

AN ACT concerning State government.

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

Article 5.

General Provisions

Section 5-1. Short title. This Act may be cited as the Cemetery Oversight Act.

Section 5-5. Findings and purpose. The citizens of Illinois have a compelling interest in the expectation that their loved ones will be treated with the same dignity and respect in death as they are entitled to be treated in life. The laws of the State should provide adequate protection in upholding the sanctity of the handling and disposition of human remains and the preservation of final resting places, but without unduly restricting family, ethnic, cultural, and religious traditions. The purpose of this Act is to ensure that the deceased be accorded equal treatment and respect for human dignity without reference to ethnic origins, cultural backgrounds, or religious affiliations.

Section 5-10. Declaration of public policy. The practice of cemetery operation in the State of Illinois is hereby

declared to affect the public health, safety, and well-being of its citizens and to be subject to regulation and control in the public interest. It is further declared that cemetery operation, as defined in this Act, should merit the confidence of the public and that only qualified persons shall be authorized to own, operate, manage, or otherwise control a cemetery in the State of Illinois. This Act shall be liberally construed to best carry out this purpose.

Section 5-15. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days either through the Department's website or by contacting the Department's licensure maintenance unit. The address of record for a cemetery authority shall be the permanent street address of the cemetery.

"Applicant" means a person applying for licensure under this Act as a cemetery authority, cemetery manager, or customer service employee. Any applicant or any person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Burial permit" means a permit for the disposition of a dead human body that is filed with the Illinois Department of

Public Health.

"Care" means the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers therein, including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) keeping in repair the drains, water lines, roads, buildings, fences, and other structures, in keeping with a well-maintained cemetery as provided for in Section 20-5 of this Act and otherwise as required by rule; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of cemetery workers, any discretionary payment of insurance premiums, and any reasonable payments for workers' pension and other benefits plans; and (v) the payment of expenses necessary for such purposes and for maintaining necessary records of lot ownership, transfers, and burials.

"Care funds", as distinguished from receipts from annual charges or gifts for current or annual care, means any realty or personalty impressed with a trust by the terms of any gift, grant, contribution, payment, legacy, or pursuant to contract, accepted by any cemetery authority or by any trustee, licensee, agent, or custodian for the same, under Article 15 of this Act, and any income accumulated therefrom, where legally so directed by the terms of the transaction by which the principal was established.

"Cemetery" means any land or structure in this State dedicated to and used, or intended to be used, for the

interment, inurnment, or entombment of human remains.

"Cemetery association" means an association of 6 or more persons, and their successors in trust, who have received articles of organization from the Secretary of State to operate a cemetery; the articles of organization shall be in perpetuity and in trust for the use and benefit of all persons who may acquire burial lots in a cemetery.

"Cemetery authority" means any individual or legal entity that owns or controls cemetery lands or property.

"Cemetery manager" means an individual who is engaged in, or responsible for, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property. This definition includes, without limitation, an employee, an individual that is an independent contractor, an individual employed or contracted by an independent contractor, a third-party vendor, or an individual employed or contracted by a third-party vendor who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property.

"Cemetery operation" means to engage or attempt to engage in the interment, inurnment, or entombment of human remains or to engage in or attempt to engage in the care of a cemetery.

"Cemetery Oversight Database" means a database certified by the Department as effective in tracking the interment, entombment, or inurnment of human remains.

"Cemetery worker" means an individual, including an independent contractor or third-party vendor, who performs any work at the cemetery that is customarily performed by one or more cemetery employees, including openings and closings of vaults and graves, stone settings, inurnments, interments, entombments, administrative work, handling of any official burial records, the preparation of foundations for memorials, and routine cemetery maintenance. This definition does not include uncompensated, volunteer workers.

"Certificate of organization" means the document received by a cemetery association from the Secretary of State that indicates that the cemetery association shall be deemed fully organized as a body corporate under the name adopted and in its corporate name may sue and be sued.

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

"Consumer" means a person, or the persons given priority for the disposition of an individual's remains under the Disposition of Remains Act, who purchases or is considering purchasing cemetery, burial, or cremation products or services

from a cemetery authority or crematory authority, whether for themselves or for another person.

"Customer service employee" means an individual who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition includes, without limitation, an employee, an individual that is an independent contractor, an individual that is employed or contracted by an independent contractor, a third-party vendor, or an individual that is employed or contracted by a third-party vendor, who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition does not include an employee, an individual that is an independent contractor or an individual that is employed or contracted by an independent contractor, a third party vendor, or an individual that is employed or contracted by a third party vendor, who merely provides a printed cemetery list to a consumer, processes payment from a consumer, or performs sales functions related solely to incidental merchandise like flowers, souvenirs, or other similar items.

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

"Employee" means an individual who works for a cemetery authority where the cemetery authority has the right to control what work is performed and the details of how the work is

performed regardless of whether federal or State payroll taxes are withheld.

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

"Family burying ground" means a cemetery in which no lots are sold to the public and in which interments are restricted to the immediate family or a group of individuals related to each other by blood or marriage.

"Full exemption" means an exemption granted to a cemetery authority pursuant to subsection (a) of Section 5-20.

"Funeral director" means a funeral director as defined by the Funeral Directors and Embalmers Licensing Code.

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

"Green burial or cremation disposition" means burial or cremation practices that reduce the greenhouse gas emissions, waste, and toxic chemicals ordinarily created in burial or cremation or, in the case of greenhouse gas emissions, mitigate or offset emissions. Such practices include standards for burial or cremation certified by the Green Burial Council or any other organization or method that the Department may name by rule.

"Immediate family" means the designated agent of a person or the persons given priority for the disposition of a person's

remains under the Disposition of Remains Act and shall include a person's spouse, parents, grandparents, children, grandchildren and siblings.

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

"Independent contractor" means a person who performs work for a cemetery authority where the cemetery authority has the right to control or direct only the result of the work and not the means and methods of accomplishing the result.

"Individual" means a natural person.

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

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

"Investment Company Act of 1940" means Title 15 of the United States Code, Sections 80a-1 to 80a-64, inclusive, as amended.

"Investment company" means any issuer (a) whose securities are purchasable only with care funds or trust funds, or both; (b) that is an open and diversified management company as defined in and registered under the Investment Company Act of 1940; and (c) that has entered into an agreement with the Department containing such provisions as the Department by



regulation requires for the proper administration of this Act.

"Lawn crypt" means a permanent underground crypt installed in multiple units for the interment of human remains.

"Licensee" means a person licensed under this Act as a cemetery authority, cemetery manager, or customer service employee. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act. This definition does not include a cemetery worker.

"Mausoleum crypt" means a space in a mausoleum used or intended to be used, above or underground, to entomb human remains.

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

"Partial exemption" means an exemption granted to a cemetery authority pursuant to subsection (b) of Section 5-20.

"Parcel identification number" means a unique number assigned to a grave, plot, crypt, or niche that enables the Department to ascertain the precise location of a decedent's remains interred, entombed, or inurned after the effective date of this Act.

"Person" means any individual, firm, partnership, association, corporation, limited liability company, trustee, government or political subdivision, or other entity.

"Public cemetery" means a cemetery owned, operated, controlled, or managed by the federal government, by any state, county, city, village, incorporated town, township, multi-township, public cemetery district, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

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

"Secretary" means the Secretary of Financial and Professional Regulation.

"Term burial" means a right of interment sold to a consumer in which the cemetery authority retains the right to disinter and relocate the remains, subject to the provisions of subsection (d) of Section 35-15 of this Act.

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

"Unique personal identifier" means the parcel identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death for human remains interred, entombed, or inurned after the effective date of this Act.

Section 5-20. Exemptions.

(a) Notwithstanding any provision of law to the contrary, this Act does not apply to (1) any cemetery authority operating as a family burying ground, (2) any cemetery authority that has not engaged in an interment, inurnment, or entombment of human remains within the last 10 years and does not accept or maintain care funds, or (3) any cemetery authority that is less than 2 acres and does not accept or maintain care funds. For purposes of determining the applicability of this subsection, the number of interments, inurnments, and entombments shall be aggregated for each calendar year. A cemetery authority claiming a full exemption shall apply for exempt status as provided for in Article 10 of this Act. A cemetery authority that performs activities that would disqualify it from a full exemption is required to apply for licensure within one year following the date on which its activities would disqualify it for a full exemption. A cemetery authority that previously qualified for and maintained a full exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(b) Notwithstanding any provision of law to the contrary, a cemetery authority that does not qualify for a full exemption that is operating as a cemetery authority (i) that engages in 25 or fewer interments, inurnments, or entombments of human remains for each of the preceding 2 calendar years and does not

accept or maintain care funds, (ii) that is operating as a public cemetery, or (iii) that is operating as a religious cemetery is exempt from this Act, but is required to comply with Sections 20-5(a), 20-5(b), 20-5(b-5), 20-5(c), 20-5(d), 20-6, 20-8, 20-10, 20-11, 20-12, 20-30, 25-3, and 25-120 and Article 35 of this Act. Cemetery authorities claiming a partial exemption shall apply for the partial exemption as provided in Article 10 of this Act. A cemetery authority that changes to a status that would disqualify it from a partial exemption is required to apply for licensure within one year following the date on which it changes its status. A cemetery authority that maintains a partial exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(c) Nothing in this Act applies to the City of Chicago in its exercise of its powers under the O'Hare Modernization Act or limits the authority of the City of Chicago to acquire property or otherwise exercise its powers under the O'Hare Modernization Act, or requires the City of Chicago, or any person acting on behalf of the City of Chicago, to comply with the licensing, regulation, investigation, or mediation requirements of this Act in exercising its powers under the O'Hare Modernization Act.

Section 5-25. Powers of the Department. Subject to the

provisions of this Act, the Department may exercise the following powers:

(1) Authorize written examinations to ascertain the qualifications and fitness of applicants for licensing as a licensed cemetery manager or as a customer service employee to ascertain whether they possess the requisite level of knowledge for such position.

(2) Examine and audit a licensed cemetery authority's care funds, records from any year, and records of care funds from any year, or any other aspects of cemetery operation as the Department deems appropriate.

(3) Investigate any and all cemetery-related activity.

(4) Conduct hearings on proceedings to refuse to issue or renew licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline a license under this Act or take other non-disciplinary action.

(5) Adopt reasonable rules required for the administration of this Act.

(6) Prescribe forms to be issued for the administration and enforcement of this Act.

(7) Maintain rosters of the names and addresses of all licensees and all persons whose licenses have been suspended, revoked, denied renewal, or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.

Article 10.

Licensing and Registration Provisions

Section 10-5. Restrictions and limitations. No person shall, without a valid license issued by the Department, (i) hold himself or herself out in any manner to the public as a licensed cemetery authority, licensed cemetery manager, or customer service employee; (ii) attach the title "licensed cemetery authority", "licensed cemetery manager", or "licensed customer service employee" to his or her name; (iii) render or offer to render services constituting the practice of cemetery operation; or (iv) accept care funds within the meaning of this Act or otherwise hold funds for care and maintenance unless such person is holding and managing funds on behalf of a cemetery authority and is authorized to conduct a trust business under the Corporate Fiduciary Act or the federal National Bank Act.

