



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3857

Introduced 2/22/2021, by Rep. Justin Slaughter

SYNOPSIS AS INTRODUCED:

765 ILCS 835/.01

from Ch. 21, par. 14.01

765 ILCS 835/17 new

Amends the Cemetery Protection Act. Defines "cemetery consumer". Provides that unless the contract with the cemetery otherwise provides, the involved cemetery consumer shall have the responsibility to repair, replace, or remove any dilapidated or unsafe columbarium, niche building, mausoleum, or private estate within the cemetery grounds. Provides that whenever a cemetery authority becomes aware of a dilapidated or unsafe columbarium, niche building, mausoleum, or private estate within the cemetery grounds, and when the involved cemetery consumer has failed to take prompt remedial action, the cemetery may repair, replace, or remove the structure to prevent hazard to the public or to entombed, inurned, or cremated human remains. Provides that the cemetery may remove the urns or caskets when necessary and place them in a secure temporary area in order to allow for the repairs to or replacement or removal of the dilapidated or unsafe columbarium, niche building, mausoleum, or private estate. Provides that the cemetery shall contact the listed next of kin in the cemetery records when taking remedial action.

LRB102 13843 LNS 19194 b

1 AN ACT concerning civil law.

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

4 Section 5. The Cemetery Protection Act is amended by
5 changing Section .01 and by adding Section 17 as follows:

6 (765 ILCS 835/.01) (from Ch. 21, par. 14.01)

7 Sec. .01. For the purposes of this Act, the term:

8 "Cemetery authority" means an individual or legal entity
9 that owns or controls cemetery lands or property.

10 "Cemetery consumer" means the involved interment,
11 entombment, or inurnment right owner or owners and their
12 heirs.

13 "Community mausoleum" means a mausoleum owned and operated
14 by a cemetery authority that contains multiple entombment
15 rights sold to the public.

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

17 (765 ILCS 835/17 new)

18 Sec. 17. Repairs to or replacement or removal of
19 dilapidated or unsafe columbariums, niches, mausoleums, and
20 private estates.

21 (a) Unless the contract with the cemetery otherwise
22 provides, the involved cemetery consumer shall have the

1 responsibility to repair, replace, or remove any dilapidated
2 or unsafe columbarium, niche building, mausoleum, or private
3 estate within the cemetery grounds. When the cemetery consumer
4 fails to take prompt remedial action, the cemetery authority
5 may, but shall not be required to, take action in accordance
6 with this Section. Nothing in this Section shall make a
7 cemetery financially or otherwise responsible for property
8 damage that is the direct or indirect result of actions or
9 neglect by a cemetery owner, an act of God, war, or vandalism,
10 or aging or design of a columbarium, niche building,
11 mausoleum, or private estate.

12 (b) If a cemetery authority becomes aware of a dilapidated
13 or unsafe columbarium, niche building, mausoleum, or private
14 estate within the cemetery grounds, and if the involved
15 cemetery consumer has failed to take prompt remedial action,
16 the cemetery, in accordance with this Section, may repair,
17 replace, or remove the structure to prevent hazard to the
18 public or to entombed, inurned, or cremated human remains.
19 This Section does not apply to and may not be invoked in
20 connection with any eminent domain, quick-take, or other
21 condemnation proceeding that is designed to relocate a
22 cemetery or portion thereof to another location.

23 (c) The cemetery, with reasonable promptness and without
24 being required to obtain any permit, may remove the urns or
25 caskets when necessary, and place them in a secure temporary
26 area in order to allow for the repairs to or replacement or

1 removal of the dilapidated or unsafe columbarium, niche
2 building, mausoleum, or private estate. Upon completion of the
3 work, the cemetery authority shall replace the urns or caskets
4 in the new or repaired columbarium, niche building, mausoleum,
5 or private estate, or in such new location as may be
6 appropriate following removal of the columbarium, niche
7 building, mausoleum, or private estate.

8 (d) When taking remedial action, the cemetery shall
9 contact the listed next of kin in the cemetery records by
10 e-mail or certified mail, at the last known address, with the
11 following information:

12 (1) Description of the repairs, rebuilding, or removal
13 that will take place or has taken place.

14 (2) Whether the temporary removal and replacement of
15 the decedent's human remains was or will be necessary.

16 (3) Notification of whether it is the responsibility
17 of the cemetery consumer to pay for such repairs,
18 rebuilding, or removal.

19 (4) Notification that a record of the remedial actions
20 taken shall be maintained in the permanent records of the
21 cemetery.