authorized by law to  
7 own, operate, or manage a cemetery.

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

10 "Privately operated cemetery" means any entity that offers  
11 interment rights, entombment rights, or inurnment rights,  
12 other than a fraternal, municipal, State, federal or religious  
13 cemetery or a family burying ground.

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

20 "State or federal cemetery" means a cemetery owned,  
21 operated, controlled, or managed by any State or the federal  
22 government or any political subdivision or instrumentality  
23 thereof.

24 "Entombment right" means the right to place individual  
25 human remains or individual cremated human remains in a  
26 specific mausoleum crypt or lawn crypt selected by the consumer

1 for use as a final resting place.

2 "Interment right" means the right to place individual human  
3 remains or cremated human remains in a specific underground  
4 location selected by the consumer for use as a final resting  
5 place.

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

9 "Lawn crypt" means a permanent underground crypt usually  
10 constructed of reinforced concrete or similar material  
11 installed in multiple units for the entombment of human  
12 remains.

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

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