Section 10-10. Persons licensed under the Cemetery Care Act or Cemetery Association Act. A person acting as a licensed cemetery authority under the Cemetery Care Act or Cemetery Association Act prior to their repeal on March 1, 2012 must comply with those Acts until the Department takes action on the person's application for a cemetery authority license in accordance with this Act. The application for a cemetery

authority license under this Article must be submitted to the Department within 9 months after the effective date of this Act. If the person fails to submit the application within this period, then the person shall be considered to be engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

Section 10-15. Persons not licensed under the Cemetery Care Act or the Cemetery Association Act. A cemetery manager, a customer service employee, or a person acting as a cemetery authority who was not required to obtain licensure prior to the effective date of this Act need not comply with the licensure requirement in this Article until the Department takes action on the person's application for a license. The application for a cemetery authority license must be submitted to the Department within 6 months after the effective date of this Act. For cemetery managers already working for a cemetery authority at the time of cemetery authority application for licensure, the application for a cemetery manager license must be submitted at the same time as the original application for licensure as a cemetery authority pursuant to this Section or Section 10-10, whichever the case may be. Any applicant for licensure as a cemetery manager of a cemetery authority that is already licensed under this Act or that has a pending application for licensure under this Act must submit his or her application to the Department on or before his or her first day

of work. The application for a customer service employee license must be submitted to the Department within 10 days after the cemetery authority for which he or she works becomes licensed under this Act or on or before his or her first day of work, whichever the case may be. If the person fails to submit the application within the required period, the person shall be considered to be engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

Section 10-20. Application for original license or exemption.

(a) Applications for original licensure as a cemetery authority, cemetery manager, or customer service employee authorized by this Act, or application for exemption from licensure as a cemetery authority, shall be made to the Department on forms prescribed by the Department, which shall include the applicant's Social Security number or FEIN number, or both, and shall be accompanied by the required fee as set by rule. Applications for partial or full exemption from licensure as a cemetery authority shall be submitted to the Department within 12 months after the Department adopts rules under this Act. If the person fails to submit the application for partial or full exemption within this period, the person shall be subject to discipline in accordance with Article 25 of this Act. If a cemetery authority seeks to practice at more than one



location, it shall meet all licensure requirements at each location as required by this Act and by rule, including submission of an application and fee. A person licensed as a cemetery manager or customer service employee need not submit a Worker's Statement in accordance with Section 10-22 of this Act.

(b) If the application for licensure as a cemetery authority does not claim a full exemption or partial exemption, then the cemetery authority license application shall be accompanied by a fidelity bond, proof of self-insurance, or letter of credit in the amount required by rule. Such bond, self-insurance, or letter of credit shall run to the Department for the benefit of the care funds held by such cemetery authority or by the trustee of the care funds of such cemetery authority. If care funds of a cemetery authority are held by any entity authorized to do a trust business under the Corporate Fiduciary Act or held by an investment company, then the Department shall waive the requirement of a bond, self-insurance, or letter of credit as established by rule. If the Department finds at any time that the bond, self-insurance or letter of credit is insecure or exhausted or otherwise doubtful, then an additional bond, form of self-insurance, or letter of credit in like amount to be approved by the Department shall be filed by the cemetery authority applicant or licensee within 30 days after written demand is served upon the applicant or licensee by the Department. In addition, if

the cemetery authority application does not claim a full exemption or partial exemption, then the license application shall be accompanied by proof of liability insurance, proof of self-insurance, or a letter of credit in the amount required by rule. The procedure by which claims on the liability insurance, self-insurance, or letter of credit are made and paid shall be determined by rule. Any bond obtained pursuant to this subsection shall be issued by a bonding company authorized to do business in this State. Any letter of credit obtained pursuant to this subsection shall be issued by a financial institution authorized to do business in this State. Maintaining the bonds, self-insurance, or letters of credit required under this subsection is a continuing obligation for licensure. A bonding company may terminate a bond, a financial institution may terminate a letter of credit, or an insurance company may terminate liability insurance and avoid further liability by filing a 60-day notice of termination with the Department and at the same time sending the same notice to the cemetery authority.

(c) After initial licensure, if any person comes to obtain at least 51% of the ownership over the licensed cemetery authority, then the cemetery authority shall have to apply for a new license and receive licensure in the required time as set by rule. The current license remains in effect until the Department takes action on the application for a new license.

(d) All applications shall contain the information that, in

the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for an exemption from licensure or for a license to practice as a cemetery authority, cemetery manager, or customer service employee as set by rule.

Section 10-21. Qualifications for licensure.

(a) A cemetery authority shall apply for licensure on forms prescribed by the Department and pay the required fee. An applicant is qualified for licensure as a cemetery authority if the applicant meets all of the following qualifications:

(1) The applicant is of good moral character and has not committed any act or offense in any jurisdiction that would constitute the basis for discipline under this Act. In determining good moral character, the Department shall take into consideration the following:

(A) the applicant's record of compliance with the Code of Professional Conduct and Ethics, and whether the applicant has been found to have engaged in any unethical or dishonest practices in the cemetery business;

(B) whether the applicant has been adjudicated, civilly or criminally, to have committed fraud or to have violated any law of any state involving unfair trade or business practices, has been convicted of a misdemeanor of which fraud is an essential element or

which involves any aspect of the cemetery business, or has been convicted of any felony;

(C) whether the applicant has willfully violated any provision of this Act or a predecessor law or any regulations relating thereto;

(D) whether the applicant has been permanently or temporarily suspended, enjoined, or barred by any court of competent jurisdiction in any state from engaging in or continuing any conduct or practice involving any aspect of the cemetery or funeral business; and

(E) whether the applicant has ever had any license to practice any profession or occupation suspended, denied, fined, or otherwise acted against or disciplined by the applicable licensing authority.

If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock is to be of good moral character. Good moral character is a continuing requirement of licensure.

(2) The applicant provides evidence satisfactory to the Department that the applicant has financial resources sufficient to comply with the maintenance and record-keeping provisions in Section 20-5 of this Act. Maintaining sufficient financial resources is a continuing

requirement for licensure.

(3) The applicant has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction. If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction.

(4) The applicant submits his or her fingerprints in accordance with subsection (c) of this Section.

(5) The applicant has complied with all other requirements of this Act and the rules adopted for the implementation of this Act.

(b) The cemetery manager and customer service employees of a licensed cemetery authority shall apply for licensure as a cemetery manager or customer service employee on forms prescribed by the Department and pay the required fee. A person is qualified for licensure as a cemetery manager or customer

service employee if he or she meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Is of good moral character. Good moral character is a continuing requirement of licensure. In determining good moral character, the Department shall take into consideration the factors outlined in item (1) of subsection (a) of this Section.

(3) Submits proof of successful completion of a high school education or its equivalent as established by rule.

(4) Submits his or her fingerprints in accordance with subsection (c) of this Section.

(5) Has not committed a violation of this Act or any rules adopted under this Act that, in the opinion of the Department, renders the applicant unqualified to be a cemetery manager.

(6) Successfully passes the examination authorized by the Department for cemetery manager or customer service employee, whichever is applicable.

(7) Has not, within the preceding 10 years, been convicted of or entered a plea of guilty or nolo contendere to (i) a Class X felony or (ii) a felony, an essential element of which was fraud or dishonesty under the laws of this State, another state, the United States, or a foreign jurisdiction.

(8) Can be reasonably expected to treat consumers

professionally, fairly, and ethically.

(9) Has complied with all other requirements of this Act and the rules adopted for implementation of this Act.

(c) Each applicant for a cemetery authority, cemetery manager, or customer service employee license shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information that is prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or directly to a designated fingerprint vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated fingerprint vendor to provide his or her fingerprints in an alternative manner. The Department, in its discretion, may also use other procedures in performing or obtaining criminal background checks of applicants. Instead of submitting his or her fingerprints, an

individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted. If the applicant for a cemetery authority license is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock shall have his or her fingerprints submitted in accordance with this subsection (c).

Section 10-22. Worker's Statement.

(a) (1) No cemetery worker shall perform work at the cemetery of a licensed cemetery authority without submitting a Worker's Statement on or before the first day the cemetery worker commences work at the cemetery. No licensed cemetery authority shall allow a cemetery worker to perform work at his or her cemetery without submitting a Worker's Statement on or before the first day the cemetery worker commences work at the cemetery. The Worker's Statement shall be on forms prescribed by the Department and shall set forth the following:

(i) The individual's full name, age, and residence address.

(ii) The individual's work history for the 5 years immediately preceding the date of the execution of the statement, the place where the business or occupation was engaged in, and the names of employers, if any.

(iii) That the individual has not had licensure as



a cemetery authority, cemetery manager, or customer service employee denied, revoked, or suspended under this Act within the previous year.

(iv) Any declaration of incompetence by a court of competent jurisdiction that has not been restored.

(2) The cemetery authority shall retain a copy of the Worker's Statement and shall transmit a copy to the Department. A cemetery authority, however, shall not transmit copies of Worker's Statements until the cemetery authority receives a license under this Act. The Department shall issue a cemetery worker card or other record of acknowledgment to an individual who submits a Worker's Statement, but in no event shall the Department impose a fee to comply with the requirements of this Section.

(b) Each cemetery authority shall maintain a record of each cemetery worker that is accessible to the Department. The record shall contain the following information:

(1) A photograph taken within 10 days of the date that the cemetery worker commences work with the cemetery authority. The photograph shall be replaced with a current photograph no later than 4 calendar years after the date on which the cemetery worker commences work and every 4 years thereafter. The photo may consist of the worker's driver's license.

(2) The Worker's Statement specified in subsection (a) of this Section.

(3) All correspondence or documents relating to the character and integrity of the cemetery worker received by the cemetery authority from any former employer, cemetery association, government agency, or law enforcement agency.

(c) A cemetery authority may furnish a worker identification card to each cemetery worker. If the cemetery authority issues worker identification cards, then it shall confiscate the worker identification card of any worker whose employment or contract is terminated.

Section 10-23. Code of Professional Conduct and Ethics. The Department shall adopt a Code of Professional Conduct and Ethics by rule. Cemetery authorities, cemetery managers, and customer service employees shall abide by the Code of Professional Conduct and Ethics.

Section 10-25. Examination; failure or refusal to take the examination.

(a) The Department shall authorize examinations of cemetery manager and customer service employee applicants at such times and places as it may determine. The examinations shall fairly test an applicant's qualifications to practice as cemetery manager or customer service employee, whatever the case may be, and knowledge of the theory and practice of cemetery operation and management or cemetery customer service, whichever is applicable. The examination shall

further test the extent to which the applicant understands and appreciates that the final disposal of a deceased human body should be attended with appropriate observance and understanding, having due regard and respect for the reverent care of the human body and for those bereaved and for the overall spiritual dignity of an individual.

(a-5) The examinations for cemetery manager and customer service employee shall be appropriate for cemetery professionals and shall not cover mortuary science.

(a-10) The examinations for cemetery manager and customer service employee applicants shall be tiered, as determined by rule, to account for the different amount of knowledge needed by such applicants depending on their job duties and the number of interments, inurnments, and entombments per year at the cemetery at which they work.

(b) Applicants for examinations shall pay, either to the Department or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date at the time and place specified after the application for examination has been received and acknowledged by the Department or the designated testing service shall result in forfeiture of the examination fee.

