



Sen. Emil Jones, III

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1 AMENDMENT TO SENATE BILL 662

2 AMENDMENT NO. _____. Amend Senate Bill 662 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Code
5 of Professional Conduct and Licensing in the Care of the
6 Deceased Act.

7 Section 5. Legislative findings and purpose. The citizens
8 of Illinois have an expectation that their loved ones will be
9 treated with the dignity and respect in death as they are
10 entitled to in life, and they have an expectation that State
11 and local governments will protect those rights. The
12 Legislature finds that existing laws of the State do not
13 provide adequate protection in upholding the sanctity of the
14 handling and disposition of human remains and the preservation
15 of final resting places. The purpose of this Act is to assure
16 that the deceased be accorded equal treatment and respect for

1 human dignity without reference to ethnic origins, cultural
2 backgrounds, or religious affiliations.

3 Section 10. Definitions.

4 "Cemetery authority" means any person, firm, corporation,
5 trustee, partnership, association, or municipality owning,
6 operating, controlling, or managing a cemetery or holding lands
7 for burial grounds or burial purposes in this State.

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

11 "Cemetery" does not include any cemetery that (1) performed
12 fewer than 25 interments, inurnments, and entombments during
13 the previous calendar year or (2) sold fewer than 25 interment,
14 inurnment, or entombment rights during the previous calendar
15 year.

16 "Department" means the Department of Financial and
17 Professional Regulation.

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

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

25 "Inurnment right" means the right to place cremated human

1 remains in a specific niche selected by a consumer for use as a
2 final resting place.

3 Section 15. Maintenance and records.

4 (a) A cemetery authority shall provide reasonable
5 maintenance of the cemetery property and of all lots, graves,
6 crypts, and columbariums in the cemetery. Reasonable
7 maintenance includes, but is not limited to:

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

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

15 (3) the trimming of shrubs to prevent excessive
16 overgrowth;

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

18 (5) keeping in repair the drains, water lines, roads,
19 buildings, fences, and other structures; and

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

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

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

7 (b) A cemetery authority shall, from time to time as land
8 in its cemetery may be required for burial purposes, survey and
9 subdivide those lands and make and file in its office a map
10 delineating the lots or plots, avenues, paths, alleys, and
11 walks and their respective designations. The cemetery
12 authority shall open the map to public inspection. The cemetery
13 authority may make available a copy of the overall map upon
14 written request and payment of reasonable photocopy fees. Any
15 unsold lots, plots, or parts thereof, in which there are not
16 human remains, may be resurveyed and altered in shape or size
17 and properly designated on that map. Nothing contained in this
18 subsection, however, shall prevent the cemetery authority from
19 enlarging an interment right by selling to its owner the excess
20 space next to the interment right and permitting interments
21 therein, provided reasonable access to the interment right and
22 to adjoining interment rights is not thereby eliminated.

23 (c) A cemetery authority shall keep a record of every
24 interment, entombment, and inurnment in the cemetery. The
25 record shall include the deceased's name, age, and date of
26 burial, when these particulars can be conveniently obtained,

1 and the lot, plot, or section where the human remains are
2 interred, entombed, or inurned. The record shall be open to
3 public inspection consistent with State and federal law. The
4 cemetery authority shall make available, consistent with State
5 and federal law, a true copy of the individual record within 2
6 weeks after receipt of written request and payment of
7 reasonable copy costs. At the time of the interment,
8 entombment, or inurnment, the cemetery authority shall provide
9 a copy of the authorization or similar record of the deceased's
10 name and date of burial and the lot, plot, or section where the
11 human remains are interred, entombed, or inurned to the person
12 authorizing the interment, inurnment, or entombment.

13 (d) A cemetery authority shall file in a timely manner with
14 the county recorder the map required by subsection (b); records
15 of the transfer of any interest in real estate, such as rights
16 of interment, inurnment, or entombment; and any updates or
17 corrections to the maps or records.

18 Section 20. Licensing. In accordance with the purposes of
19 this Act, the Department shall license (i) cemetery
20 authorities, (ii) any person selling pre-need contracts under
21 the Illinois Funeral or Burial Funds Act, (iii) any person
22 selling pre-need contracts under the Illinois Pre-Need
23 Cemetery Sales Act; and (iv) any person selling interment
24 rights, inurnment rights, or entombment rights. Each cemetery
25 authority, person selling pre-need contracts under the

1 Illinois Funeral or Burial Funds Act, person selling pre-need
2 contracts under the Illinois Pre-Need Cemetery Sales Act, and
3 person selling interment rights, inurnment rights, entombment
4 rights, openings and closings, memorials, monuments, or
5 cremation merchandise and services shall obtain a license from
6 the Department.

7 Section 23. Violation; injunction; cease and desist order.
8 Each of the following acts is declared to be inimical to the
9 public welfare and to constitute a public nuisance:

10 (1) Operating a cemetery without the license required
11 by Section 20.

12 (2) Any person without the license required by Section
13 20 selling pre-need contracts under the Illinois Funeral or
14 Burial Funds Act; selling pre-need contracts under the
15 Illinois Pre-Need Cemetery Sales Act; or selling interment
16 rights, inurnment rights, or entombment rights.

17 The Director of the Department may, in the name of the
18 People of the State of Illinois, through the Attorney General
19 of the State of Illinois, or the State's Attorney of any county
20 in the State of Illinois, apply to the circuit court for an
21 injunction to enjoin any person from engaging in any of the
22 practices named in items (1) and (2). Upon the filing of a
23 verified petition with the court, the court, if satisfied by
24 affidavit or otherwise that such person is or has been engaged
25 in any of the practices named in items (1) and (2), may issue a

1 temporary restraining order or preliminary injunction, without
2 notice or bond, enjoining the defendant from further engaging
3 in those practices. A copy of the verified petition shall be
4 served upon the defendant and the proceedings shall thereafter
5 be conducted as in other civil cases. If it is established that
6 the defendant has been or is engaged in any of the practices
7 named in items (1) and (2), the court may enter a decree
8 perpetually enjoining that defendant from further engaging in
9 those practices. In case of violation of any injunction issued
10 under the provisions of this Section, the court may summarily
11 try and punish the offender for contempt of court. An
12 injunction proceeding is in addition to and not in lieu of all
13 penalties and other remedies provided in this Act.

14 Whenever, in the opinion of the Department, any person
15 violates any provision of this Act, the Department may issue a
16 rule to show cause why an order to cease and desist should not
17 be entered against that person. The rule shall clearly set
18 forth the grounds relied upon by the Department and shall
19 provide a period of 30 days from the date of the rule to file an
20 answer to the satisfaction of the Department. Failure to answer
21 to the satisfaction of the Department shall cause an order to
22 cease and desist to be issued immediately.

23 The Department has the authority and power to investigate
24 any and all unlicensed activity.

25 Section 25. Rules.

1 (a) The Department shall adopt rules necessary for the
2 administration of this Act.

3 (b) The rules adopted by the Department shall include a
4 professional code of conduct to govern licensees. The
5 professional code of conduct shall be designed to (1) govern
6 the conduct of cemetery authorities so as to protect the
7 sanctity of internments, entombments, and inurnments; (2)
8 ensure compliance with the cemetery authority records and
9 maintenance responsibilities established in this Act; (3)
10 address appropriate conduct in regard to the financial
11 transactions associated with the planning for and ultimate
12 disposition of human remains; and (4) provide enhanced consumer
13 protections through continuing education requirements for
14 licensees.

15 (c) The Department shall specify qualifications necessary
16 for licensure that include, but are not limited to, a
17 demonstration of familiarity with applicable State laws
18 concerning sales, cemetery authority record-keeping, the
19 handling of human remains, the reasonable duty of maintenance
20 required of cemetery authorities, and the professional code of
21 conduct established pursuant to this Act. The Department shall
22 require licensees to complete at least 12 hours of continuing
23 education during every 2-year period. The continuing education
24 shall, at a minimum, address appropriate conduct in regard to
25 the financial transactions associated with the planning for and
26 ultimate disposition of human remains; appropriate conduct in

1 preservation of the sanctity of internments, entombments, and
2 inurnments; and responsibilities in the record keeping and
3 maintenance of cemeteries.

4 (d) The Department shall develop a booklet for consumers in
5 plain English describing the scope, application, and consumer
6 protections and consumer rights of this Act. After the booklet
7 is developed, no interment, inurnment, or entombment right may
8 be sold in this State unless the seller distributes to the
9 purchaser prior to the sale a booklet developed or approved for
10 use by the Department.

11 (e) The rules adopted under this Act may impose a
12 reasonable license fee. The fee may be used by the Department,
13 subject to appropriation, in implementation and administration
14 of this Act.

15 (f) The rules adopted by the Department shall provide
16 greater details as to what constitutes the reasonable
17 maintenance required under Section 15. The rules shall
18 differentiate between cemeteries based on, among other things,
19 the size and financial strength of cemeteries. The rules shall
20 also provide a reasonable opportunity for a cemetery to cure
21 any violation of the reasonable maintenance standard in a
22 timely manner given the weather conditions, climate, and season
23 before the Department initiates formal proceedings.

24 (g) The Department shall adopt initial rules for the
25 administration of this Act no later than January 1, 2010.

1 Section 26. Grounds for discipline; refusal, revocation,
2 or suspension.

3 (a) The Department may refuse to issue or renew or may
4 revoke a license, or may suspend, place on probation, fine, or
5 take any disciplinary or non-disciplinary action as the
6 Department may deem proper, including fines not to exceed the
7 amounts provided for in Section 35, for each violation, with
8 regard to any licensee for any one or combination of the
9 following causes:

10 (1) Material misstatement in furnishing information to
11 the Department.

12 (2) Violations of this Act or its rules.

