



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2288

Introduced 2/18/2009, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

760 ILCS 100/12.1 new
760 ILCS 100/14

from Ch. 21, par. 64.14

Amends the Cemetery Care Act to require a cemetery association holding \$75,000 or less in its care funds to file a report with the Comptroller in lieu of other annual report requirements and to require that the Comptroller examine at least annually every licensee who holds \$750,000 or more (now, \$250,000 or more) in its care funds. Effective immediately.

LRB096 06291 AJO 16374 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 Care Act is amended by adding
5 Section 12.1 and by changing Section 14 as follows:

6 (760 ILCS 100/12.1 new)

7 Sec. 12.1. Any cemetery association, as established
8 pursuant to the Cemetery Association Act, holding \$75,000 or
9 less in its care funds, in lieu of complying with the annual
10 report requirements of Section 12 of this Act, shall file with
11 the Comptroller a financial report containing information
12 required by the Comptroller. Each report shall be made under
13 oath and shall be in the form furnished by the Comptroller. The
14 report shall be filed free of cost. If any financial report
15 shows that the amount of the care funds held in trust at the
16 end of the preceding calendar year or fiscal year, as the case
17 may be, has increased in amount greater than \$75,000, then, for
18 the next calendar or fiscal year, as the case may be, the
19 cemetery association shall file an annual report as required
20 under Section 12 of this Act.

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

22 Sec. 14. The Comptroller may at any time investigate the

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

- 23 less than \$10,000..... no charge;
- 24 \$10,000 or more but less than
- 25 \$50,000..... \$10;
- 26 \$50,000 or more but less than

1 \$100,000 \$40;
 2 \$100,000 or more but less than
 3 \$250,000 \$80;
 4 \$250,000 or more \$100.

5 Any licensee which is not required to be examined annually
 6 shall submit an annual report to the Comptroller containing
 7 such information as the Comptroller reasonably may request.

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

- 16 (1) material and unverified changes or fluctuations in
- 17 trust balances;
- 18 (2) the licensee changing trustees more than twice in
- 19 any 12-month period;
- 20 (3) any withdrawals or attempted withdrawals from the
- 21 trusts in violation of this Act; or
- 22 (4) failure to maintain or produce documentation
- 23 required by this Act for deposits into trust accounts or
- 24 trust investment activities.

25 Prior to ordering an additional audit or examination, the
 26 Comptroller shall request the licensee to respond and comment

1 upon the factors identified by the Comptroller as warranting
2 the subsequent examination or audit. The licensee shall have 30
3 days to provide a response to the Comptroller. If the
4 Comptroller decides to proceed with the additional examination
5 or audit, the licensee shall bear the full cost of that
6 examination or audit, up to a maximum of \$7,500. The
7 Comptroller may elect to pay for the examination or audit and
8 receive reimbursement from the licensee. Payment of the costs
9 of the examination or audit by a licensee shall be a condition
10 of receiving or maintaining a license under this Act. All
11 moneys received by the Comptroller for examination or audit
12 fees shall be maintained in a separate account to be known as
13 the Comptroller's Administrative Fund. This Fund, subject to
14 appropriation by the General Assembly, may be utilized by the
15 Comptroller for enforcing this Act and other purposes that may
16 be authorized by law.

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.