(c) If the applicant neglects, fails, or refuses to take an examination or fails to pass an examination for a license under this Act within one year after filing an application, then the

application shall be denied. However, the applicant may thereafter submit a new application accompanied by the required fee. The applicant shall meet the requirements in force at the time of making the new application.

(d) The Department may employ consultants for the purpose of preparing and conducting examinations.

(e) The Department shall have the authority to adopt or recognize, in part or in whole, examinations prepared, administered, or graded by other organizations in the cemetery industry that are determined appropriate to measure the qualifications of an applicant for licensure.

Section 10-30. Continuing education. The Department shall adopt rules for continuing education of cemetery managers and customer service employees. The continuing education requirements for cemetery managers and customer service employees shall be tiered, as determined by rule, to account for the different amount of knowledge needed by such applicants depending on their job duties and the number of interments, inurnments, and entombments per year at the cemetery at which they work. The Department shall strive to keep the costs of any continuing education program imposed on a cemetery authority minimal. The requirements of this Section apply to any person seeking renewal or restoration under Section 10-40 of this Act.

Section 10-40. Expiration and renewal of license. The

expiration date, renewal period, and other requirements for each license shall be set by rule.

Section 10-45. Transfer or sale, preservation of license, liability for shortage.

(a) In the case of a sale of any cemetery or any part thereof or of any related personal property by a cemetery authority to a purchaser or pursuant to foreclosure proceedings, except the sale of burial rights, services, or merchandise to a person for his or her personal or family burial or interment, the purchaser is liable for any shortages existing before or after the sale in the care funds required to be maintained in a trust pursuant to this Act and shall honor all instruments issued under Article 15 of this Act for that cemetery. Any shortages existing in the care funds constitute a prior lien in favor of the trust for the total value of the shortages and notice of such lien shall be provided in all sales instruments.

(b) In the event of a sale or transfer of all or substantially all of the assets of the cemetery authority, the sale or transfer of the controlling interest of the corporate stock of the cemetery authority, if the cemetery authority is a corporation, or the sale or transfer of the controlling interest of the partnership, if the cemetery authority is a partnership, or the sale or transfer of the controlling membership, if the cemetery authority is a limited liability

company, the cemetery authority shall, at least 30 days prior to the sale or transfer, notify the Department, in writing, of the pending date of sale or transfer so as to permit the Department to audit the books and records of the cemetery authority. The audit must be commenced within 10 business days of the receipt of the notification and completed within the 30-day notification period unless the Department notifies the cemetery authority during that period that there is a basis for determining a deficiency that will require additional time to finalize. The sale or transfer may not be completed by the cemetery authority unless and until:

(1) the Department has completed the audit of the cemetery authority's books and records;

(2) any delinquency existing in the care funds has been paid by the cemetery authority or arrangements satisfactory to the Department have been made by the cemetery authority on the sale or transfer for the payment of any delinquency; and

(3) the Department issues a new cemetery authority license upon application of the newly controlled corporation or partnership, which license must be applied for at least 30 days prior to the anticipated date of the sale or transfer, subject to the payment of any delinquencies, if any, as stated in item (2) of this subsection (b).

(c) In the event of a sale or transfer of any cemetery

land, including any portion of cemetery land in which no human remains have been interred, a licensee shall, at least 45 days prior to the sale or transfer, notify the Department, in writing, of the pending sale or transfer. With the notification, the cemetery authority shall submit information to the Department, which may include a copy of a portion of the cemetery map showing the land to be sold or transferred, to enable the Department to determine whether any human remains are interred, inurned, or entombed within the land to be sold or transferred and whether consumers have rights of interment, inurnment, or entombment within the land to be sold or transferred.

(d) For purposes of this Section, a person who acquires the cemetery through a real estate foreclosure shall be subject to the provisions of this Section pertaining to the purchaser, including licensure.

Section 10-50. Dissolution. Where any licensed cemetery authority or any trustee thereof has accepted care funds within the meaning of this Act, and dissolution is sought by such cemetery authority in any manner, by resolution of such cemetery authority, or the trustees thereof, notice shall be given to the Department of such intention to dissolve and proper disposition shall be made of the care funds so held for the general benefit of such lot owners by or for the benefit of such cemetery authority, as provided by law, or in accordance

with the trust provisions of any gift, grant, contribution, payment, legacy, or pursuant to any contract whereby such funds were created. The Department, represented by the Attorney General, may apply to the circuit court for the appointment of a receiver, trustee, successor in trust, or for directions of such court as to the proper disposition to be made of such care funds, to the end that the uses and purposes for which such trust or care funds were created may be accomplished, and for proper continued operation of the cemetery.

Section 10-55. Fees.

(a) Except as provided in subsection (b) of this Section, the fees for the administration and enforcement of this Act, including, but not limited to, original licensure, renewal, and restoration fees, shall be set by the Department by rule. The fees shall be reasonable and shall not be refundable.

(b) Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination.

(c) All fees and other moneys collected under this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.

Section 10-60. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution



upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a non-renewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing.

If, after termination or denial, the person seeks a license, then he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

Article 15.

Trust Funds

Section 15-5. Gifts and contributions; trust funds.

(a) A licensed cemetery authority is hereby authorized and empowered to accept any gift, grant, contribution, payment, legacy, or pursuant to contract, any sum of money, funds, securities, or property of any kind, or the income or avails thereof, and to establish a trust fund to hold the same in perpetuity for the care of its cemetery, or for the care of any lot, grave, crypt, or niche in its cemetery, or for the special care of any lot, grave, crypt, or niche or of any family mausoleum or memorial, marker, or monument in its cemetery. Not less than the following amounts will be set aside and deposited in trust:

(1) For interment rights, \$1 per square foot of the space sold or 15% of the sales price or imputed value, whichever is the greater, with a minimum of \$25 for each individual interment right.

(2) For entombment rights, not less than 10% of the sales price or imputed value with a minimum of \$25 for each individual entombment right.

(3) For inurnment rights, not less than 10% of the sales price or imputed value with a minimum of \$15 for each individual inurnment right.

(4) For any transfer of interment rights, entombment rights, or inurnment rights recorded in the records of the cemetery authority, a minimum of \$25 for each such right transferred. This does not apply to transfers between a transferor and his or her spouse, parents, grandparents,

children, grandchildren, or siblings.

(5) Upon an interment, entombment, or inurnment in a grave, crypt, or niche in which rights of interment, entombment, or inurnment were originally acquired from a cemetery authority prior to January 1, 1948, a minimum of \$25 for each such right exercised.

(6) For the special care of any lot, grave, crypt, or niche or of a family mausoleum, memorial, marker, or monument, the full amount received.

(b) The cemetery authority shall act as trustee of all amounts received for care until they have been deposited with a corporate fiduciary as defined in Section 1-5.05 of the Corporate Fiduciary Act. All trust deposits shall be made within 30 days after receipt.

(c) No gift, grant, legacy, payment, or other contribution shall be invalid by reason of any indefiniteness or uncertainty as to the beneficiary designated in the instrument creating the gift, grant, legacy, payment, or other contribution. If any gift, grant, legacy, payment, or other contribution consists of non-income producing property, then the cemetery authority accepting it is authorized and empowered to sell such property and to invest the funds obtained in accordance with subsection (d) of this Section.

(d) The care funds authorized by this Section and provided for in this Article shall be held intact and, unless otherwise restricted by the terms of the gift, grant, legacy,

contribution, payment, contract, or other payment, as to investments made after June 11, 1951, the trustee of the care funds of the cemetery authority, in acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for any such trust, shall act in accordance with the duties for trustees set forth in the Illinois Trusts and Trustees Act. Within the limitations of the foregoing standard, the trustee of the care funds of the cemetery authority is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment, including specifically, but without limiting the generality of the foregoing, bonds, debentures and other corporate obligations, preferred or common stocks and real estate mortgages, which persons of prudence, discretion, and intelligence acquire or retain for their own account. Within the limitations of the foregoing standard, the trustee is authorized to retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase. The care funds authorized by this Section may be commingled with other trust funds received by such cemetery authority for the care of its cemetery or for the care or special care of any lot, grave, crypt, niche, private mausoleum, memorial, marker, or monument in its cemetery, whether received by gift, grant, legacy, contribution, payment, contract, or other conveyance made to such cemetery authority. Such care funds may be invested with common trust funds as provided in the Common

Trust Fund Act. The net income only from the investment of such care funds shall be allocated and used for the purposes specified in the transaction by which the principal was established in the proportion that each contribution bears to the entire sum invested.

Section 15-10. Restrictions on loans, gifts, and investments.

(a) No loan; investment; purchase of insurance on the life of any trustee, cemetery owner, cemetery worker, or independent contractor; purchase of any real estate; or any other transaction using care funds by any trustee, licensee, cemetery manager, or any other cemetery worker or independent contractor shall be made to or for the benefit of any person, officer, director, trustee, or party owning or having any interest in any licensee, or to any firm, corporation, trade association or partnership in which any officer, director, trustee, or party has any interest, is a member of, or serves as an officer or director. A violation of this Section shall constitute the intentional and improper withdrawal of trust funds under Section 25-105 of this Act.

(b) No loan or investment in any unproductive real estate or real estate outside of this State or in permanent improvements of the cemetery or any of its facilities shall be made, unless specifically authorized by the instrument whereby the principal fund was created. No commission or brokerage fee

for the purchase or sale of any property shall be paid in excess of that usual and customary at the time and in the locality where such purchase or sale is made, and all such commissions and brokerage fees shall be fully reported in the next annual statement of such cemetery authority or trustee.

(c) The prohibitions provided for in this Section apply to and include the spouse of and immediate family living with the officer, member, director, trustee, party owning any portion of such cemetery authority, or licensee under this Act.

Section 15-15. Care funds; deposits; investments.

(a) Whenever a cemetery authority accepts care funds, either in connection with the sale or giving away at an imputed value of an interment right, entombment right, or inurnment right, or in pursuance of a contract, or whenever, as a condition precedent to the purchase or acceptance of an interment right, entombment right, or inurnment right, such cemetery authority shall establish a care fund or deposit the funds in an already existing care fund.

(b) The cemetery authority shall execute and deliver to the person from whom it received the care funds an instrument in writing that shall specifically state: (i) the nature and extent of the care to be furnished and (ii) that such care shall be furnished only in so far as net income derived from the amount deposited in trust will permit (the income from the amount so deposited, less necessary expenditures of

administering the trust, shall be deemed the net income).

(c) The setting-aside and deposit of care funds shall be made by such cemetery authority no later than 30 days after the close of the month in which the cemetery authority gave away for an imputed value or received the final payment on the purchase price of interment rights, entombment rights, or inurnment rights, or received the final payment for the general or special care of a lot, grave, crypt, or niche or of a family mausoleum, memorial, marker, or monument, and such amounts shall be held by the trustee of the care funds of such cemetery authority in trust and in perpetuity for the specific purposes stated in the written instrument described in subsection (b). For all care funds received by a cemetery authority, except for care funds received by a cemetery authority pursuant to a specific gift, grant, contribution, payment, legacy, or contract that are subject to investment restrictions more restrictive than the investment provisions set forth in this Act, and except for care funds otherwise subject to a trust agreement executed by a person or persons responsible for transferring the specific gift, grant, contribution, payment, or legacy to the cemetery authority that contains investment restrictions more restrictive than the investment provisions set forth in this Act, the cemetery authority may, without the necessity of having to obtain prior approval from any court in this State, designate a new trustee in accordance with this Act and invest the care funds in accordance with this Section,

notwithstanding any contrary limitation contained in the trust agreement.