13 (3) Conviction of or entry of a plea of guilty or nolo
14 contendere to any crime that is a felony under the laws of
15 the United States or any state or territory thereof or a
16 misdemeanor of which an essential element is dishonesty or
17 that is directly related to the practice of the profession.

18 (4) Making any misrepresentation for the purpose of
19 obtaining a license or violating any provision of this Act
20 or its rules.

21 (5) Professional incompetence.

22 (6) Gross negligence.

23 (7) Aiding or assisting another person in violating any
24 provision of this Act or its rules.

25 (8) Failing, within 30 days, to provide information in
26 response to a request made by the Department.

1 (9) Engaging in dishonorable, unethical, or
2 unprofessional conduct of a character likely to deceive,
3 defraud, or harm the public as defined by the rules of the
4 Department, or violating the rules of professional conduct
5 adopted by the Department.

6 (10) Habitual or excessive use or addiction to alcohol,
7 narcotics, stimulants, or any other chemical agent or drug
8 that results in the inability to practice with reasonable
9 judgment, skill, or safety.

10 (11) Discipline by another state, territory, or
11 country if at least one of the grounds for the discipline
12 is the same or substantially equivalent to those set forth
13 in this Act.

14 (12) Directly or indirectly giving to or receiving from
15 any person, firm, corporation, partnership, or association
16 any fee, commission, rebate, or other form of compensation
17 for any professional services not actually or personally
18 rendered.

19 (13) A finding by the Department that the licensee,
20 after having his or her license placed on probationary
21 status, has violated the terms of probation.

22 (14) Willfully making or filing false records or
23 reports relating to a licensee's practice, including but
24 not limited to false records filed with any state or
25 federal agencies or departments.

26 (15) Being named as a perpetrator in an indicated

1 report by the Department of Children and Family Services
2 under the Abused and Neglected Child Reporting Act and upon
3 proof by clear and convincing evidence that the licensee
4 has caused a child to be an abused child or neglected child
5 as defined in the Abused and Neglected Child Reporting Act.

6 (16) Physical illness or mental illness or impairment,
7 including, but not limited to, deterioration through the
8 aging process or loss of motor skill that results in the
9 inability to practice the profession with reasonable
10 judgment, skill, or safety.

11 (17) Solicitation of professional services by using
12 false or misleading advertising.

13 (18) A finding that licensure has been applied for or
14 obtained by fraudulent means.

15 (19) Practicing or attempting to practice under a name
16 other than the full name as shown on the license or any
17 other legally authorized name.

18 (20) Gross overcharging for professional services
19 including, but not limited to, (i) collection of fees or
20 moneys for services that are not rendered; and (ii)
21 charging for services that are not in accordance with the
22 contract between the licensee and any person, partnership,
23 association, corporation, or other entity.

24 (21) Improper commingling of personal and client funds
25 in violation of this Act or any rules promulgated thereto.

26 (22) Failing to account for or remit any moneys or

1 documents coming into the licensee's possession that
2 belong to another person or entity.

3 (23) Giving differential treatment to a person that is
4 to that person's detriment because of race, color, creed,
5 sex, religion, or national origin.

6 (24) Performing and charging for services without
7 reasonable authorization to do so from the person or entity
8 for whom service is being provided.

9 (25) Failing to make available to the Department, upon
10 request, any books, records, or forms required by this Act.

11 (26) Purporting to be a licensee-in-charge of an agency
12 without active participation in the agency.

13 (27) Failing to make available to the Department at the
14 time of the request any indicia of licensure or
15 registration issued under this Act.

16 (b) In accordance with subdivision (a) (5) of Section 15 of
17 the Department of Professional Regulation Law of the Civil
18 Administrative Code of Illinois (20 ILCS 2105/2105-15), the
19 Department shall deny a license or renewal authorized by this
20 Act to a person who has defaulted on an educational loan or
21 scholarship provided or guaranteed by the Illinois Student
22 Assistance Commission or any governmental agency of this State.

23 (c) The determination by a circuit court that a licensee is
24 subject to involuntary admission or judicial admission, as
25 provided in the Mental Health and Developmental Disabilities
26 Code, operates as an automatic suspension. The suspension will

1 terminate only upon a finding by a court that the patient is no
2 longer subject to involuntary admission or judicial admission
3 and the issuance of an order so finding and discharging the
4 patient, and upon the recommendation to the Secretary that the
5 licensee be allowed to resume his or her practice.

6 (d) In accordance with subsection (g) of Section 15 of the
7 Department of Professional Regulation Law of the Civil
8 Administrative Code of Illinois (20 ILCS 2105/2105-15), the
9 Department may refuse to issue or renew or may suspend the
10 license of any person who fails to file a return, to pay the
11 tax, penalty, or interest shown in a filed return, or to pay
12 any final assessment of tax, penalty, or interest, as required
13 by any tax Act administered by the Department of Revenue, until
14 such time as the requirements of that tax Act are satisfied.

15 (e) In accordance with subdivision (a) (5) of Section 15 of
16 the Department of Professional Regulation Law of the Civil
17 Administrative Code of Illinois (20 ILCS 2105/2105-15) and in
18 cases where the Department of Healthcare and Family Services
19 (formerly Department of Public Aid) has previously determined
20 that a licensee or a potential licensee is more than 30 days
21 delinquent in the payment of child support and has subsequently
22 certified the delinquency to the Department may refuse to issue
23 or renew or may revoke or suspend that person's license or may
24 take other disciplinary action against that person based solely
25 upon the certification of delinquency made by the Department of
26 Healthcare and Family Services.

1 (f) In enforcing this Section, the Department upon a
2 showing of a possible violation may compel an individual
3 licensed to practice under this Act, or who has applied for
4 licensure under this Act, to submit to a mental or physical
5 examination, or both, as required by and at the expense of the
6 Department. The Department may order the examining physician to
7 present testimony concerning the mental or physical
8 examination of the licensee or applicant. No information shall
9 be excluded by reason of any common law or statutory privilege
10 relating to communications between the licensee or applicant
11 and the examining physician. The examining physicians shall be
12 specifically designated by the Department. The individual to be
13 examined may have, at his or her own expense, another physician
14 of his or her choice present during all aspects of this
15 examination. Failure of an individual to submit to a mental or
16 physical examination, when directed, shall be grounds for
17 suspension of his or her license or denial of his or her
18 application or renewal until the individual submits to the
19 examination if the Department finds, after notice and hearing,
20 that the refusal to submit to the examination was without
21 reasonable cause.

22 If the Department finds an individual unable to practice
23 because of the reasons set forth in this Section, the
24 Department may require that individual to submit to care,
25 counseling, or treatment by physicians approved or designated
26 by the Department, as a condition, term, or restriction for

1 continued, reinstated, or renewed licensure to practice; or, in
2 lieu of care, counseling, or treatment, the Department may file
3 a complaint to immediately suspend, revoke, deny, or otherwise
4 discipline the license of the individual. An individual whose
5 license was granted, continued, reinstated, renewed,
6 disciplined or supervised subject to such terms, conditions, or
7 restrictions, and who fails to comply with such terms,
8 conditions, or restrictions, shall be referred to the Secretary
9 for a determination as to whether the individual shall have his
10 or her license suspended immediately, pending a hearing by the
11 Department.

12 In instances in which the Director immediately suspends a
13 person's license under this Section, a hearing on that person's
14 license must be convened by the Department within 30 days after
15 the suspension and completed without appreciable delay. The
16 Department shall have the authority to review the subject
17 individual's record of treatment and counseling regarding the
18 impairment to the extent permitted by applicable federal
19 statutes and regulations safeguarding the confidentiality of
20 medical records.

21 An individual licensed under this Act and affected under
22 this Section shall be afforded an opportunity to demonstrate to
23 the Department that he or she can resume practice in compliance
24 with acceptable and prevailing standards under the provisions
25 of his or her license.

1 Section 27. Unlicensed practice; violation; civil penalty.

2 (a) Any person, entity, or other business that practices,
3 offers to practice, attempts to practice, or holds himself,
4 herself, or itself out to practice as a person or entity
5 required to hold a license pursuant to this Act without being
6 licensed under this Act shall, in addition to any other penalty
7 provided by law, pay a civil penalty to the Department in an
8 amount not to exceed the amounts provided for in Section 35 for
9 each offense, as determined by the Department. The civil
10 penalty shall be assessed by the Department after a hearing is
11 held in accordance with the provisions set forth in this Act
12 regarding the provision of a hearing for the discipline of a
13 licensee.

14 (b) The Department may investigate any and all unlicensed
15 activity.

16 (c) The civil penalty shall be paid within 60 days after
17 the effective date of the order imposing the civil penalty. The
18 order shall constitute a judgment and may be filed and
19 execution had thereon in the same manner as any judgment from
20 any court of record.

21 Section 30. Enforcement; complaints.

22 (a) The Department shall enforce the provisions of this Act
23 through annual inspections and the issuance of citations and
24 may assess fines pursuant to Section 35 of this Act.

25 The citations issued pursuant to this Act shall

1 conspicuously include the following:

2 (1) the name of the offense and its statutory
3 reference;

4 (2) the nature and elements of the violation;

5 (3) the date and location of the violation;

6 (4) the name of the violator;

7 (5) the amount of the imposed fine and the location
8 where the violator can pay the fine without objection;

9 (6) the address and phone number of the enforcing
10 agency where the violator can request a hearing before the
11 Department to contest the imposition of the fine imposed by
12 the citation under the rules and procedures of the Illinois
13 Administrative Procedure Act;

14 (7) the time period in which to pay the fine or to
15 request a hearing to contest the imposition of the fine
16 imposed by the citation; and

17 (8) the verified signature of the person issuing the
18 citation.

19 One copy of the citation shall be provided to the violator
20 and one copy shall be provided to the entity otherwise
21 authorized by the enforcing agency to receive fines on its
22 behalf.

