

# HB3834



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3834

by Rep. Dan Brady

### SYNOPSIS AS INTRODUCED:

225 ILCS 411/20-5

Amends the Cemetery Oversight Act. Provides that a public cemetery shall make all cemetery services available during their advertised hours of operation, including burial services on cemetery property. Provides that a public cemetery may not charge any additional fees based on the time of providing a service, so long as the service takes place during the advertised hours of operation. Effective immediately.

LRB100 08179 SMS 18275 b

A BILL FOR

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 Section 20-5 as follows:

6 (225 ILCS 411/20-5)

7 (Section scheduled to be repealed on January 1, 2021)

8 Sec. 20-5. Maintenance and records.

9 (a) A cemetery authority shall provide reasonable  
10 maintenance of the cemetery property and of all lots, graves,  
11 crypts, and columbariums in the cemetery based on the type and  
12 size of the cemetery, topographic limitations, and contractual  
13 commitments with consumers. Subject to the provisions of this  
14 subsection (a), reasonable maintenance includes:

15 (1) the laying of seed, sod, or other suitable ground  
16 cover as soon as practical following an interment given the  
17 weather conditions, climate, and season and the  
18 interment's proximity to ongoing burial activity;

19 (2) the cutting of lawn throughout the cemetery at  
20 reasonable intervals to prevent an overgrowth of grass and  
21 weeds given the weather conditions, climate, and season;

22 (3) the trimming of shrubs to prevent excessive  
23 overgrowth;

1 (4) the trimming of trees to remove dead limbs;

2 (5) maintaining, repairing, or removing, if necessary,  
3 drains, water lines, roads, buildings, fences, and other  
4 structures; and

5 (6) keeping the cemetery premises free of trash and  
6 debris.

7 In determining whether a cemetery authority provides  
8 reasonable maintenance of the cemetery property, the  
9 Department shall consider:

10 (1) the cemetery authority's contractual obligations  
11 for care and maintenance;

12 (2) the size of the cemetery;

13 (3) the extent and use of the cemetery authority's  
14 financial resources;

15 (4) the standard of maintenance of one or more  
16 similarly situated cemeteries; in determining whether a  
17 cemetery is similarly situated, the Department shall  
18 consider the cemetery's size, location, topography, and  
19 financial resources, and whether the cemetery is a  
20 fraternal cemetery, a religious cemetery, a public  
21 cemetery, a cemetery owned and operated by a cemetery  
22 association, or a licensed cemetery.

23 Reasonable maintenance by the cemetery authority shall not  
24 preclude the exercise of lawful rights by the owner of an  
25 interment, inurnment, or entombment right, or by the decedent's  
26 immediate family or other heirs, in accordance with reasonable

1 rules and regulations of the cemetery or other agreement of the  
2 cemetery authority.

3 In the case of a cemetery dedicated as a nature preserve  
4 under the Illinois Natural Areas Preservation Act, reasonable  
5 maintenance by the cemetery authority shall be in accordance  
6 with the rules and master plan governing the dedicated nature  
7 preserve.

8 A cemetery authority accused of violating the reasonable  
9 maintenance standard set forth in this Section shall have a  
10 reasonable opportunity to cure the violation. The cemetery  
11 authority shall have 10 business days after receipt of notice  
12 to cure the violation. If a cemetery authority cannot cure the  
13 violation within 10 business days, then the cemetery authority  
14 may request a time extension in order to cure the violation.  
15 The request for an extension shall be made in writing to the  
16 Department and must be postmarked within 10 business days after  
17 receipt of the notice of the alleged violation. The request  
18 shall outline all reasons for the extension and an estimated  
19 date by which the cure will be accomplished. Acceptable reasons  
20 include, without limitation, delays caused by weather  
21 conditions, season or climate, equipment failures, or  
22 acquisitions of materials or supplies being addressed by the  
23 authority in a timely manner, and unexpected temporary absences  
24 of personnel. The Department may approve or deny the extension.  
25 If the extension is denied, then the cemetery authority must  
26 cure the violation within 10 business days after the date of

1 receipt of the Department's extension denial. If the extension  
2 is granted, then the cemetery authority must cure the violation  
3 within the extended period of time. A cemetery authority that  
4 does not cure the violation within the appropriate period of  
5 time shall be subject to discipline in accordance with Article  
6 25 of this Act.