(d) Any cemetery authority engaged in selling or giving away at an imputed value interment rights, entombment rights, or inurnment rights, in conjunction with the selling or giving away at an imputed value any other merchandise or services not covered by this Act, shall be prohibited from increasing the sales price or imputed value of those items not requiring a care fund deposit under this Act with the purpose of allocating a lesser sales price or imputed value to items that require a care fund deposit.

(e) If any sale that requires a deposit to a cemetery authority's care fund is made by a cemetery authority on an installment basis, and the installment contract is factored, discounted, or sold to a third party, then the cemetery authority shall deposit the amount due to the care fund within 30 days after the close of the month in which the installment contract was factored, discounted, or sold. If, subsequent to such deposit, the purchaser defaults on the contract such that no care fund deposit on that contract would have been required, then the cemetery authority may apply the amount deposited as a credit against future required deposits.

(f) The trust authorized by this Section shall be a single purpose trust fund. In the event of the cemetery authority's bankruptcy, insolvency, or assignment for the benefit of creditors, or an adverse judgment, the trust funds shall not be



available to any creditor as assets of the cemetery authority or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery. Except in an action by the Department to revoke a license issued pursuant to this Act and for creation of a receivership as provided in this Act, the trust shall not be subject to judgment, execution, garnishment, attachment, or other seizure by process in bankruptcy or otherwise, nor to sale, pledge, mortgage, or other alienation, and shall not be assignable except as approved by the Department.

Section 15-25. Funds purpose and exemptions. The trust funds authorized by this Article, and the income therefrom, and any funds received under a contract to furnish care of a burial space for a definite number of years, shall be held for the general benefit of the lot owners and are exempt from taxation. The trust funds authorized by the provisions of this Article, and the income therefrom, are exempt from the operation of all laws of mortmain and the laws against perpetuities and accumulations.

Section 15-40. Trust examinations and audits.

(a) The Department shall examine at least annually every licensee who holds \$250,000 or more in its care funds. For that purpose, the Department shall have free access to the office

and places of business and to such records of all licensees and of all trustees of the care funds of all licensees as shall relate to the acceptance, use, and investment of care funds. The Department may require the attendance of and examine under oath all persons whose testimony may be required relative to such business. In such cases the Department, or any qualified representative of the Department whom the Department may designate, may administer oaths to all such persons called as witnesses, and the Department, or any such qualified representative of the Department, may conduct such examinations. The cost of an initial examination shall be determined by rule.

(b) The Department may order additional audits or examinations as it may deem necessary or advisable to ensure the safety and stability of the trust funds and to ensure compliance with this Act. These additional audits or examinations shall only be made after good cause is established by the Department in the written order. The grounds for ordering these additional audits or examinations may include, but shall not be limited to:

(1) material and unverified changes or fluctuations in trust balances;

(2) the licensee changing trustees more than twice in any 12-month period;

(3) any withdrawals or attempted withdrawals from the trusts in violation of this Act; or

(4) failure to maintain or produce documentation required by this Act.

Article 20.

Business Practice Provisions

Section 20-5. Maintenance and records.

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

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

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

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

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

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

(6) keeping the cemetery premises free of trash and

debris.

Reasonable maintenance by the cemetery authority shall not preclude the exercise of lawful rights by the owner of an interment, inurnment, or entombment right, or by the decedent's immediate family or other heirs, in accordance with reasonable rules and regulations of the cemetery or other agreement of the cemetery authority.

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

The Department shall adopt rules to provide greater detail as to what constitutes the reasonable maintenance required under this Section. The rules shall differentiate between cemeteries based on, among other things, the size and financial strength of the cemeteries. The rules shall also provide a reasonable opportunity for a cemetery authority accused of violating the provisions of this Section to cure any such violation in a timely manner given the weather conditions, climate, and season before the Department initiates formal proceedings.

(b) A cemetery authority, before commencing cemetery operations or within 6 months after the effective date of this Act, shall cause an overall map of its cemetery property, delineating all lots or plots, blocks, sections, avenues,

walks, alleys, and paths and their respective designations, to be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business. A cemetery manager's certificate acknowledging, accepting, and adopting the map shall also be included with the map. The Department may order that the cemetery authority obtain a cemetery plat and that it be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business only in the following circumstances:

(1) the cemetery authority is expanding or altering the cemetery grounds; or

(2) a human body that should have been interred, entombed, or inurned at the cemetery is missing, displaced, or dismembered and the cemetery map contains serious discrepancies.

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

(b-5) A cemetery authority shall maintain an index that

associates the identity of deceased persons interred, entombed, or inurned after the effective date of this Act with their respective place of interment, entombment, or inurnment.

(c) The cemetery authority shall open the cemetery map or plat to public inspection. The cemetery authority shall make available a copy of the overall cemetery map or plat upon written request and shall, if practical, provide a copy of a segment of the cemetery plat where interment rights are located upon the payment of reasonable photocopy fees. Any unsold lots, plots, or parts thereof, in which there are not human remains, may be resurveyed and altered in shape or size and properly designated on the cemetery map or plat. However, sold lots, plots, or parts thereof in which there are human remains may not be renumbered or renamed. Nothing contained in this subsection, however, shall prevent the cemetery authority from enlarging an interment right by selling to its owner the excess space next to the interment right and permitting interments therein, provided reasonable access to the interment right and to adjoining interment rights is not thereby eliminated.

(d) A cemetery authority shall keep a record of every interment, entombment, and inurnment completed after the effective date of this Act. The record shall include the deceased's name, age, date of burial, and parcel identification number identifying where the human remains are interred, entombed, or inurned. The record shall also include the unique personal identifier as may be further defined by rule, which is

the parcel identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death.

(e) (Blank).

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

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

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

(i) Any corporate or other business organization trustee of the care funds of every licensed cemetery authority shall be located in or a resident of this State. The licensed cemetery authority and the trustee of care funds shall keep in this State and use in its business such books, accounts, and records as will enable the Department to determine whether such licensee or trustee is complying with the provisions of this Act and with the rules, regulations, and directions made by the Department under this Act. The licensed cemetery authority shall keep the books, accounts, and records in electronic or

written format at the location identified in the license issued by the Department or as otherwise agreed by the Department in writing. The books, accounts, and records shall be accessible for review upon demand of the Department.

Section 20-6. Cemetery Oversight Database.

(a) Within 10 business days after an interment, entombment, or inurnment of human remains, the cemetery manager shall cause a record of the interment, entombment, or inurnment to be entered into the Cemetery Oversight Database. The requirement of this subsection (a) also applies in any instance in which human remains are relocated.

(b) Within 9 months after the effective date of this Act, the Department shall certify a database as the Cemetery Oversight Database. Upon certifying the database, the Department shall:

(1) provide reasonable notice to cemetery authorities identifying the database; and

(2) immediately upon certification, require each cemetery authority to use the Cemetery Oversight Database as a means of complying with subsection (a).

(c) In certifying the Cemetery Oversight Database, the Department shall ensure that the database:

(1) provides real-time access through an Internet connection or, if real-time access through an Internet connection becomes unavailable due to technical problems



with the Cemetery Oversight Database incurred by the database provider or if obtaining use of an Internet connection would be an undue hardship on the cemetery authority, through alternative mechanisms, including, but not limited to, telephone;

(2) is accessible to the Department and to cemetery managers in order to ensure compliance with this Act and in order to provide any other information that the Department deems necessary;

(3) requires cemetery authorities to input whatever information required by the Department;

(4) maintains a real-time copy of the required reporting information that is available to the Department at all times and is the property of the Department; and

(5) contains safeguards to ensure that all information contained in the Cemetery Oversight Database is secure.

(d) A cemetery authority may rely on the information contained in the Cemetery Oversight Database as accurate and is not subject to any administrative penalty or liability as a result of relying on inaccurate information contained in the database.

(e) The Cemetery Oversight Database provider shall indemnify cemetery authorities against all claims and actions arising from illegal, willful, or wanton acts on the part of the Database provider. The Cemetery Oversight Database provider shall at all times maintain an electronic backup copy

of the information it receives pursuant to subsection (a).

Section 20-8. Vehicle traffic control. A cemetery authority shall use its reasonable best efforts to ensure that funeral processions entering and exiting the cemetery grounds do not obstruct traffic on any street for a period in excess of 10 minutes, except where such funeral procession is continuously moving or cannot be moved by reason of circumstances over which the cemetery authority has no reasonable control. The cemetery authority shall use its reasonable best efforts to help prevent multiple funeral processions from arriving at the cemetery simultaneously. Notwithstanding any provision of this Act to the contrary, a cemetery authority that violates the provisions of this Section shall be guilty of a business offense and punishable by a fine of not more than \$500 for each offense.

Section 20-10. Contract. At the time cemetery arrangements are made and prior to rendering the cemetery services, a cemetery authority shall create a written contract to be provided to the consumer, signed by both parties, that shall contain: (i) contact information, as set out in Section 20-11, and the date on which the arrangements were made; (ii) the price of the service selected and the services and merchandise included for that price; (iii) the supplemental items of service and merchandise requested and the price of each item;

(iv) the terms or method of payment agreed upon; and (v) a statement as to any monetary advances made on behalf of the family. The cemetery authority shall maintain a copy of such written contract in its permanent records.

Section 20-11. Contact information in a contract. All cemetery authorities shall include in the contract described in Section 20-10 the name, address, and telephone number of the cemetery authority, except for a cemetery authority that is operating as a religious cemetery or public cemetery, which shall include in the contract described in Section 20-10 the name, address, and telephone number of the cemetery manager. Upon written request to a cemetery authority by a consumer, the cemetery authority shall provide: (1) the cemetery authority's registered agent, if any; (2) the cemetery authority's proprietor, if the cemetery authority is an individual; (3) every partner, if the cemetery authority is a partnership; (4) the president, secretary, executive and senior vice presidents, directors, and individuals owning 25% or more of the corporate stock, if the cemetery authority is a corporation; and (5) the manager, if the cemetery authority is a limited liability company.

Section 20-12. Method of payment; receipt. No cemetery authority shall require payment for any goods, services, or easement by cash only. Each cemetery authority subject to this

Section shall permit payment by at least one other option, including, but not limited to, personal check, cashier's check, money order, or credit or debit card. In addition to the contract for the sale of cemetery goods, services, or easements, the cemetery authority shall provide a receipt to the consumer upon payment in part or full, whatever the case may be.

Section 20-15. Interment or inurnment in cemetery. No cemetery authority shall interfere with a licensed funeral director or his or her designated agent observing the final burial or disposition of a body for which the funeral director has a contract for services related to that deceased individual. No funeral director or his or her designated agent shall interfere with a licensed cemetery authority or its designated agent's rendering of burial or other disposition services for a body for which the cemetery authority has a contract for goods, services, or property related to that deceased individual.