23 (b) Any person may register a complaint with the Department
24 for a violation of this Act. The Department shall establish a
25 telephone number that a person may call to register a complaint
26 under this subsection (b).

1 (c) The Department shall afford a violator the opportunity
2 to pay the fine without objection or to contest the citation in
3 accordance with the Illinois Administrative Procedure Act,
4 except that in the case of a conflict between the Illinois
5 Administrative Procedure Act and this Act, the provisions of
6 this Act control.

7 (d) Upon receipt of a request for a hearing to contest the
8 imposition of a fine imposed by a citation, the Department
9 shall initiate a hearing conducted in accordance with the
10 Illinois Administrative Procedure Act and the rules
11 established by the Department applicable to contested cases,
12 except that in the case of a conflict between the Illinois
13 Administrative Procedure Act and this Act, the provisions of
14 this Act control. Parties to the hearing shall be the enforcing
15 agency and the violator. The Department shall notify the
16 violator in writing of the time, place, and location of the
17 hearing. The hearing shall be conducted at the nearest regional
18 office of the Department or in a location contracted by the
19 Department in a county where the citation was imposed.

20 (e) Fines imposed under this Act may be collected in
21 accordance with all methods otherwise available to the
22 Department, except that there shall be no collection efforts
23 during the pendency of the hearing before the Department.

24 Section 35. Violations.

25 (a) Any person that violates the provisions of this Act

1 shall be fined pursuant to this Section. Each day that a
2 violation occurs is a separate violation.

3 (b) Violators shall be assessed (1) up to \$500 for a first
4 violation, (2) up to \$1,000 for the second violation within one
5 year after the first violation, and (3) up to \$2,500 for each
6 additional violation within one year after the first violation.
7 The amount of the fine imposed under this Section may vary to
8 reflect the severity of the violation and the financial ability
9 of the violator.

10 Section 40. Injunctions; repeated violations. In addition
11 to any other sanction or remedy, the Department or any
12 individual personally affected by repeated violations may
13 institute, in circuit court, an action to enjoin violations of
14 this Act or order compliance with this Act.

15 Section 45. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.

17 Section 90. The Illinois Funeral or Burial Funds Act is
18 amended by changing Sections 1a and 3a as follows:

19 (225 ILCS 45/1a) (from Ch. 111 1/2, par. 73.101a)

20 Sec. 1a. For the purposes of this Act, the following terms
21 shall have the meanings specified, unless the context clearly
22 requires another meaning:

1 "Beneficiary" means the person specified in the pre-need
2 contract upon whose death funeral services or merchandise shall
3 be provided or delivered.

4 "Licensee" means a seller of a pre-need contract who has
5 been licensed by the Comptroller under this Act.

6 "Outer burial container" means any container made of
7 concrete, steel, wood, fiberglass or similar material, used
8 solely at the interment site, and designed and used exclusively
9 to surround or enclose a separate casket and to support the
10 earth above such casket, commonly known as a burial vault,
11 grave box or grave liner, but not including a lawn crypt as
12 defined in the Illinois Pre-need Cemetery Sales Act.

13 "Parent company" means a corporation owning more than 12
14 cemeteries or funeral homes in more than one state.

15 "Person" means any person, partnership, association,
16 corporation, or other entity.

17 "Pre-need contract" means any agreement or contract, or any
18 series or combination of agreements or contracts, whether
19 funded by trust deposits or life insurance policies or
20 annuities, which has for a purpose the furnishing or
21 performance of funeral services or the furnishing or delivery
22 of any personal property, merchandise, or services of any
23 nature in connection with the final disposition of a dead human
24 body. Nothing in this Act is intended to regulate the content
25 of a life insurance policy or a tax-deferred annuity.

26 "Provider" means a person who is obligated for furnishing

1 or performing funeral services or the furnishing or delivery of
2 any personal property, merchandise, or services of any nature
3 in connection with the final disposition of a dead human body.

4 "Purchaser" means the person who originally paid the money
5 under or in connection with a pre-need contract.

6 "Sales proceeds" means the entire amount paid to a seller,
7 exclusive of sales taxes paid by the seller, finance charges
8 paid by the purchaser, and credit life, accident or disability
9 insurance premiums, upon any agreement or contract, or series
10 or combination of agreements or contracts, for the purpose of
11 performing funeral services or furnishing personal property,
12 merchandise, or services of any nature in connection with the
13 final disposition of a dead human body, including, but not
14 limited to, the retail price paid for such services and
15 personal property and merchandise.

16 "Purchase price" means sales proceeds less finance charges
17 on retail installment contracts.

18 "Seller" means the person who sells or offers to sell the
19 pre-need contract to a purchaser, whether funded by a trust
20 agreement, life insurance policy, or tax-deferred annuity. In
21 addition to licensing under this Act, a seller must be licensed
22 by the Department of Financial and Professional Regulation
23 under the Code of Professional Conduct and Licensing in the
24 Care of the Deceased Act.

25 "Trustee" means a person authorized to hold funds under
26 this Act.

1 (Source: P.A. 92-419, eff. 1-1-02.)

2 (225 ILCS 45/3a) (from Ch. 111 1/2, par. 73.103a)

3 Sec. 3a. Denial, suspension, or revocation of license.

4 (a) The Comptroller may refuse to issue or may suspend or
5 revoke a license on any of the following grounds:

6 (1) The applicant or licensee has made any
7 misrepresentations or false statements or concealed any
8 material fact.

9 (2) The applicant or licensee is insolvent.

10 (3) The applicant or licensee has been engaged in
11 business practices that work a fraud.

12 (4) The applicant or licensee has refused to give
13 pertinent data to the Comptroller.

14 (5) The applicant or licensee has failed to satisfy any
15 enforceable judgment or decree rendered by any court of
16 competent jurisdiction against the applicant.

17 (6) The applicant or licensee has conducted or is about
18 to conduct business in a fraudulent manner.

19 (7) The trust agreement is not in compliance with State
20 or federal law.

21 (8) The fidelity bond is not satisfactory to the
22 Comptroller.

23 (9) As to any individual required to be listed in the
24 license application, the individual has conducted or is
25 about to conduct any business on behalf of the applicant in

1 a fraudulent manner; has been convicted of any felony or
2 misdemeanor, an essential element of which is fraud; has
3 had a judgment rendered against him or her based on fraud
4 in any civil litigation; has failed to satisfy any
5 enforceable judgment or decree rendered against him or her
6 by any court of competent jurisdiction; or has been
7 convicted of any felony or any theft-related offense.

8 (10) The applicant or licensee, including any member,
9 officer, or director thereof if the applicant or licensee
10 is a firm, partnership, association or corporation and any
11 shareholder holding more than 10% of the corporate stock,
12 has violated any provision of this Act or any regulation,
13 decision, order, or finding made by the Comptroller under
14 this Act.

15 (11) The Comptroller finds any fact or condition
16 existing which, if it had existed at the time of the
17 original application for such license, would have
18 warranted the Comptroller in refusing the issuance of the
19 license.

20 Any violation of the Code of Professional Conduct and
21 Licensing in the Care of the Deceased Act may result in denial
22 of a licensee application and may result in immediate
23 suspension and revocation of a license under this Act.

24 (b) Before refusal to issue or renew and before suspension
25 or revocation of a license, the Comptroller shall hold a
26 hearing to determine whether the applicant or licensee,

1 hereinafter referred to as the respondent, is entitled to hold
2 such a license. At least 10 days prior to the date set for such
3 hearing, the Comptroller shall notify the respondent in writing
4 that on the date designated a hearing will be held to determine
5 his eligibility for a license and that he may appear in person
6 or by counsel. Such written notice may be served on the
7 respondent personally, or by registered or certified mail sent
8 to the respondent's business address as shown in his latest
9 notification to the Comptroller. At the hearing, both the
10 respondent and the complainant shall be accorded ample
11 opportunity to present in person or by counsel such statements,
12 testimony, evidence and argument as may be pertinent to the
13 charges or to any defense thereto. The Comptroller may
14 reasonably continue such hearing from time to time.

15 The Comptroller may subpoena any person or persons in this
16 State and take testimony orally, by deposition or by exhibit,
17 in the same manner and with the same fees and mileage
18 allowances as prescribed in judicial proceedings in civil
19 cases.

20 Any authorized agent of the Comptroller may administer
21 oaths to witnesses at any hearing which the Comptroller is
22 authorized to conduct.

23 (Source: P.A. 92-419, eff. 1-1-02.)

24 Section 95. The Illinois Public Aid Code is amended by
25 changing Section 12-4.11 as follows:

1 (305 ILCS 5/12-4.11) (from Ch. 23, par. 12-4.11)

2 Sec. 12-4.11. Grant amounts. The Department, with due
3 regard for and subject to budgetary limitations, shall
4 establish grant amounts for each of the programs, by
5 regulation. The grant amounts may vary by program, size of
6 assistance unit and geographic area.

7 Aid payments shall not be reduced except: (1) for changes
8 in the cost of items included in the grant amounts, or (2) for
9 changes in the expenses of the recipient, or (3) for changes in
10 the income or resources available to the recipient, or (4) for
11 changes in grants resulting from adoption of a consolidated
12 grant amount. ~~Beginning July 1, 2008, the Department of Human~~
13 ~~Services shall increase TANF grant amounts in effect on June~~
14 ~~30, 2008 by 9%.~~

15 Subject to appropriation, beginning on July 1, 2008, the
16 Department of Human Services shall increase TANF grant amounts
17 in effect on June 30, 2008 by 15%. The Department is authorized
18 to administer this increase but may not otherwise adopt any
19 rule to implement this increase.