7 (b) A cemetery authority, before commencing cemetery  
8 operations or within 6 months after the effective date of this  
9 Act, shall cause an overall map of its cemetery property,  
10 delineating all lots or plots, blocks, sections, avenues,  
11 walks, alleys, and paths and their respective designations, to  
12 be filed at its on-site office, or if it does not maintain an  
13 on-site office, at its principal place of business. The  
14 cemetery authority shall update its map and index described in  
15 subsection (b-5) within a reasonable time after any expansion  
16 or alteration of the cemetery property. A cemetery manager's  
17 certificate acknowledging, accepting, and adopting the map  
18 shall also be included with the map. The Department may order  
19 that the cemetery authority obtain a cemetery plat and that it  
20 be filed at its on-site office, or if it does not maintain an  
21 on-site office, at its principal place of business if (1) a  
22 human body that should have been interred, entombed, or inurned  
23 at the cemetery after the effective date of this amendatory Act  
24 of the 97th General Assembly is missing, displaced, or  
25 dismembered and (2) the cemetery map contains serious  
26 discrepancies.

1           In exercising this discretion, the Department shall  
2 consider whether the cemetery authority would experience an  
3 undue hardship as a result of obtaining the plat. The cemetery  
4 plat, as with all plats prepared under this Act, shall comply  
5 with the Illinois Professional Land Surveyor Act of 1989 and  
6 shall delineate, describe, and set forth all lots or plots,  
7 blocks, sections, avenues, walks, alleys, and paths and their  
8 respective designations. A cemetery manager's certificate  
9 acknowledging, accepting, and adopting the plat shall also be  
10 included with the plat.

11           (b-5) A cemetery authority shall maintain an index that  
12 associates the identity of deceased persons interred,  
13 entombed, or inurned after the effective date of this Act with  
14 their respective place of interment, entombment, or inurnment.

15           (c) The cemetery authority shall open the cemetery map or  
16 plat to public inspection. The cemetery authority shall make  
17 available a copy of the overall cemetery map or plat upon  
18 written request and shall, if practical, provide a copy of a  
19 segment of the cemetery plat where interment rights are located  
20 upon the payment of reasonable photocopy fees. Any unsold lots,  
21 plots, or parts thereof, in which there are not human remains,  
22 may be resurveyed and altered in shape or size and properly  
23 designated on the cemetery map or plat. However, sold lots,  
24 plots, or parts thereof in which there are human remains may  
25 not be renumbered or renamed. Nothing contained in this  
26 subsection, however, shall prevent the cemetery authority from

1 enlarging an interment right by selling to its owner the excess  
2 space next to the interment right and permitting interments  
3 therein, provided reasonable access to the interment right and  
4 to adjoining interment rights is not thereby eliminated.

5 (d) A cemetery authority shall keep a record of every  
6 interment, entombment, and inurnment completed after the  
7 effective date of this Act. The record shall include the  
8 deceased's name, age, date of burial, and the specific location  
9 of the interred, entombed, or inurned human remains. The  
10 specific location shall correspond to the map or plat  
11 maintained in accordance with subsection (b) of this Section.

12 (e) (Blank).

13 (f) A cemetery authority shall make available for  
14 inspection and, upon reasonable request and the payment of a  
15 reasonable copying fee, provide a copy of its rules and  
16 regulations. A cemetery authority shall make available for  
17 viewing and provide a copy of its current prices of interment,  
18 inurnment, or entombment rights.

19 (g) A cemetery authority shall provide access to the  
20 cemetery under the cemetery authority's reasonable rules and  
21 regulations.

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

25 (i) A licensed cemetery authority shall keep in this State  
26 and use in its business such records as will enable the

1 Department to determine whether such licensee or trustee is  
2 complying with the provisions of this Act and with the rules,  
3 regulations, and directions made by the Department under this  
4 Act. The licensed cemetery authority shall keep the records in  
5 electronic or written format at the location identified in the  
6 license issued by the Department or as otherwise agreed by the  
7 Department in writing. The books, accounts, and records shall  
8 be accessible for review upon demand of the Department.

9 (j) A public cemetery shall make all cemetery services  
10 available during their advertised hours of operation,  
11 including burial services on cemetery property. A public  
12 cemetery may not charge any additional fees based on the time  
13 of providing a service, so long as the service takes place  
14 during the advertised hours of operation.

15 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.