Section 20-20. Display of license. Every cemetery authority, cemetery manager, and customer service employee license issued by the Department shall state the number of the license and the address at which the business is to be conducted. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be

transferable or assignable. Nothing in this Act shall prevent an individual from acting as a licensed cemetery manager or customer service employee for more than one cemetery. A cemetery manager or customer service employee who works at more than one cemetery shall display an original version of his or her license at each location for which the individual serves as a cemetery manager or customer service employee.

Section 20-25. Annual report. Each licensed cemetery authority shall annually, on or before April 15, file a report with the Department giving such information as the Department may reasonably require concerning the business and operations during the preceding calendar year as provided for by rule. The report must be received by the Department on or before April 15, unless such date is extended for reasonable cause up to 90 days by the Department. The report shall be made under oath and in a form prescribed by the Department. The Department may fine each licensee an amount as determine by rule for each day beyond April 15 the report is filed.

Section 20-30. Signage. The Department shall create, and each cemetery authority shall conspicuously post signs in English and Spanish in each cemetery office that contain the Department's consumer hotline number, information on how to file a complaint, and whatever other information that the Department deems appropriate.

Article 22.

Cemetery Associations

Section 22-1. Cemetery association requirements. The requirements of this Article apply to those entities formed as and acting as cemetery associations that act as a cemetery and are otherwise exempt from this Act pursuant to Section 5-20 of this Act. A cemetery association offering or providing services as a cemetery that is exempt pursuant to Section 5-20 of this Act shall remain subject to the provisions of this Article and its requirements, mandates, and discipline in accordance with the provisions of this Act. Any cemetery association not exempt in accordance with Section 5-20 of this Act shall obtain a license from the Department in accordance with the provisions of this Act and shall remain subject to all provisions of this Act.

Section 22-2. Cemetery association formation.

(a) Any 6 or more persons may organize a cemetery association, to be owned, managed, and controlled in the manner provided in this Article.

(b) Whenever 6 or more persons shall present to the Secretary of State a petition setting forth that they desire to organize a cemetery association under this Act, which shall specify the county in which the cemetery association will be

located and the name and style of the cemetery association, the Secretary of State shall issue to such persons and their successors in trust, a certificate of organization, which shall be in perpetuity and in trust for the use and benefit of all persons who may acquire burial lots in the cemetery.

Section 22-3. Certificate of organization. Any person who has received a certificate of organization from the Secretary of State must record the certificate of organization with the recorder's office of the county in which the cemetery is situated, and when so recorded, the association shall be deemed fully organized as a body corporate under the name adopted and in its corporate name may sue and be sued. Whenever two-thirds of the trustees of the cemetery association approve a resolution to change the name of the cemetery association, a copy of such resolution and approval thereof duly certified by the President and Secretary of the association shall be filed with the Department and upon approval thereof shall be filed in the Office of the Secretary of State. Whenever two-thirds of the trustees of a cemetery association approve a resolution to dissolve the association, a copy of such resolution and approval of the trustees of the cemetery association duly certified by the President and Secretary shall be submitted to the Department, and if approved by the Department, a copy of such resolution and approval of the Department shall be duly filed by the Department in the Office of the Secretary of

State. If the association has care funds as defined in this Act, the Department shall not approve the dissolution of any cemetery association unless proper disposition has been made of such care funds, as provided by law, and in accordance with this Act. Upon the filing of the resolution of either change of name or dissolution of such cemetery association in the Office of the Secretary of State, such change of name or dissolution of such cemetery association shall be complete. The Department shall so notify the trustees of such cemetery association. Thereupon the trustees shall cause a copy of such resolution of either change of name or dissolution to be recorded in the recorder's office of the county where the cemetery is situated.

Section 22-4. Cemetery association composition; board of trustees. A cemetery association meeting the requirements set forth in Section 22-3 of this Act shall proceed to elect from their own number a board of trustees for the association. The board shall consist of not less than 6 and not more than 10 members. The trustees, once elected, shall immediately organize by electing from their own membership a president, vice president, and treasurer, and shall also elect a secretary, who may or may not be a member of the board of trustees. The officers shall hold their respective offices for and during the period of one year, and until their successors are duly elected and qualified. Trustees, once elected, shall divide themselves by lot into 2 classes, the first of which



shall hold their offices for a period of 3 years, and the second of which shall hold their offices for a period of 6 years. Thereafter the term of office of the trustees shall be 6 years. Upon the expiration of the term of office of any of the trustees, or the resignation or death or removal from the State of Illinois of any trustees, or their removal from office as provided in this Act, the remaining trustees shall fill the vacancy by electing a person residing in the county where the cemetery is located for a new 6-year term or, if no one can be nominated, the President of the cemetery association shall notify the Department of such vacancy or vacancies in writing. Thereafter the Department shall fill the vacancy or vacancies by appointing a suitable person or persons as trustees. In making such appointments, the Department shall exercise its power such that at least two-thirds of the trustees shall be selected from suitable persons residing within 15 miles of the cemetery, or some part thereof, and the other appointees may be suitable persons interested in said cemetery association through family interments or otherwise who are citizens of the State of Illinois.

Section 22-5. Right to acquire land. Any cemetery association shall have the right to acquire the necessary amount of land for the use of the cemetery association. Land may be acquired by purchase or by gift, and the association is authorized to receive by gift or legacy any property, either

real, personal, or mixed, which may be donated to the association to hold and keep inviolate any such property for the uses of the cemetery association. A cemetery association may receive and administer endowments for the care and oversight of such cemetery or any part thereof. All cemetery associations shall be subject to and shall comply with the provisions of the other Articles of this Act unless otherwise exempted by the provisions of this Act.

Section 22-6. Plat; plots; recordation. All cemetery associations may divide and lay out into lots any real estate that it may acquire. When such division takes place, the lots shall be of suitable size for burial lots. A plat of any land that is laid out into lots as provided in this Section shall comply with the Illinois Professional Land Surveyor Act of 1989 and be filed by the cemetery association at its on-site office, or if it does not maintain an on-site office, at its principal place of business. The cemetery association shall have the right to sell to any person or persons a lot or lots in the cemetery for burial purposes only, and to convey to such person or persons a lot by a proper certificate of conveyance. A person or persons purchasing a lot or lots shall have the right to use the same for burial purposes as limited by the reasonable rules of the cemetery association; but no cemetery association shall make or enforce any rule prohibiting the erection of any memorial on any lot or lots as may be

prescribed or provided by the United States or the State of Illinois for a soldier, sailor, or marine having served and been honorably discharged from the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, Reserve Units, or Merchant Marines of the United States or the State of Illinois that meets the established and written rules and regulations of the cemetery.

Section 22-7. Funds; loans. The treasurer of a cemetery association may from time to time loan money that the association may have that is not needed for the immediate use of the association by taking proper security for the loan, and the loan and the security for the loan shall, before the loan becomes effective, be approved by the board of trustees of the cemetery association.

Section 22-8. Officer trustee compensation; salary. No officer or trustee of a cemetery association shall receive any compensation of any kind for any services rendered by him or her on behalf of the association, except that officers and trustees may be reimbursed for reasonable expenses, and the secretary and treasurer of the association may receive such salary as may be fixed by the board of trustees.

Section 22-9. Payment of earnings or dividends. No earnings or dividends shall be declared or paid to any officer or other

person from the funds of a cemetery association. Such earnings and dividends shall be kept inviolate and be used only for purposes of the association and the care, preservation, and ornamentation of the cemetery.

Section 22-10. Annual reports. The board of trustees for any cemetery association that is exempt in accordance with the provisions of this Act and subject to the provisions of this Article shall annually prepare and file with the Department the report required to be filed by a licensee under Section 20-25. The Department shall examine such report to determine whether the association has fully complied with the requirements of this Act. If a cemetery association fails to submit an annual report to the Department within the time specified in Section 20-25, the Department shall impose upon the cemetery association a fine as provided for by rule for each and every day the cemetery licensee remains delinquent in submitting the report. Any fine established pursuant to this Section shall be paid within 60 days after the effective date of the order imposing the fine unless such time is extended, the fine is reduced, or the fine is otherwise waived. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

Section 22-11. Fees; fines. Except as otherwise provided in

this Act, the fees for the administration and enforcement of this Article shall be set by rule of the Department. The fees shall be nonrefundable.

Section 22-12. Deposit of fees and fines. All of the fees, fines, or other moneys collected by the Department from cemetery associations under this Article shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund.

Section 22-13. Injunctive relief.

(a) If any cemetery association otherwise exempted under the provisions of this Act violates any of the provisions of this Article, the Department, any interested party, any person injured thereby, the Attorney General of the State of Illinois, or the State's Attorney in the county in which the offense occurs may petition to the circuit court of the county in which the violation or some part thereof occurred or of the county where the association has its principal place of business for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of,

all other remedies and penalties provided by this Article.

(b) For misconduct in office any trustee of a cemetery association may be removed from office by a court of competent jurisdiction. Any trustee of an association who converts any funds of an association to his or her own use or to a use other than that intended shall be guilty of embezzlement as provided by State law.

(c) All cemetery associations shall remain subject to the duties, obligations, and requirements of this Act unless otherwise exempted by this Act. Those cemetery associations exempted under this Act shall comply with the provisions of this Article.

Section 22-14. Rules; bond requirement.

(a) The board of trustees of the cemetery association may make any and all rules and regulations for the management of the association not inconsistent with this Article or this Act.

(b) All members of the board of trustees of a cemetery association that fail to maintain the bond or letter of credit as required under this Act shall remain jointly and severally liable for damages and each shall be guilty of a Class A misdemeanor for the first offense and a Class 4 felony for second and subsequent offenses.

Section 22-15. Conveyance of property. Any cemetery association organized under this Act may convey any property

that it may hold within a city, village, incorporated town, county not under township organization, or town, to the city, village, incorporated town, county, or town within which this property is located and may convey any property that it may hold within one mile of any city, village, or incorporated town to such city, village, or incorporated town. If the city, village, incorporated town, county, or town accepts the conveyance, then such property shall thereafter be under the control, management, maintenance, and ownership of the city, village, incorporated town, county, or town.

Section 22-16. Grants. Any cemetery association organized under this Article shall be authorized to obtain a grant or grants of federal funds from the United States Government, or from any proper agency thereof, for the construction of a memorial gateway and entrance on property of a cemetery association that is maintained as a national cemetery. Any cemetery association organized under this Act shall be authorized to convey in fee simple to the United States Government, or to any proper agency thereof, such portion of property of such cemetery as is now or may hereafter be maintained as a national cemetery.

Section 22-17. Taxable property. The property, both real and personal, of any cemetery association organized under this Act shall be forever exempt from taxation for any and all

purposes.

Section 22-18. Additional property. A cemetery association organized under this Act that has acquired or may hereafter acquire land by purchase, deed, will, or otherwise, and has platted, mapped, and used the land for cemetery purposes, may, when necessary, acquire additional land adjoining or abutting the cemetery.

Section 22-21. Administrative rules. The Department shall have authority to adopt and implement administrative rules relating to all Sections under this Article. The rules may include, but shall not be limited to, rules in those areas relating to forms, fees, requirements, notices, discipline, and any other rule necessary to properly implement the intent of this Article.