20 In fixing standards to govern payments or reimbursements
21 for funeral and burial expenses, the Department shall establish
22 a minimum allowable amount of not less than \$1,137 ~~\$1,000~~ for
23 Department payment of funeral services and not less than \$569
24 ~~\$500~~ for Department payment of burial or cremation services. On
25 January 1, 2006, July 1, 2006, ~~and~~ July 1, 2007, and July 1,

1 2010 and each July 1 thereafter, the Department shall increase
2 the minimum reimbursement amount for funeral and burial
3 expenses under this Section by a percentage equal to the
4 percentage increase in the Consumer Price Index for All Urban
5 Consumers, if any, during the 12 months immediately preceding
6 that January 1 or July 1. In establishing the minimum allowable
7 amount, the Department shall take into account the services
8 essential to a dignified, low-cost (i) funeral and (ii) burial
9 or cremation, including reasonable amounts that may be
10 necessary for burial space and cemetery charges, and any
11 applicable taxes or other required governmental fees or
12 charges. If no person has agreed to pay the total cost of the
13 (i) funeral and (ii) burial or cremation charges, the
14 Department shall pay the vendor the actual costs of the (i)
15 funeral and (ii) burial or cremation, or the minimum allowable
16 amount for each service as established by the Department,
17 whichever is less, provided that the Department reduces its
18 payments by the amount available from the following sources:
19 the decedent's assets and available resources and the
20 anticipated amounts of any death benefits available to the
21 decedent's estate, and amounts paid and arranged to be paid by
22 the decedent's legally responsible relatives. A legally
23 responsible relative is expected to pay (i) funeral and (ii)
24 burial or cremation expenses unless financially unable to do
25 so.

26 Nothing contained in this Section or in any other Section

1 of this Code shall be construed to prohibit the Illinois
2 Department (1) from consolidating existing standards on the
3 basis of any standards which are or were in effect on, or
4 subsequent to July 1, 1969, or (2) from employing any
5 consolidated standards in determining need for public aid and
6 the amount of money payment or grant for individual recipients
7 or recipient families.

8 The Department shall adopt rules establishing eligibility
9 criteria for the grant reimbursement program requiring
10 compliance with the Code of Professional Conduct and Licensing
11 in the Care of the Deceased Act.

12 (Source: P.A. 94-669, eff. 8-23-05; 95-744, eff. 7-18-08;
13 95-1055, eff. 4-10-09; revised 4-14-09.)

14 Section 96. The Crematory Regulation Act is amended by
15 changing Sections 5, 10, 11, 11.5, 12, 13, 22, 55, 60, 62,
16 62.5, 62.10, 62.15, and 62.20 as follows:

17 (410 ILCS 18/5)

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

19 "Alternative container" means a receptacle, other than a
20 casket, in which human remains are transported to the crematory
21 and placed in the cremation chamber for cremation. An
22 alternative container shall be (i) composed of readily
23 combustible materials suitable for cremation, (ii) able to be
24 closed in order to provide a complete covering for the human

1 remains, (iii) resistant to leakage or spillage, (iv) rigid
2 enough for handling with ease, and (v) able to provide
3 protection for the health, safety, and personal integrity of
4 crematory personnel.

5 "Authorizing agent" means a person legally entitled to
6 order the cremation and final disposition of specific human
7 remains.

8 "Body parts" means limbs or other portions of the anatomy
9 that are removed from a person or human remains for medical
10 purposes during treatment, surgery, biopsy, autopsy, or
11 medical research; or human bodies or any portion of bodies that
12 have been donated to science for medical research purposes.

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

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

19 "Change of ownership" means a transfer of more than 50% of
20 the stock or assets of a crematory authority.

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

23 "Cremated remains" means all human remains recovered after
24 the completion of the cremation, which may possibly include the
25 residue of any foreign matter including casket material,
26 bridgework, or eyeglasses, that was cremated with the human

1 remains.

2 "Cremation" means the technical process, using heat and
3 flame, that reduces human remains to bone fragments. The
4 reduction takes place through heat and evaporation. Cremation
5 shall include the processing, and may include the
6 pulverization, of the bone fragments.

7 "Cremation chamber" means the enclosed space within which
8 the cremation takes place.

9 "Cremation interment container" means a rigid outer
10 container that, subject to a cemetery's rules and regulations,
11 is composed of concrete, steel, fiberglass, or some similar
12 material in which an urn is placed prior to being interred in
13 the ground, and which is designed to withstand prolonged
14 exposure to the elements and to support the earth above the
15 urn.

16 "Cremation room" means the room in which the cremation
17 chamber is located.

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

20 "Crematory authority" means the legal entity which is
21 licensed by the Department ~~Comptroller~~ to operate a crematory
22 and to perform cremations.

23 "Department" means the Illinois Department of Financial
24 and Professional Regulation ~~Public Health~~.

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

1 "Funeral director" means a person known by the title of
2 "funeral director", "funeral director and embalmer", or other
3 similar words or titles, licensed by the State to practice
4 funeral directing or funeral directing and embalming.

5 "Funeral establishment" means a building or separate
6 portion of a building having a specific street address and
7 location and devoted to activities relating to the shelter,
8 care, custody, and preparation of a deceased human body and may
9 contain facilities for funeral or wake services.

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

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

19 "Niche" means a compartment or cubicle for the
20 memorialization and permanent placement of an urn containing
21 cremated remains.

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

25 "Pulverization" means the reduction of identifiable bone
26 fragments after the completion of the cremation process to

1 granulated particles by manual or mechanical means.

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

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

14 "Urn" means a receptacle designed to encase the cremated
15 remains.

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

17 (410 ILCS 18/10)

18 Sec. 10. Establishment of crematory and licensing of
19 crematory authority.

20 (a) Any person doing business in this State, or any
21 cemetery, funeral establishment, corporation, partnership,
22 joint venture, voluntary organization or any other entity, may
23 erect, maintain, and operate a crematory in this State and
24 provide the necessary appliances and facilities for the
25 cremation of human remains in accordance with this Act.

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

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

11 (d) An application for licensure as a crematory authority
12 shall be in writing on forms furnished by the Department
13 ~~Comptroller~~. Applications shall be accompanied by a fee of \$50
14 and shall contain all of the following:

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

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

24 (3) A description of the type of structure and
25 equipment to be used in the operation of the crematory,
26 including the operating permit number issued to the

1 cremation device by the Illinois Environmental Protection
2 Agency.

3 (3.5) Attestation by the owner that cremation services
4 shall be by a person trained in accordance with the
5 requirements of Section 22 of this Act.

6 (3.10) A copy of the certification or certifications
7 issued by the certification program to the person or
8 persons who will operate the cremation device.

9 (4) Any further information that the Department
10 ~~Comptroller~~ reasonably may require.

11 (e) Each crematory authority shall file an annual report
12 with the Department ~~Comptroller~~, accompanied with a \$25 fee,
13 providing (i) an affidavit signed by the owner of the crematory
14 authority that at the time of the report the cremation device
15 was in proper operating condition, (ii) the total number of all
16 cremations performed at the crematory during the past year,
17 (iii) attestation by the licensee that all applicable permits
18 and certifications are valid, and (iv) either (A) any changes
19 required in the information provided under subsection (d) or
20 (B) an indication that no changes have occurred. The annual
21 report shall be filed by a crematory authority on or before
22 March 15 of each calendar year, in the Department ~~Office of the~~
23 ~~Comptroller~~. If the fiscal year of a crematory authority is
24 other than on a calendar year basis, then the crematory
25 authority shall file the report required by this Section within
26 75 days after the end of its fiscal year. The Department

1 ~~Comptroller~~ shall, for good cause shown, grant an extension for
2 the filing of the annual report upon the written request of the
3 crematory authority. An extension shall not exceed 60 days. If
4 a crematory authority fails to submit an annual report to the
5 Department ~~Comptroller~~ within the time specified in this
6 Section, the Department ~~Comptroller~~ shall impose upon the
7 crematory authority a penalty of \$5 for each and every day the
8 crematory authority remains delinquent in submitting the
9 annual report. The Department ~~Comptroller~~ may abate all or part
10 of the \$5 daily penalty for good cause shown.

11 (f) All records required to be maintained under this Act,
12 including but not limited to those relating to the license and
13 annual report of the crematory authority required to be filed
14 under this Section, shall be subject to inspection by the
15 Department ~~Comptroller~~ upon reasonable notice.

16 (g) The Department ~~Comptroller~~ may inspect crematory
17 records at the crematory authority's place of business to
18 review the licensee's compliance with this Act. The inspection
19 must include verification that:

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

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

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

1 (4) the crematory authority is in compliance with local
2 zoning requirements; and

3 (5) the crematory authority license issued by the
4 Department ~~Comptroller~~ is conspicuously displayed at the
5 crematory.

6 (h) The Department ~~Comptroller~~ shall issue licenses under
7 this Act to the crematories that are registered with the
8 Comptroller as of July 1, 2003 without requiring the previously
9 registered crematories to complete license applications.
10 (Source: P.A. 92-419, eff. 1-1-02; 92-675, eff. 7-1-03.)

11 (410 ILCS 18/11)

12 Sec. 11. Grounds for refusal of license or suspension or
13 revocation of license.

14 (a) In this Section, "applicant" means a person who has
15 applied for a license under this Act.

16 (b) The Department ~~Comptroller~~ may refuse to issue a
17 license under this Act, or may suspend or revoke a license
18 issued under this Act, on any of the following grounds:

19 (1) The applicant or licensee has made any
20 misrepresentation or false statement or concealed any
21 material fact in connection with a license application or
22 licensure under this Act.

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

25 (3) The applicant or licensee has refused to give

1 information required under this Act to be disclosed to the
2 Department Comptroller.

3 (4) The applicant or licensee has conducted or is about
4 to conduct cremation business in a fraudulent manner.

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

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

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

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

1 refusing the issuance of the license.