## Article 25.

### Administration and Enforcement

Section 25-1. Denial of license or exemption from licensure. If the Department determines that an application for licensure or exemption from licensure should be denied pursuant to Section 25-10, then the applicant shall be sent a notice of intent to deny license or exemption from licensure and the applicant shall be given the opportunity to request, within 20



days of the notice, a hearing on the denial. If the applicant requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing, unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer. The hearing officer shall have full authority to conduct the hearing. The hearing shall be held at the time and place designated by the Secretary. The Secretary shall have the authority to prescribe rules for the administration of this Section.

Section 25-3. Exemption, investigation, mediation. All cemetery authorities maintaining a partial exemption must submit to the following investigation and mediation procedure by the Department in the event of a consumer complaint:

(a) Complaints to cemetery:

(1) the cemetery authority shall make every effort to first resolve a consumer complaint; and

(2) if the complaint is not resolved, then the cemetery authority shall advise the consumer of his or her right to seek investigation and mediation by the Department.

(b) Complaints to the Department:

(1) if the Department receives a complaint, the Department shall make an initial determination as to whether the complaint has a reasonable basis and pertains

to this Act;

(2) if the Department determines that the complaint has a reasonable basis and pertains to this Act, it shall inform the cemetery authority of the complaint and give it 30 days to tender a response;

(3) upon receiving the cemetery authority's response, or after the 30 days provided in subsection (2) of this subsection, whichever comes first, the Department shall attempt to resolve the complaint telephonically with the parties involved;

(4) if the complaint still is not resolved, then the Department shall conduct an investigation and mediate the complaint as provided for by rule;

(5) if the Department conducts an on-site investigation and face-to-face mediation with the parties, then it may charge the cemetery authority a single investigation and mediation fee, which fee shall be set by rule and shall be calculated on an hourly basis; and

(6) if all attempts to resolve the consumer complaint as provided for in paragraphs (1) through (5) fail, then the cemetery authority may be subject to proceedings for penalties and discipline under this Article when it is determined by the Department that the cemetery authority may have engaged in any of the following: (i) gross malpractice; (ii) dishonorable, unethical, or unprofessional conduct of a character likely to deceive,

defraud, or harm the public; (iii) gross, willful, or continued overcharging for services; (iv) incompetence; (v) unjustified failure to honor its contracts; or (vi) failure to adequately maintain its premises. The Department may issue a citation or institute disciplinary action and cause the matter to be prosecuted and may thereafter issue and enforce its final order as provided in this Act.

Section 25-5. Citations.

(a) The Department may adopt rules to permit the issuance of citations for non-frivolous complaints. The citation shall be issued to the licensee and shall contain the licensee's name and address, the licensee's license number, a brief factual statement, the Sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to request a hearing. If the licensee does not dispute the matter in the citation with the Department within 30 days after the citation is served, then the citation shall become a final order and shall constitute discipline. The penalty shall be a fine or other conditions as established by rule.

(b) The Department shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety,

and welfare. Citations shall not be utilized if there was any significant consumer harm resulting from the violation.

(c) A citation must be issued within 6 months after the reporting of a violation that is the basis for the citation.

(d) Service of a citation may be made by personal service or certified mail to the licensee at the licensee's address of record.

Section 25-10. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any license under this Act, for any one or combination of the following:

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

(2) Violations of this Act, except for Section 20-8, or of the rules adopted under this Act.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime within the last 10 years that is a Class X felony or is a felony involving fraud and dishonesty under the laws of the United States or any state or territory thereof.

(4) Making any misrepresentation for the purpose of obtaining licensure or violating any provision of this Act

or the rules adopted under this Act.

(5) Professional incompetence.

(6) Gross malpractice.

(7) Aiding or assisting another person in violating any provision of this Act or rules adopted under this Act.

(8) Failing, within 10 business days, to provide information in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(10) Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use of alcohol, narcotics, stimulants, or any other chemical agent or drug.

(11) Discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

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

(13) A finding by the Department that the licensee, after having his or her license placed on probationary

status, has violated the terms of probation.

(14) Willfully making or filing false records or reports in his or her practice, including, but not limited to, false records filed with any governmental agency or department.

(15) Inability to practice the profession with reasonable judgment, skill, or safety.

(16) Failure to file an annual report or to maintain in effect the required bond or to comply with an order, decision, or finding of the Department made pursuant to this Act.

(17) Directly or indirectly receiving compensation for any professional services not actually performed.

(18) Practicing under a false or, except as provided by law, an assumed name.

(19) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(20) Cheating on or attempting to subvert the licensing examination administered under this Act.

(21) Unjustified failure to honor its contracts.

(22) Negligent supervision of a cemetery manager, customer service employee, cemetery worker, or independent contractor.

(23) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under

this Act.

(24) Allowing an individual who is not, but is required to be, licensed under this Act to perform work for the cemetery authority.

(25) Allowing an individual who has not, but is required to, submit a Worker's Statement in accordance with Section 10-22 of this Act to perform work at the cemetery.

(b) No action may be taken under this Act against a person licensed under this Act unless the action is commenced within 5 years after the occurrence of the alleged violations. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the alleged violation.

Section 25-13. Independent contractors.

(a) Notwithstanding any provision of this Act to the contrary, a cemetery authority may, in exigent circumstances only, allow an unlicensed independent contractor who otherwise would be required to become licensed, or an independent contractor that has not submitted a Worker's Statement who otherwise would be required to submit a Worker's Statement, to perform work of an emergency nature on a temporary basis to prevent an immediate threat to public safety that could not have been foreseen. The cemetery authority may only permit such independent contractor to perform such work for so long as is reasonably necessary to address the emergency, but in no case

longer than 10 days unless the Secretary approves a longer period of time upon the cemetery authority's showing of good cause. The cemetery authority shall report the use of such independent contractor to the Department on forms provided by the Department and according to rules adopted by the Department.

(b) Notwithstanding any provision of this Act to the contrary, a cemetery authority may allow an unlicensed independent contractor who otherwise would be required to become licensed, or an independent contractor that has not submitted a Worker's Statement who otherwise would be required to submit a Worker's Statement, to perform work on a special project basis, and only to perform work other than the following services: openings and closings of vaults and graves, stone settings, inurnments, interments, entombments, administrative work, handling of any official burial records, and all other work that is customarily performed by one or more cemetery workers before the effective date of the Act, including, but not limited to, the preparation of foundations for memorials and routine cemetery maintenance. For purposes of this subsection, "routine cemetery maintenance" includes those activities described in items (1), (2), (3), and (6) of Section 20-5(a) of this Act.

Section 25-14. Mandatory reports.

(a) If a cemetery authority receives a consumer complaint



that is not resolved to the satisfaction of the consumer within 60 days of the complaint, the cemetery authority shall advise the consumer of the right to seek investigation by the Department and shall report the consumer complaint to the Department within the next 30 days. Cemetery authorities shall report to the Department within 30 days after the settlement of any liability insurance claim or cause of action, or final judgment in any cause of action, that alleges negligence, fraud, theft, misrepresentation, misappropriation, or breach of contract.

(b) The State's Attorney of each county shall report to the Department all instances in which an individual licensed as a cemetery manager or customer service employee, or any individual listed on a licensed cemetery authority's application under this Act, is convicted or otherwise found guilty of the commission of any felony. The report shall be submitted to the Department within 60 days after conviction or finding of guilty.

Section 25-15. Cease and desist.

(a) The Secretary may issue an order to cease and desist to any licensee or other person doing business without the required license when, in the opinion of the Secretary, the licensee or other person is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department.

(b) The Secretary may issue an order to cease and desist prior to a hearing and such order shall be in full force and effect until a final administrative order is entered.

(c) The Secretary shall serve notice of his or her action, designated as an order to cease and desist made pursuant to this Section, including a statement of the reasons for the action, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail and sent to the address of record or, in the case of unlicensed activity, the address known to the Department.

(d) Within 15 days after service of the order to cease and desist, the licensee or other person may request, in writing, a hearing.

(e) The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(f) The Secretary shall have the authority to prescribe rules for the administration of this Section.

(g) If, after hearing, it is determined that the Secretary has the authority to issue the order to cease and desist, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy such conduct.

(h) The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law and nothing in this Section shall be

construed as requiring that the Secretary shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

Section 25-25. Investigations, notice, hearings.

(a) The Department may at any time investigate the actions of any applicant or of any person or persons rendering or offering to render services as a cemetery authority, cemetery manager, or customer service employee of or any person holding or claiming to hold a license as a licensed cemetery authority, cemetery manager, or customer service employee. If it appears to the Department that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this Act, then the Department may: (1) require that person to file on such terms as the Department prescribes a statement or report in writing, under oath or otherwise, containing all information the Department may consider necessary to ascertain whether a licensee is in compliance with this Act, or whether an unlicensed person is engaging in activities for which a license is required; (2) examine under oath any individual in connection with the books and records pertaining to or having an impact upon the operation of a cemetery or trust funds required to be maintained pursuant to this Act; (3) examine any books and records of the licensee, trustee, or investment advisor that the Department may consider necessary to ascertain

compliance with this Act; and (4) require the production of a copy of any record, book, document, account, or paper that is produced in accordance with this Act and retain it in his or her possession until the completion of all proceedings in connection with which it is produced.

(b) The Secretary may, after 10 days notice by certified mail with return receipt requested to the licensee at the address of record or to the last known address of any other person stating the contemplated action and in general the grounds therefor, fine such licensee an amount not exceeding \$10,000 per violation or revoke, suspend, refuse to renew, place on probation, or reprimand any license issued under this Act if he or she finds that:

(1) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act; or

(2) any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the Secretary in refusing to issue the license.

(c) The Secretary may fine, revoke, suspend, refuse to renew, place on probation, reprimand, or take any other disciplinary action as to the particular license with respect to which grounds for the fine, revocation, suspension, refuse to renew, probation, or reprimand, or other disciplinary action

occur or exist, but if the Secretary finds that grounds for revocation are of general application to all offices or to more than one office of the licensee, the Secretary shall fine, revoke, suspend, refuse to renew, place on probation, reprimand, or otherwise discipline every license to which such grounds apply.

(d) In every case in which a license is revoked, suspended, placed on probation, reprimanded, or otherwise disciplined, the Secretary shall serve the licensee with notice of his or her action, including a statement of the reasons for his or her actions, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail and sent to the address of record.

(e) An order assessing a fine, an order revoking, suspending, placing on probation, or reprimanding a license or, an order denying renewal of a license shall take effect upon service of the order unless the licensee requests, in writing, within 20 days after the date of service, a hearing. In the event a hearing is requested, an order issued under this Section shall be stayed until a final administrative order is entered.

(f) If the licensee requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly

licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing.

(g) The hearing shall be held at the time and place designated by the Secretary.

(h) The Secretary shall have the authority to prescribe rules for the administration of this Section.

(i) Fines imposed and any costs assessed shall be paid within 60 days.

Section 25-30. Consent order. At any point in any investigation or disciplinary proceeding provided for in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

Section 25-35. Record of proceedings; transcript. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. Any notice, all documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, and orders of the Department shall be in the record of the proceeding.

Section 25-40. Subpoenas; depositions; oaths.

(a) The Department has the power to subpoena documents, books, records, or other materials and to bring before it any

individual and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

(b) The Secretary and the designated hearing officer have the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct and any other oaths authorized in any Act administered by the Department.

(c) Every individual having taken an oath or affirmation in any proceeding or matter wherein an oath is required by this Act, who shall swear willfully, corruptly, and falsely in a matter material to the issue or point in question, or shall suborn any other individual to swear as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be and shall be punished as provided by State law relative to perjury and subornation of perjury.

Section 25-45. Compelling testimony. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

Section 25-50. Findings and recommendations.

(a) At the conclusion of the hearing, the hearing officer shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether the accused person violated this Act or its rules or failed to comply with the conditions required in this Act or its rules. The hearing officer shall specify the nature of any violations or failure to comply and shall make his or her recommendations to the Secretary. In making recommendations for any disciplinary actions, the hearing officer may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including, but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the hearing officer shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation.

(b) The report of findings of fact, conclusions of law, and recommendation of the hearing officer shall be the basis for the Department's final order refusing to issue, restore, or renew a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the hearing



officer, the Secretary may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

Section 25-55. Rehearing. At the conclusion of the hearing, a copy of the hearing officer's report shall be served upon the applicant, licensee, or unlicensed person by the Department, either personally or as provided in this Act. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter a final order in accordance with recommendations of the hearing officer except as provided in Section 25-60 of this Act. If the applicant, licensee, or unlicensed person orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

Section 25-60. Secretary; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, he or she may order a rehearing by the same or other hearing officers.

Section 25-65. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

- (1) the signature is the genuine signature of the Secretary;
- (2) the Secretary is duly appointed and qualified; and
- (3) the hearing officer is qualified to act.

Section 25-70. Receivership. In the event a cemetery authority license is suspended or revoked or where an unlicensed person has conducted activities requiring cemetery authority licensure under this Act, the Department, through the Attorney General, may petition the circuit courts of this State for appointment of a receiver to administer the care funds of such licensee or unlicensed person or to operate the cemetery.

(a) The court shall appoint a receiver if the court determines that a receivership is necessary or advisable:

(1) to ensure the orderly and proper conduct of a licensee's professional business and affairs during or in the aftermath of the administrative proceeding to revoke or suspend the cemetery authority's license;

(2) for the protection of the public's interest and rights in the business, premises, or activities of the person sought to be placed in receivership;

(3) upon a showing of actual or constructive abandonment of premises or business licensed or which was not but should have been licensed under this Act;

(4) upon a showing of serious and repeated violations of this Act demonstrating an inability or unwillingness of a licensee to comply with the requirements of this Act;

(5) to prevent loss, wasting, dissipation, theft, or conversion of assets that should be marshaled and held available for the honoring of obligations under this Act;  
or

(6) upon proof of other grounds that the court deems good and sufficient for instituting receivership action concerning the respondent sought to be placed in receivership.

(b) A receivership under this Section may be temporary, or for the winding up and dissolution of the business, as the Department may request and the court determines to be necessary or advisable in the circumstances. Venue of receivership proceedings may be, at the Department's election, in Cook

County or the county where the subject of the receivership is located. The appointed receiver shall be the Department or such person as the Department may nominate and the court shall approve.

(c) The Department may adopt rules for the implementation of this Section.

Section 25-75. Cemetery Relief Fund.

(a) A special income-earning fund is hereby created in the State treasury, known as the Cemetery Relief Fund.

(b) Beginning on July 1, 2011, and occurring on an annual basis every year thereafter, three percent of the moneys in the Cemetery Oversight Licensing and Disciplinary Fund shall be deposited into the Cemetery Relief Fund.

(c) All monies deposited into the fund together with all accumulated undistributed income thereon shall be held as a special fund in the State treasury. The fund shall be used solely for the purpose of providing grants to units of local government and not-for-profit organizations, including, but not limited to, not-for-profit cemetery authorities, to clean up cemeteries that have been abandoned, neglected, or are otherwise in need of additional care.

(d) The grant program shall be administered by the Department.

Section 25-80. Surrender of license. Upon the revocation

or suspension of a license under this Act, the licensee shall immediately surrender his or her license to the Department. If the licensee fails to do so, the Department has the right to seize the license.

Section 25-85. Inactive status.

(a) Any licensed manager or customer service employee who notifies the Department in writing on forms prescribed by the Department as determined by rule, may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status. Any licensed manager or licensed customer service employee requesting restoration from inactive status shall pay the current renewal fee and meet requirements as provided by rule. Any licensee whose license is in inactive status shall not practice in the State of Illinois.

(b) A cemetery authority license may only go on inactive status by following the provisions for dissolution set forth in Section 10-50 or transfer in Section 10-45.

Section 25-90. Restoration of license from discipline. At any time after the successful completion of a term of indefinite probation, suspension, or revocation of a license, the Department may restore the license to the licensee, unless after an investigation and a hearing the Secretary determines

that restoration is not in the public interest.

Section 25-95. Administrative review; venue.

(a) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

Section 25-100. Certifications of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file the receipt in court is grounds for dismissal of the action.

Section 25-105. Violations. Any person who is found to have violated any provision of this Act or any applicant for licensure who files with the Department the fingerprints of an individual other than himself or herself is guilty of a Class A

misdemeanor. Upon conviction of a second or subsequent offense the violator shall be guilty of a Class 4 felony. However, whoever intentionally fails to deposit the required amounts into a trust provided for in this Act or intentionally and improperly withdraws or uses trust funds for his or her own benefit shall be guilty of a Class 4 felony and each day such provisions are violated shall constitute a separate offense.

Section 25-110. Civil action and civil penalties. In addition to the other penalties and remedies provided in this Act, the Department may bring a civil action in the county in which the cemetery is located against a licensee or any other person to enjoin any violation or threatened violation of this Act. In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed \$10,000 for each violation as determined by the Department. The civil penalty shall be assessed by the Department in accordance with the provisions of this Act. Any civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record. All moneys collected under this Section shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund.

Section 25-115. Illinois Administrative Procedure Act; application. The Illinois Administrative Procedure Act is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of the Illinois Administrative Procedure Act, which provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention or continuation or renewal of the license, is specifically excluded. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is considered sufficient when mailed to the address of record.

Section 25-120. Whistleblower protection.

(a) "Retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any cemetery manager, licensed customer service employee, or cemetery worker that is taken in retaliation for a cemetery manager's, customer service employee's, or cemetery worker's involvement in protected activity, as set forth in this Section.

(b) A cemetery authority shall not take any retaliatory action against a cemetery manager, customer service employee, or cemetery worker because the cemetery manager, customer service employee, or cemetery worker does any of the following:



(1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of a cemetery manager, customer service employee, or the cemetery authority that the cemetery manager, customer service employee, or cemetery worker reasonably believes is in violation of a law, rule, or regulation.

(2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by a cemetery manager or cemetery authority.

(3) Assists or participates in a proceeding to enforce the provisions of this Act.

(c) A violation of this Section may be established only upon a finding that (i) the cemetery manager, customer service employee, or cemetery worker engaged in conduct described in subsection (b) of this Section and (ii) that this conduct was a contributing factor in the retaliatory action alleged by the cemetery manager, customer service employee, or cemetery worker. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the cemetery manager or cemetery authority would have taken the same unfavorable personnel action in the absence of that conduct.

(d) The cemetery manager, customer service employee, or cemetery worker may be awarded all remedies necessary to make the cemetery manager, customer service employee, or cemetery worker whole and to prevent future violations of this Section.

Remedies imposed by the court may include, but are not limited to, all of the following:

(1) reinstatement of the individual to either the same position held before the retaliatory action or to an equivalent position;

(2) two times the amount of back pay;

(3) interest on the back pay;

(4) the reinstatement of full fringe benefits and seniority rights; and

(5) the payment of reasonable costs and attorneys' fees.

(e) Nothing in this Section shall be deemed to diminish the rights, privileges, or remedies of a cemetery manager, customer service employee, or cemetery worker under any other federal or State law, rule, or regulation or under any employment contract.

Section 25-125. Cemetery Oversight Board. The Cemetery Oversight Board is created and shall consist of the Secretary, who shall serve as its chairperson, and 8 members appointed by the Secretary. Appointments shall be made within 90 days after the effective date of this Act. Three members shall represent the segment of the cemetery industry that does not maintain a partial exemption or full exemption, one member shall represent the segment of the cemetery industry that maintains a partial exemption as a public cemetery, one member shall represent the

segment of the cemetery industry that maintains a partial exemption as a religious cemetery, 2 members shall be consumers as defined in this Act, and one member shall represent the general public. No member shall be a licensed professional from a non-cemetery segment of the death care industry. Board members shall serve 5-year terms and until their successors are appointed and qualified. The membership of the Board should reasonably reflect representation from the geographic areas in this State. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 10 successive years. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term. Five members of the Board shall constitute a quorum. A quorum is required for Board decisions. The Secretary may remove any member of the Board for misconduct, incompetence, neglect of duty, or for reasons prescribed by law for removal of State officials. The Secretary may remove a member of the Board who does not attend 2 consecutive meetings. The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act. The Secretary shall consider the recommendations of the Board in the development of proposed rules under this Act and for establishing guidelines and examinations as may be required under this Act. Notice of any proposed rulemaking under this Act shall be transmitted to the Board and the

Department shall review the response of the Board and any recommendations made therein.

Article 35.

Consumer Bill of Rights

Section 35-5. Penalties. Cemetery authorities shall respect the rights of consumers of cemetery products and services as put forth in this Article. Failure to abide by the cemetery duties listed in this Article or to comply with a request by a consumer based on a consumer's privileges under this Article may activate the mediation, citation, or disciplinary processes in Article 25 of this Act.

Section 35-10. Consumer privileges.

(a) The record required under this Section shall be open to public inspection consistent with State and federal law. The cemetery authority shall make available, consistent with State and federal law, a true copy of the record upon written request and payment of reasonable copy costs. At the time of the interment, entombment, or inurnment, the cemetery authority shall provide the record of the deceased's name and date of burial to the person who would have authority to dispose of the decedent's remains under the Disposition of Remains Act.

(b) Consumers have the right to purchase merchandise or services directly from the cemetery authority when available or

through a third-party vendor of the consumer's choice without incurring a penalty or additional charge by the cemetery authority; provided, however, that consumers do not have the right to purchase types of merchandise that would violate applicable law or the cemetery authority's rules and regulations.

(c) Consumers have the right to complain to the cemetery authority or to the Department regarding cemetery-related products and services as well as issues with customer service, maintenance, or other cemetery activities. Complaints may be brought by a consumer or the consumer's agent appointed for that purpose.

Section 35-15. Cemetery duties.

(a) Prices for all cemetery-related products offered for sale by the cemetery authority must be disclosed to the consumer in writing on a standardized price list. Memorialization pricing may be disclosed in price ranges. The price list shall include the effective dates of the prices. The price list shall include not only the range of interment, inurnment, and entombment rights, and the cost of extending the term of any term burial, but also any related merchandise or services offered by the cemetery authority. Charges for installation of markers, monuments, and vaults in cemeteries must be the same without regard to where the item is purchased.

(b) A contract for the interment, inurnment, or entombment

of human remains must be signed by both parties: the consumer and the cemetery authority or its representative. Before a contract is signed, the prices for the purchased services and merchandise must be disclosed on the contract and in plain language. If a contract is for a term burial, the term, the option to extend the term, and the subsequent disposition of the human remains post-term must be in bold print and discussed with the consumer. Any contract for the sale of a burial plot, when designated, must disclose the exact location of the burial plot based on the survey of the cemetery map or plat on file with the cemetery authority.