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

3 (410 ILCS 18/11.5)

4 Sec. 11.5. License revocation or suspension; surrender of
5 license.

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

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

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

15 (410 ILCS 18/12)

16 Sec. 12. Surrender of license; effect on licensee's
17 liability. A licensee may surrender a license issued under this
18 Act by delivering to the Department Comptroller a written
19 notice stating that the licensee thereby surrenders the
20 license, but such a surrender does not affect the licensee's
21 civil or criminal liability for acts committed before the
22 surrender.

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

1 (410 ILCS 18/13)

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

3 (a) Every license issued under this Act must state the
4 number of the license, the business name and address of the
5 licensee's principal place of business, and the licensee's
6 parent company, if any. The license must be conspicuously
7 posted in the place of business operating under the license.

8 (b) No license is transferable or assignable without the
9 express written consent of the Department ~~Comptroller~~. A
10 transfer of more than 50% of the ownership of any business
11 licensed under this Act shall be deemed to be an attempted
12 assignment of the license originally issued to the licensee for
13 whom consent of the Department ~~Comptroller~~ is required.

14 (c) Every license issued under this Act shall remain in
15 force until it has been surrendered, suspended, or revoked in
16 accordance with this Act. Upon the request of an interested
17 person or on the Department's ~~Comptroller's~~ own motion, the
18 Department ~~Comptroller~~ may issue a new license to a licensee
19 whose license has been revoked under this Act if no factor or
20 condition then exists which would have warranted the Department
21 ~~Comptroller~~ in originally refusing the issuance of the license.

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

23 (410 ILCS 18/22)

24 Sec. 22. Performance of cremation service; training. A
25 person may not perform a cremation service in this State unless

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

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

20 (410 ILCS 18/55)

21 Sec. 55. Penalties.

22 Violations of this Act shall be punishable as follows:

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

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

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

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

10 (4.5) Performance of a cremation service by a person
11 who has not completed a training program as defined in
12 Section 22 of this Act shall be a Class A misdemeanor.

13 (4.10) Any person who intentionally violates a
14 provision of this Act or a final order of the Department
15 ~~Comptroller~~ is liable for a civil penalty not to exceed
16 \$5,000 per violation.

17 (4.15) Any person who knowingly acts without proper
18 legal authority and who willfully and knowingly destroys or
19 damages the remains of a deceased human being or who
20 desecrates human remains is guilty of a Class 3 felony.

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

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

24 (410 ILCS 18/60)

25 Sec. 60. Failure to file annual report. Whenever a

1 crematory authority refuses or neglects to file its annual
2 report in violation of Section 10 of this Act, or fails to
3 otherwise comply with the requirements of this Act, the
4 Department ~~Comptroller~~ may commence an administrative
5 proceeding as authorized by this Act or may communicate the
6 facts to the Attorney General of the State of Illinois who
7 shall thereupon institute such proceedings against the
8 crematory authority or its officers as the nature of the case
9 may require.

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

11 (410 ILCS 18/62)

12 Sec. 62. Investigation of unlawful practices. If the
13 Department ~~Comptroller~~ has good cause to believe that a person
14 has engaged in, is engaging in, or is about to engage in any
15 practice in violation of this Act, the Department ~~Comptroller~~
16 may do any one or more of the following:

17 (1) Require that person to file, on terms the
18 Department ~~Comptroller~~ prescribes, a statement or report
19 in writing, under oath or otherwise, containing all
20 information that the Department ~~Comptroller~~ considers
21 necessary to ascertain whether a licensee is in compliance
22 with this Act, or whether an unlicensed person is engaging
23 in activities for which a license is required under this
24 Act.

25 (2) Examine under oath any person in connection with

1 the books and records required to be maintained under this
2 Act.

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

6 (4) Require the production of a copy of any record,
7 book, document, account, or paper that is produced in
8 accordance with this Act and retain it in the Department's
9 ~~Comptroller's~~ possession until the completion of all
10 proceedings in connection with which it is produced.

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

12 (410 ILCS 18/62.5)

13 Sec. 62.5. Service of notice. Service by the Department
14 ~~Comptroller~~ of any notice requiring a person to file a
15 statement or report under this Act shall be made: (1)
16 personally by delivery of a duly executed copy of the notice to
17 the person to be served or, if that person is not a natural
18 person, in the manner provided in the Civil Practice Law when a
19 complaint is filed; or (2) by mailing by certified mail a duly
20 executed copy of the notice to the person to be served at his
21 or her last known abode or principal place of business within
22 this State.

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

24 (410 ILCS 18/62.10)

1 Sec. 62.10. Investigation of actions; hearing.

2 (a) The Department ~~Comptroller~~ shall make an investigation
3 upon discovering facts that, if proved, would constitute
4 grounds for refusal, suspension, or revocation of a license
5 under this Act.

6 (b) Before refusing to issue, and before suspending or
7 revoking, a license under this Act, the Department ~~Comptroller~~
8 shall hold a hearing to determine whether the applicant for a
9 license or the licensee ("the respondent") is entitled to hold
10 such a license. At least 10 days before the date set for the
11 hearing, the Department ~~Comptroller~~ shall notify the
12 respondent in writing that (i) on the designated date a hearing
13 will be held to determine the respondent's eligibility for a
14 license and (ii) the respondent may appear in person or by
15 counsel. The written notice may be served on the respondent
16 personally, or by registered or certified mail sent to the
17 respondent's business address as shown in the respondent's
18 latest notification to the Department ~~Comptroller~~. The notice
19 must include sufficient information to inform the respondent of
20 the general nature of the reason for the Department's
21 ~~Comptroller's~~ action.

22 (c) At the hearing, both the respondent and the complainant
23 shall be accorded ample opportunity to present in person or by
24 counsel such statements, testimony, evidence, and argument as
25 may be pertinent to the charge or to any defense to the charge.
26 The Department ~~Comptroller~~ may reasonably continue the hearing

1 from time to time. The Department Comptroller may subpoena any
2 person or persons in this State and take testimony orally, by
3 deposition, or by exhibit, in the same manner and with the same
4 fees and mileage as prescribed in judicial proceedings in civil
5 cases. Any authorized agent of the Department Comptroller may
6 administer oaths to witnesses at any hearing that the
7 Department Comptroller is authorized to conduct.

8 (d) The Department Comptroller, at the Department's
9 ~~Comptroller's~~ expense, shall provide a certified shorthand
10 reporter to take down the testimony and preserve a record of
11 every proceeding at the hearing of any case involving the
12 refusal to issue a license under this Act, the suspension or
13 revocation of such a license, the imposition of a monetary
14 penalty, or the referral of a case for criminal prosecution.
15 The record of any such proceeding shall consist of the notice
16 of hearing, the complaint, all other documents in the nature of
17 pleadings and written motions filed in the proceeding, the
18 transcript of testimony, and the report and orders of the
19 Department Comptroller. Copies of the transcript of the record
20 may be purchased from the certified shorthand reporter who
21 prepared the record or from the Department Comptroller.

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

23 (410 ILCS 18/62.15)

24 Sec. 62.15. Court order. Upon the application of the
25 Department Comptroller or of the applicant or licensee against

1 whom proceedings under Section 62.10 are pending, any circuit
2 court may enter an order requiring witnesses to attend and
3 testify and requiring the production of documents, papers,
4 files, books, and records in connection with any hearing in any
5 proceeding under that Section. Failure to obey such a court
6 order may result in contempt proceedings.

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

8 (410 ILCS 18/62.20)

9 Sec. 62.20. Judicial review.

10 (a) Any person affected by a final administrative decision
11 of the Department ~~Comptroller~~ under this Act may have the
12 decision reviewed judicially by the circuit court of the county
13 where the person resides or, in the case of a corporation,
14 where the corporation's registered office is located. If the
15 plaintiff in the judicial review proceeding is not a resident
16 of this State, venue shall be in Sangamon County. The
17 provisions of the Administrative Review Law and any rules
18 adopted under it govern all proceedings for the judicial review
19 of final administrative decisions of the Department
20 ~~Comptroller~~ under this Act. The term "administrative decision"
21 is defined as in the Administrative Review Law.

22 (b) The Department ~~Comptroller~~ is not required to certify
23 the record of the proceeding unless the plaintiff in the review
24 proceeding has purchased a copy of the transcript from the
25 certified shorthand reporter who prepared the record or from

1 the Department ~~Comptroller~~. Exhibits shall be certified
2 without cost.

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

4 Section 97. The Vital Records Act is amended by changing
5 Section 11 as follows:

6 (410 ILCS 535/11) (from Ch. 111 1/2, par. 73-11)

7 Sec. 11. Information required on forms.

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

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

22 (c) Effective November 1, 1990, the social security numbers
23 of the mother and father shall be collected at the time of the
24 birth of the child. These numbers shall not be recorded on the

1 certificate of live birth. The numbers may be used only for
2 those purposes allowed by Federal law.

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

8 (e) The report of death filed by a funeral director shall
9 include the place of disposition of a dead human body. If the
10 place of disposition is a cemetery, the report of death shall
11 include the lot, plot, or section where the human remains are
12 interred, entombed, or inurned in that cemetery. The record of
13 death transmitted to the county clerk shall contain the place
14 of disposition, and if the place of disposition is a cemetery,
15 the record of death shall include the lot, plot, or section
16 where the human remains are interred, entombed, or inurned in
17 that cemetery. If the place of disposition changes after the
18 funeral director files the report of death, then the funeral
19 director shall submit an amended report of death to reflect the
20 actual place of disposition; if the actual place of disposition
21 is a cemetery, the amended report of death shall include the
22 lot, plot, or section where the human remains are interred,
23 entombed, or inurned.

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

25 Section 98. The Crime Victims Compensation Act is amended

1 by changing Section 2 as follows:

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

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

5 (a) "Applicant" means any person who applies for
6 compensation under this Act or any person the Court of Claims
7 finds is entitled to compensation, including the guardian of a
8 minor or of a person under legal disability. It includes any
9 person who was a dependent of a deceased victim of a crime of
10 violence for his or her support at the time of the death of
11 that victim.

12 (b) "Court of Claims" means the Court of Claims created by
13 the Court of Claims Act.

14 (c) "Crime of violence" means and includes any offense
15 defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-11, 11-19.2,
16 11-20.1, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1,
17 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14,
18 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1 of the
19 Criminal Code of 1961, and driving under the influence of
20 intoxicating liquor or narcotic drugs as defined in Section
21 11-501 of the Illinois Vehicle Code, if none of the said
22 offenses occurred during a civil riot, insurrection or
23 rebellion. "Crime of violence" does not include any other
24 offense or accident involving a motor vehicle except those
25 vehicle offenses specifically provided for in this paragraph.

1 "Crime of violence" does include all of the offenses
2 specifically provided for in this paragraph that occur within
3 this State but are subject to federal jurisdiction and crimes
4 involving terrorism as defined in 18 U.S.C. 2331.

5 (d) "Victim" means (1) a person killed or injured in this
6 State as a result of a crime of violence perpetrated or
7 attempted against him or her, (2) the parent of a person killed
8 or injured in this State as a result of a crime of violence
9 perpetrated or attempted against the person, (3) a person
10 killed or injured in this State while attempting to assist a
11 person against whom a crime of violence is being perpetrated or
12 attempted, if that attempt of assistance would be expected of a
13 reasonable man under the circumstances, (4) a person killed or
14 injured in this State while assisting a law enforcement
15 official apprehend a person who has perpetrated a crime of
16 violence or prevent the perpetration of any such crime if that
17 assistance was in response to the express request of the law
18 enforcement official, (5) a person who personally witnessed a
19 violent crime, (5.1) solely for the purpose of compensating for
20 pecuniary loss incurred for psychological treatment of a mental
21 or emotional condition caused or aggravated by the crime, any
22 other person under the age of 18 who is the brother, sister,
23 half brother, half sister, child, or stepchild of a person
24 killed or injured in this State as a result of a crime of
25 violence, ~~or~~ (6) an Illinois resident who is a victim of a
26 "crime of violence" as defined in this Act except, if the crime

1 occurred outside this State, the resident has the same rights
2 under this Act as if the crime had occurred in this State upon
3 a showing that the state, territory, country, or political
4 subdivision of a country in which the crime occurred does not
5 have a compensation of victims of crimes law for which that
6 Illinois resident is eligible, or (7) the relative of a
7 deceased person whose body is dismembered in violation of
8 Section 12-20.5 of the Criminal Code of 1961.

9 (e) "Dependent" means a relative of a deceased victim who
10 was wholly or partially dependent upon the victim's income at
11 the time of his or her death and shall include the child of a
12 victim born after his or her death.

13 (f) "Relative" means a spouse, parent, grandparent,
14 stepfather, stepmother, child, grandchild, brother,
15 brother-in-law, sister, sister-in-law, half brother, half
16 sister, spouse's parent, nephew, niece, uncle or aunt.

17 (g) "Child" means an unmarried son or daughter who is under
18 18 years of age and includes a stepchild, an adopted child or a
19 child born out of wedlock.

20 (h) "Pecuniary loss" means, in the case of injury,
21 appropriate medical expenses and hospital expenses including
22 expenses of medical examinations, rehabilitation, medically
23 required nursing care expenses, appropriate psychiatric care
24 or psychiatric counseling expenses, expenses for care or
25 counseling by a licensed clinical psychologist, licensed
26 clinical social worker, or licensed clinical professional

1 counselor and expenses for treatment by Christian Science
2 practitioners and nursing care appropriate thereto;
3 transportation expenses to and from medical and treatment
4 facilities; prosthetic appliances, eyeglasses, and hearing
5 aids necessary or damaged as a result of the crime; replacement
6 costs for clothing and bedding used as evidence; costs
7 associated with temporary lodging or relocation necessary as a
8 result of the crime, including, but not limited to, the first
9 month's rent and security deposit of the dwelling that the
10 claimant relocated to and other reasonable relocation expenses
11 incurred as a result of the violent crime; locks or windows
12 necessary or damaged as a result of the crime; the purchase,
13 lease, or rental of equipment necessary to create usability of
14 and accessibility to the victim's real and personal property,
15 or the real and personal property which is used by the victim,
16 necessary as a result of the crime; the costs of appropriate
17 crime scene clean-up; replacement services loss, to a maximum
18 of \$1000 per month; dependents replacement services loss, to a
19 maximum of \$1000 per month; loss of tuition paid to attend
20 grammar school or high school when the victim had been enrolled
21 as a student prior to the injury, or college or graduate school
22 when the victim had been enrolled as a day or night student
23 prior to the injury when the victim becomes unable to continue
24 attendance at school as a result of the crime of violence
25 perpetrated against him or her; loss of earnings, loss of
26 future earnings because of disability resulting from the

1 injury, and, in addition, in the case of death, expenses for
2 funeral, burial, and travel and transport for survivors of
3 homicide victims to secure bodies of deceased victims and to
4 transport bodies for burial all of which may not exceed a
5 maximum of \$5,000 and loss of support of the dependents of the
6 victim. Loss of future earnings shall be reduced by any income
7 from substitute work actually performed by the victim or by
8 income he or she would have earned in available appropriate
9 substitute work he or she was capable of performing but
10 unreasonably failed to undertake. Loss of earnings, loss of
11 future earnings and loss of support shall be determined on the
12 basis of the victim's average net monthly earnings for the 6
13 months immediately preceding the date of the injury or on \$1000
14 per month, whichever is less. If a divorced or legally
15 separated applicant is claiming loss of support for a minor
16 child of the deceased, the amount of support for each child
17 shall be based either on the amount of support pursuant to the
18 judgment prior to the date of the deceased victim's injury or
19 death, or, if the subject of pending litigation filed by or on
20 behalf of the divorced or legally separated applicant prior to
21 the injury or death, on the result of that litigation. Real and
22 personal property includes, but is not limited to, vehicles,
23 houses, apartments, town houses, or condominiums. Pecuniary
24 loss does not include pain and suffering or property loss or
25 damage.

26 (i) "Replacement services loss" means expenses reasonably

1 incurred in obtaining ordinary and necessary services in lieu
2 of those the injured person would have performed, not for
3 income, but for the benefit of himself or herself or his or her
4 family, if he or she had not been injured.

5 (j) "Dependents replacement services loss" means loss
6 reasonably incurred by dependents or private legal guardians of
7 minor dependents after a victim's death in obtaining ordinary
8 and necessary services in lieu of those the victim would have
9 performed, not for income, but for their benefit, if he or she
10 had not been fatally injured.

11 (k) "Survivor" means immediate family including a parent,
12 step-father, step-mother, child, brother, sister, or spouse.
13 (Source: P.A. 94-229, eff. 1-1-06; 94-399, eff. 1-1-06; 94-400,
14 eff. 1-1-06; 94-877, eff. 1-1-07.)

15 Section 100. The Cemetery Care Act is amended by changing
16 Section 10 as follows:

17 (760 ILCS 100/10) (from Ch. 21, par. 64.10)

18 Sec. 10. Upon receipt of such application for license, the
19 Comptroller shall issue a license to the applicant unless the
20 Comptroller determines that:

21 (a) The applicant has made any misrepresentations or false
22 statements or has concealed any essential or material fact, or

23 (b) The applicant is insolvent; or

24 (c) The applicant is or has been using practices in the

1 conducting of the cemetery business that work or tend to work a
2 fraud; or

3 (d) The applicant has refused to furnish or give pertinent
4 data to the Comptroller; or

5 (e) The applicant has failed to notify the Comptroller with
6 respect to any material facts required in the application for
7 license under the provisions of this Act; or

8 (f) The applicant has failed to satisfy any enforceable
9 judgment entered by the circuit court in any civil proceedings
10 against such applicant; or

11 (g) The applicant has conducted or is about to conduct its
12 business in a fraudulent manner; or

13 (h) The applicant or any individual listed in the license
14 application has conducted or is about to conduct any business
15 on behalf of the applicant in a fraudulent manner; or has been
16 convicted of a felony or any misdemeanor of which an essential
17 element is fraud; or has been involved in any civil litigation
18 in which a judgment has been entered against him or her based
19 on fraud; or has failed to satisfy any enforceable judgment
20 entered by the circuit court in any civil proceedings against
21 such individual; or has been convicted of any felony of which
22 fraud is an essential element; or has been convicted of any
23 theft-related offense; or has failed to comply with the
24 requirements of this Act; or has demonstrated a pattern of
25 improperly failing to honor a contract with a consumer; or

26 (i) The applicant has ever had a license involving

1 cemeteries or funeral homes revoked, suspended, or refused to
2 be issued in Illinois or elsewhere.

3 (j) Any violation of the Code of Professional Conduct and
4 Licensing in the Care of the Deceased Act may result in denial
5 of a licensee application and may result in immediate
6 suspension and revocation of a license under this Act.

7 If the Comptroller so determines, then he or she shall
8 conduct a hearing to determine whether to deny the application.
9 However, no application shall be denied unless the applicant
10 has had at least 10 days' notice of a hearing on the
11 application and an opportunity to be heard thereon. If the
12 application is denied, the Comptroller shall within 20 days
13 thereafter prepare and keep on file in his or her office the
14 transcript of the evidence taken and a written order of denial
15 thereof, which shall contain his or her findings with respect
16 thereto and the reasons supporting the denial, and shall send
17 by United States mail a copy of the written order of denial to
18 the applicant at the address set forth in the application,
19 within 5 days after the filing of such order. A review of such
20 decision may be had as provided in Section 20 of this Act.

21 The license issued by the Comptroller shall remain in full
22 force and effect until it is surrendered by the licensee or
23 revoked by the Comptroller as hereinafter provided.

24 (Source: P.A. 92-419, eff. 1-1-02.)

25 Section 102. The Cemetery Protection Act is amended by

1 changing Section 1 as follows:

2 (765 ILCS 835/1) (from Ch. 21, par. 15)

3 Sec. 1. (a) Any person who acts without proper legal
4 authority and who willfully and knowingly destroys or damages
5 the remains of a deceased human being or who desecrates human
6 remains is guilty of a Class 3 felony for destroying, damaging,
7 or desecrating one set of human remains, a Class 2 felony for
8 destroying, damaging, or desecrating at least 2 but not more
9 than 5 sets of human remains, and a Class 1 felony for
10 destroying, damaging, or desecrating more than 5 sets of human
11 remains.

12 (a-1) Any person who acts without proper legal authority
13 and who willfully and knowingly destroys or damages the remains
14 of a deceased human being or who desecrates human remains, and
15 who is a current or former employee, officer, board member, or
16 owner of the cemetery authority which operates, manages, or
17 owns the grave, crypt, vault, mausoleum, or other repository of
18 the human remains in question, is guilty of a Class 2 felony
19 for destroying, damaging, or desecrating one set of human
20 remains, a Class 1 felony for destroying, damaging, or
21 desecrating at least 2 but not more than 5 sets of human
22 remains, and a Class X felony for destroying, damaging, or
23 desecrating more than 5 sets of human remains.

24 (a-5) Any person who acts without proper legal authority
25 and who willfully and knowingly removes any portion of the

1 remains of a deceased human being from a burial ground where
2 skeletal remains are buried or from a grave, crypt, vault,
3 mausoleum, or other repository of human remains is guilty of a
4 Class 4 felony for removing any portion of one set of skeletal
5 remains, a Class 3 felony for removing any portion of at least
6 2 but not more than 5 sets of skeletal remains, and a Class 2
7 felony for removing any portion of more than 5 sets of skeletal
8 remains.

9 (a-6) Any person who acts without proper legal authority
10 and who willfully and knowingly removes any portion of the
11 remains of a deceased human being from a burial ground where
12 skeletal remains are buried or from a grave, crypt, vault,
13 mausoleum, or other repository of human remains, and who is a
14 current or former employee, officer, board member, or owner of
15 the cemetery authority which operates, manages, or owns the
16 grave, crypt, vault, mausoleum, or other repository of the
17 human remains in question, is guilty of a Class 3 felony for
18 removing any portion of one set of skeletal remains, a Class 2
19 felony for removing any portion of at least 2 but not more than
20 5 sets of skeletal remains, a Class 1 felony for removing any
21 portion or at least 6 but not more than 10 sets of skeletal
22 remains, and a Class X felony for removing any portion of more
23 than 10 sets of skeletal remains.

24 (b) Any person who acts without proper legal authority and
25 who willfully and knowingly:

26 (1) obliterates, vandalizes, or desecrates a burial

1 ground where skeletal remains are buried or a grave, crypt,
2 vault, mausoleum, or other repository of human remains;

3 (2) obliterates, vandalizes, or desecrates a park or
4 other area clearly designated to preserve and perpetuate
5 the memory of a deceased person or group of persons;

6 (3) obliterates, vandalizes, or desecrates plants,
7 trees, shrubs, or flowers located upon or around a
8 repository for human remains or within a human graveyard or
9 cemetery; or

10 (4) obliterates, vandalizes, or desecrates a fence,
11 rail, curb, or other structure of a similar nature intended
12 for the protection or for the ornamentation of any tomb,
13 monument, gravestone, or other structure of like
14 character;

15 is guilty of a Class A misdemeanor if the amount of the damage
16 is less than \$500, a Class 4 felony if the amount of the damage
17 is at least \$500 and less than \$10,000, a Class 3 felony if the
18 amount of the damage is at least \$10,000 and less than
19 \$100,000, or a Class 2 felony if the damage is \$100,000 or more
20 and shall provide restitution to the cemetery authority or
21 property owner for the amount of any damage caused.

22 (b-5) Any person who acts without proper legal authority
23 and who willfully and knowingly defaces, vandalizes, injures,
24 or removes a gravestone or other memorial, monument, or marker
25 commemorating a deceased person or group of persons, whether
26 located within or outside of a recognized cemetery, memorial

1 park, or battlefield is guilty of a Class 4 felony for damaging
2 at least one but no more than 4 gravestones, a Class 3 felony
3 for damaging at least 5 but no more than 10 gravestones, or a
4 Class 2 felony for damaging more than 10 gravestones and shall
5 provide restitution to the cemetery authority or property owner
6 for the amount of any damage caused.

7 (b-6) Any person who acts without proper legal authority
8 and who willfully and knowingly defaces, vandalizes, injures,
9 or removes a gravestone or other memorial, monument, or marker
10 commemorating a deceased person or group of persons, whether
11 located within or outside of a recognized cemetery, memorial
12 park, or battlefield, and who is a current or former employee,
13 officer, board member, or owner of the cemetery authority which
14 operates, manages, or owns the cemetery, memorial park, or
15 battlefield in question, is guilty of a Class 3 felony for
16 damaging at least one but no more than 4 gravestones, a Class 2
17 felony for damaging at least 5 but no more than 10 gravestones,
18 or a Class 1 felony for damaging more than 10 gravestones and
19 shall provide restitution to the cemetery authority or property
20 owner for the amount of any damage caused.

21 (b-7) Any person who acts without proper legal authority
22 and who willfully and knowingly removes with the intent to
23 resell a gravestone or other memorial, monument, or marker
24 commemorating a deceased person or group of persons, whether
25 located within or outside a recognized cemetery, memorial park,
26 or battlefield, is guilty of a Class 2 felony.

1 (c) The provisions of this Section shall not apply to the
2 removal or unavoidable breakage or injury by a cemetery
3 authority of anything placed in or upon any portion of its
4 cemetery in violation of any of the rules and regulations of
5 the cemetery authority, nor to the removal of anything placed
6 in the cemetery by or with the consent of the cemetery
7 authority that in the judgment of the cemetery authority has
8 become wrecked, unsightly, or dilapidated.

9 (d) If an unemancipated minor is found guilty of violating
10 any of the provisions of subsection (b) of this Section and is
11 unable to provide restitution to the cemetery authority or
12 property owner, the parents or legal guardians of that minor
13 shall provide restitution to the cemetery authority or property
14 owner for the amount of any damage caused, up to the total
15 amount allowed under the Parental Responsibility Law.

16 (d-5) Any person who commits any of the following:

17 (1) any unauthorized, non-related third party or
18 person who enters any sheds, crematories, or employee
19 areas;

20 (2) any non-cemetery personnel who solicits cemetery
21 mourners or funeral directors on the grounds or in the
22 offices or chapels of a cemetery before, during, or after a
23 burial;

24 (3) any person who harasses or threatens any employee
25 of a cemetery on cemetery grounds; or

26 (4) any unauthorized person who removes, destroys, or

1 disturbs any cemetery devices or property placed for safety
2 of visitors and cemetery employees;
3 is guilty of a Class A misdemeanor for the first offense and of
4 a Class 4 felony for a second or subsequent offense.

5 (e) Any person who shall hunt, shoot or discharge any gun,
6 pistol or other missile, within the limits of any cemetery, or
7 shall cause any shot or missile to be discharged into or over
8 any portion thereof, or shall violate any of the rules made and
9 established by the board of directors of such cemetery, for the
10 protection or government thereof, is guilty of a Class C
11 misdemeanor.

12 (f) Any person who knowingly enters or knowingly remains
13 upon the premises of a public or private cemetery without
14 authorization during hours that the cemetery is posted as
15 closed to the public is guilty of a Class A misdemeanor.

16 (g) All fines when recovered, shall be paid over by the
17 court or officer receiving the same to the cemetery authority
18 and be applied, as far as possible in repairing the injury, if
19 any, caused by such offense. Provided, nothing contained in
20 this Act shall deprive such cemetery authority or the owner of
21 any interment, entombment, or inurement right or monument from
22 maintaining an action for the recovery of damages caused by any
23 injury caused by a violation of the provisions of this Act, or
24 of the rules established by the board of directors of such
25 cemetery authority. Nothing in this Section shall be construed
26 to prohibit the discharge of firearms loaded with blank

1 ammunition as part of any funeral, any memorial observance or
2 any other patriotic or military ceremony.

3 (Source: P.A. 94-44, eff. 6-17-05; 94-608, eff. 8-16-05;
4 95-331, eff. 8-21-07.)

5 Section 105. The Illinois Pre-Need Cemetery Sales Act is
6 amended by changing Sections 4 and 7 as follows:

7 (815 ILCS 390/4) (from Ch. 21, par. 204)

8 Sec. 4. Definitions. As used in this Act, the following
9 terms shall have the meaning specified:

10 (A) "Pre-need sales contract" or "Pre-need sales" means any
11 agreement or contract or series or combination of agreements or
12 contracts which have for a purpose the sale of cemetery
13 merchandise, cemetery services or undeveloped interment,
14 entombment or inurnment spaces where the terms of such sale
15 require payment or payments to be made at a currently
16 determinable time and where the merchandise, services or
17 completed spaces are to be provided more than 120 days
18 following the initial payment on the account. An agreement or
19 contract for a memorial, marker, or monument shall not be
20 deemed a "pre-need sales contract" or a "pre-need sale" if the
21 memorial, marker, or monument is delivered within 180 days
22 following initial payment on the account and work thereon
23 commences a reasonably short time after initial payment on the
24 account.

1 (B) "Delivery" occurs when:

2 (1) Physical possession of the merchandise is
3 transferred or the easement for burial rights in a
4 completed space is executed, delivered and transferred to
5 the buyer; or

6 (2) Following authorization by a purchaser under a
7 pre-need sales contract, title to the merchandise has been
8 transferred to the buyer and the merchandise has been paid
9 for and is in the possession of the seller who has placed
10 it, until needed, at the site of its ultimate use; or

11 (3) Following authorization by a purchaser under a
12 pre-need sales contract, the merchandise has been
13 permanently identified with the name of the buyer or the
14 beneficiary and delivered to a licensed and bonded
15 warehouse and both title to the merchandise and a warehouse
16 receipt have been delivered to the purchaser or beneficiary
17 and a copy of the warehouse receipt has been delivered to
18 the licensee for retention in its files; except that in the
19 case of outer burial containers, the use of a licensed and
20 bonded warehouse as set forth in this paragraph shall not
21 constitute delivery for purposes of this Act. Nothing
22 herein shall prevent a seller from perfecting a security
23 interest in accordance with the Uniform Commercial Code on
24 any merchandise covered under this Act.

25 All warehouse facilities to which sellers deliver
26 merchandise pursuant to this Act shall:

1 (i) be either located in the State of Illinois or
2 qualify as a foreign warehouse facility as defined
3 herein;

4 (ii) submit to the Comptroller not less than
5 annually, by March 1 of each year, a report of all
6 cemetery merchandise stored by each licensee under
7 this Act which is in storage on the date of the report;

8 (iii) permit the Comptroller or his designee at any
9 time to examine stored merchandise and to examine any
10 documents pertaining thereto;

11 (iv) submit evidence satisfactory to the
12 Comptroller that all merchandise stored by said
13 warehouse for licensees under this Act is insured for
14 casualty or other loss normally assumed by a bailee for
15 hire;

16 (v) demonstrate to the Comptroller that the
17 warehouse has procured and is maintaining a
18 performance bond in the form, content and amount
19 sufficient to unconditionally guarantee to the
20 purchaser or beneficiary the prompt shipment of the
21 cemetery merchandise.

22 (C) "Cemetery merchandise" means items of personal
23 property normally sold by a cemetery authority not covered
24 under the Illinois Funeral or Burial Funds Act, including but
25 not limited to:

26 (1) memorials,

- 1 (2) markers,
- 2 (3) monuments,
- 3 (4) foundations, and
- 4 (5) outer burial containers.

5 (D) "Undeveloped interment, entombment or inurnment
6 spaces" or "undeveloped spaces" means any space to be used for
7 the reception of human remains that is not completely and
8 totally constructed at the time of initial payment therefor in
9 a:

- 10 (1) lawn crypt,
- 11 (2) mausoleum,
- 12 (3) garden crypt,
- 13 (4) columbarium, or
- 14 (5) cemetery section.

15 (E) "Cemetery services" means those services customarily
16 performed by cemetery or crematory personnel in connection with
17 the interment, entombment, inurnment or cremation of a dead
18 human body.

19 (F) "Cemetery section" means a grouping of spaces intended
20 to be developed simultaneously for the purpose of interring
21 human remains.

22 (G) "Columbarium" means an arrangement of niches that may
23 be an entire building, a complete room, a series of special
24 indoor alcoves, a bank along a corridor or part of an outdoor
25 garden setting that is constructed of permanent material such
26 as bronze, marble, brick, stone or concrete for the inurnment

1 of human remains.

2 (H) "Lawn crypt" means a permanent underground crypt
3 usually constructed of reinforced concrete or similar material
4 installed in multiple units for the entombment of human
5 remains.

6 (I) "Mausoleum" or "garden crypt" means a grouping of
7 spaces constructed of reinforced concrete or similar material
8 constructed or assembled above the ground for entombing human
9 remains.

10 (J) "Memorials, markers and monuments" means the object
11 usually comprised of a permanent material such as granite or
12 bronze used to identify and memorialize the deceased.

13 (K) "Foundations" means those items used to affix or
14 support a memorial or monument to the ground in connection with
15 the installation of a memorial, marker or monument.

16 (L) "Person" means an individual, corporation,
17 partnership, joint venture, business trust, voluntary
18 organization or any other form of entity.

19 (M) "Seller" means any person selling or offering for sale
20 cemetery merchandise, cemetery services or undeveloped
21 interment, entombment, or inurnment spaces in accordance with a
22 pre-need sales contract. In addition to licensing under this
23 Act, a seller must be licensed by the Department of Financial
24 and Professional Regulation under the Code of Professional
25 Conduct and Licensing in the Care of the Deceased Act.

26 (N) "Religious cemetery" means a cemetery owned, operated,

1 controlled or managed by any recognized church, religious
2 society, association or denomination or by any cemetery
3 authority or any corporation administering, or through which is
4 administered, the temporalities of any recognized church,
5 religious society, association or denomination.

6 (O) "Municipal cemetery" means a cemetery owned, operated,
7 controlled or managed by any city, village, incorporated town,
8 township, county or other municipal corporation, political
9 subdivision, or instrumentality thereof authorized by law to
10 own, operate or manage a cemetery.

11 (O-1) "Outer burial container" means a container made of
12 concrete, steel, wood, fiberglass, or similar material, used
13 solely at the interment site, and designed and used exclusively
14 to surround or enclose a separate casket and to support the
15 earth above such casket, commonly known as a burial vault,
16 grave box, or grave liner, but not including a lawn crypt.

17 (P) "Sales price" means the gross amount paid by a
18 purchaser on a pre-need sales contract for cemetery
19 merchandise, cemetery services or undeveloped interment,
20 entombment or inurnment spaces, excluding sales taxes, credit
21 life insurance premiums, finance charges and Cemetery Care Act
22 contributions.

23 (Q) (Blank).

24 (R) "Provider" means a person who is responsible for
25 performing cemetery services or furnishing cemetery
26 merchandise, interment spaces, entombment spaces, or inurnment

1 spaces under a pre-need sales contract.

2 (S) "Purchaser" or "buyer" means the person who originally
3 paid the money under or in connection with a pre-need sales
4 contract.

5 (T) "Parent company" means a corporation owning more than
6 12 cemeteries or funeral homes in more than one state.

7 (U) "Foreign warehouse facility" means a warehouse
8 facility now or hereafter located in any state or territory of
9 the United States, including the District of Columbia, other
10 than the State of Illinois.

11 A foreign warehouse facility shall be deemed to have
12 appointed the Comptroller to be its true and lawful attorney
13 upon whom may be served all legal process in any action or
14 proceeding against it relating to or growing out of this Act,
15 and the acceptance of the delivery of stored merchandise under
16 this Act shall be signification of its agreement that any such
17 process against it which is so served, shall be of the same
18 legal force and validity as though served upon it personally.

19 Service of such process shall be made by delivering to and
20 leaving with the Comptroller, or any agent having charge of the
21 Comptroller's Department of Cemetery and Burial Trusts, a copy
22 of such process and such service shall be sufficient service
23 upon such foreign warehouse facility if notice of such service
24 and a copy of the process are, within 10 days thereafter, sent
25 by registered mail by the plaintiff to the foreign warehouse
26 facility at its principal office and the plaintiff's affidavit

1 of compliance herewith is appended to the summons. The
2 Comptroller shall keep a record of all process served upon him
3 under this Section and shall record therein the time of such
4 service.

5 (Source: P.A. 91-7, eff. 1-1-00; 91-357, eff. 7-29-99; 92-16,
6 eff. 6-28-01; 92-419, eff. 1-1-02.)

7 (815 ILCS 390/7) (from Ch. 21, par. 207)

8 Sec. 7. The Comptroller may refuse to issue or may suspend
9 or revoke a license on any of the following grounds:

10 (a) The applicant or licensee has made any
11 misrepresentations or false statements or concealed any
12 material fact;

13 (b) The applicant or licensee is insolvent;

14 (c) The applicant or licensee has been engaged in business
15 practices that work a fraud;

16 (d) The applicant or licensee has refused to give pertinent
17 data to the Comptroller;

18 (e) The applicant or licensee has failed to satisfy any
19 enforceable judgment or decree rendered by any court of
20 competent jurisdiction against the applicant;

21 (f) The applicant or licensee has conducted or is about to
22 conduct business in a fraudulent manner;

23 (g) The trust agreement is not in compliance with State or
24 federal law;

25 (h) The pre-construction performance bond, if applicable,

1 is not satisfactory to the Comptroller;

2 (i) The fidelity bond is not satisfactory to the
3 Comptroller;

4 (j) As to any individual listed in the license application
5 as required pursuant to Section 6, that individual has
6 conducted or is about to conduct any business on behalf of the
7 applicant in a fraudulent manner, has been convicted of any
8 felony or misdemeanor an essential element of which is fraud,
9 has had a judgment rendered against him or her based on fraud
10 in any civil litigation, has failed to satisfy any enforceable
11 judgment or decree rendered against him by any court of
12 competent jurisdiction, or has been convicted of any felony or
13 any theft-related offense;

14 (k) The applicant or licensee has failed to make the annual
15 report required by this Act or to comply with a final order,
16 decision, or finding of the Comptroller made pursuant to this
17 Act;

18 (l) The applicant or licensee, including any member,
19 officer, or director thereof if the applicant or licensee is a
20 firm, partnership, association, or corporation and any
21 shareholder holding more than 10% of the corporate stock, has
22 violated any provision of this Act or any regulation or order
23 made by the Comptroller under this Act; or

24 (m) The Comptroller finds any fact or condition existing
25 which, if it had existed at the time of the original
26 application for such license would have warranted the

1 Comptroller in refusing the issuance of the license.

2 Any violation of the Code of Professional Conduct and
3 Licensing in the Care of the Deceased Act may result in denial
4 of a licensee application and may result in immediate
5 suspension and revocation of a license under this Act.

6 (Source: P.A. 92-419, eff. 1-1-02.)

7 Section 999. Effective date. This Act takes effect upon
8 becoming law.".