(c) A cemetery authority that has the legal right to extend a term burial shall, prior to disinterment, provide the family or other authorized agent under the Disposition of Remains Act the opportunity to extend the term of a term burial for the cost as stated on the cemetery authority's current price list. Regardless of whether the family or other authorized agent chooses to extend the term burial, the cemetery authority shall, prior to disinterment, provide notice to the family or other authorized agent under the Disposition of Remains Act of the cemetery authority's intention to disinter the remains and to inter different human remains in that space.

(d) If any rules or regulations, including the operational or maintenance requirements, of a cemetery change after the date a contract is signed for the purchase of cemetery-related or funeral-related products or services, the cemetery may not

require the consumer, purchaser, or such individual's relative or representative to purchase any merchandise or service not included in the original contract or in the rules and regulations in existence when the contract was entered unless the purchase is reasonable or required to make the cemetery authority compliant with applicable law.

(e) No cemetery authority or its agent may engage in deceptive or unfair practices. The cemetery authority and its agents may not misrepresent legal or cemetery requirements.

(f) The Department may adopt rules regarding green burial certification, green cremation products and methods, and consumer education.

(g) The contractual requirements contained in this Section only apply to contracts executed after the effective date of this Act.

## Article 75.

### Administrative Provisions

Section 75-5. Conflict of interest. No investigator may hold an active license issued pursuant to this Act, nor may an investigator have a financial interest in a business licensed under this Act. Any individual licensed under this Act who is employed by the Department shall surrender his or her license to the Department for the duration of that employment. The licensee shall be exempt from all renewal fees while employed.

Section 75-15. Civil Administrative Code. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois and shall exercise all other powers and duties set forth in this Act.

Section 75-20. Rules. The Department may adopt rules for the administration and enforcement of this Act. The rules shall include standards for licensure, professional conduct, and discipline.

Section 75-25. Home rule. The regulation and licensing as provided for in this Act are exclusive powers and functions of the State. A home rule unit may not regulate or license cemetery authorities, cemetery managers, customer service employees, cemetery workers, or any activities relating to the operation of a cemetery. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 75-35. Roster. The Department shall, upon request and payment of the required fee, provide a list of the names and business addresses of all licensees under this Act.

Section 75-45. Fees. The Department shall by rule provide for fees for the administration and enforcement of this Act,



and those fees are nonrefundable. All of the fees and fines collected under this Act shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund and be appropriated to the Department for the ordinary and contingent expenses of the Department in the administration and enforcement of this Act.

Section 75-50. Burial permits. Notwithstanding any law to the contrary, a cemetery authority shall ensure that every burial permit applicable to that cemetery authority contains the decedent's parcel identification number or other information as provided by rule regarding the location of the interment, entombment, or inurnment of the deceased that would enable the Department to determine the precise location of the decedent.

Section 75-55. Transition.

(a) Within 60 days after the effective date of this Act, the Comptroller shall provide the Department copies of records in the Comptroller's possession pertaining to the Cemetery Care Act and the Crematory Regulation Act that are necessary for the Department's immediate responsibilities under this Act. All other records pertaining to the Cemetery Care Act and the Crematory Regulation Act shall be transferred to the Department by March 1, 2012. In the case of records that pertain both to the administration of the Cemetery Care Act or the Crematory

Regulation Act and to a function retained by the Comptroller, the Comptroller, in consultation with the Department, shall determine, within 60 days after the repeal of the Cemetery Care Act, whether the records shall be transferred, copied, or left with the Comptroller; until this determination has been made the transfer shall not occur.

(b) A person licensed under one of the Acts listed in subsection (a) of this Section or regulated under the Cemetery Association Act shall continue to comply with the provisions of those Acts until such time as the person is licensed under this Act or those Acts are repealed or the amendatory changes made by this amendatory Act of the 96th General Assembly take effect, as the case may be, whichever is earlier.

(c) To support the costs that may be associated with implementing and maintaining a licensure and regulatory process for the licensure and regulation of cemetery authorities, cemetery managers, customer service employees, and cemetery workers, all cemetery authorities not maintaining a full exemption or partial exemption shall pay a one-time fee of \$20 to the Department plus an additional charge of \$1 per burial unit per year within the cemetery. The Department may establish forms for the collection of the fee established under this subsection and shall deposit such fee into the Cemetery Oversight Licensing and Disciplinary Fund. The Department may begin to collect the aforementioned fee after the effective date of this Act. In addition, the Department may establish

rules for the collection process, which may include, but shall not be limited to, dates, forms, enforcement, or other procedures necessary for the effective collection, deposit, and overall process regarding this Section.

(d) Any cemetery authority that fails to pay to the Department the required fee or submits the incorrect amount shall be subject to the penalties provided for in Section 25-110 of this Act.

(e) Except as otherwise specifically provided, all fees, fines, penalties, or other moneys received or collected pursuant to this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.

(f) All proportionate funds held in the Comptroller's Administrative Fund related to unexpended moneys collected under the Cemetery Care Act and the Crematory Regulation Act shall be transferred to the Cemetery Oversight Licensing and Disciplinary Fund within 60 days after the effective date of the repeal of the Cemetery Care Act.

(g) Personnel employed by the Comptroller on February 29, 2012, to perform the duties pertaining to the administration of the Cemetery Care Act and the Crematory Regulation Act, are transferred to the Department on March 1, 2012.

The rights of State employees, the State, and its agencies under the Comptroller Merit Employment Code and applicable collective bargaining agreements and retirement plans are not affected under this Act, except that all positions transferred

to the Department shall be subject to the Personnel Code effective March 1, 2012.

All transferred employees who are members of collective bargaining units shall retain their seniority, continuous service, salary, and accrued benefits. During the pendency of the existing collective bargaining agreement, the rights provided for under that agreement shall not be abridged.

The Department shall continue to honor during their pendency all bargaining agreements in effect at the time of the transfer and to recognize all collective bargaining representatives for the employees who perform or will perform functions transferred by this Act. For all purposes with respect to the management of the existing agreement and the negotiation and management of any successor agreements, the Department shall be deemed the employer of employees who perform or will perform functions transferred to the Department by this Act.

#### Article 90.

##### Amendatory Provisions and Repeals

Section 90-1. The Regulatory Sunset Act is amended by adding Section 8.31 as follows:

(5 ILCS 80/8.31 new)

Sec. 8.31. Acts repealed on January 1, 2021. The following

Acts are repealed on January 1, 2021:

The Crematory Regulation Act.

The Cemetery Oversight Act.

Section 90-3. The Freedom of Information Act is amended by changing Section 7 as follows:

(5 ILCS 140/7) (from Ch. 116, par. 207)

(Text of Section before amendment by P.A. 96-736)

Sec. 7. Exemptions.

(1) When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying. Subject to this requirement, the following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.

(b) Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.

(b-5) Files, documents, and other data or databases maintained by one or more law enforcement agencies and

specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects.

(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;

(ii) interfere with active administrative enforcement proceedings conducted by the public body

that is the recipient of the request;

(iii) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

(vi) endanger the life or physical safety of law enforcement personnel or any other person; or

(vii) obstruct an ongoing criminal investigation

by the agency that is the recipient of the request.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

~~(i)~~ All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a



potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news

media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) The following information pertaining to educational matters:

(i) test questions, scoring keys and other examination data used to administer an academic examination;

(ii) information received by a primary or secondary school, college, or university under its procedures for the evaluation of faculty members by their academic peers;

(iii) information concerning a school or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and

(iv) course materials or research materials used by faculty members.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, including but not limited to power generating and

distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security.

(l) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(m) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(n) Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed.

(o) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object

modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(p) Records relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(q) Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.

(r) The records, documents, and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(s) Any and all proprietary information and records related to the operation of an intergovernmental risk

management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(t) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(u) Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(v) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement

them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(w) (Blank).

(x) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency.

(y) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

(z) ~~(tt)~~ Information about students exempted from disclosure under Sections 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009.

(bb) Information regarding interments, entombments, or inurnments of human remains that are submitted to the

Cemetery Oversight Database under the Cemetery Care Act or  
the Cemetery Oversight Act, whichever is applicable.

(2) A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.

(3) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10; 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10; revised 9-25-09.)

(Text of Section after amendment by P.A. 96-736)

Sec. 7. Exemptions.

(1) When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying.

Subject to this requirement, the following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.

(b) Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.

(b-5) Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects.

(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

(d) Records in the possession of any public body



created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;

(ii) interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;

(iii) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

(vi) endanger the life or physical safety of law enforcement personnel or any other person; or

(vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary,

privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

~~(i)~~ All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor

agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) The following information pertaining to educational matters:

(i) test questions, scoring keys and other examination data used to administer an academic examination;

(ii) information received by a primary or secondary school, college, or university under its procedures for the evaluation of faculty members by their academic peers;

(iii) information concerning a school or university's adjudication of student disciplinary

cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and

(iv) course materials or research materials used by faculty members.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security.

(l) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(m) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the

public body, and materials prepared or compiled with respect to internal audits of public bodies.

(n) Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed.

(o) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(p) Records relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(q) Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.

(r) The records, documents, and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated.

With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(s) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(t) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(u) Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the

Electronic Commerce Security Act.

(v) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(w) (Blank).

(x) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency.

(y) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the



Illinois Power Agency or by the Illinois Commerce Commission.

(z) ~~(tt)~~ Information about students exempted from disclosure under Sections 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009.

(aa) ~~(tt)~~ Information the disclosure of which is exempted under the Viatical Settlements Act of 2009.

(bb) Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act or the Cemetery Oversight Act, whichever is applicable.

(2) A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.

(3) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;

95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;  
96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;  
96-736, eff. 7-1-10; revised 9-25-09.)

Section 90-5. The Human Skeletal Remains Protection Act is amended by changing Section 1 as follows:

(20 ILCS 3440/1) (from Ch. 127, par. 2661)

Sec. 1. Definitions. For the purposes of this Act:

(a) "Human skeletal remains" include the bones and decomposed fleshy parts of a deceased human body.

(b) "Unregistered graves" are any graves or locations where a human body has been buried or deposited; is over 100 years old; and is not in a cemetery under the authority of the Illinois Department of Financial and Professional Regulation pursuant to the Cemetery Oversight Act ~~registered with the State Comptroller under the Cemetery Care Act.~~

(c) "Grave artifacts" are any item of human manufacture or use that is associated with the human skeletal remains in an unregistered grave.

(d) "Grave markers" are any tomb, monument, stone, ornament, mound, or other item of human manufacture that is associated with an unregistered grave.

(e) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation or a receiver, trustee, guardian or other

representatives appointed by order of any court, the Federal and State governments, including State Universities created by statute or any city, town, county or other political subdivision of this State.

(f) "Disturb" includes excavating, removing, exposing, defacing, mutilating, destroying, molesting, or desecrating in any way human skeletal remains, unregistered graves, and grave markers.

(Source: P.A. 86-151.)

Section 90-10. The State Finance Act is amended by adding Sections 5.775 and 5.776 as follows:

(30 ILCS 105/5.775 new)

Sec. 5.775. The Cemetery Oversight Licensing and Disciplinary Fund.

(30 ILCS 105/5.776 new)

Sec. 5.776. The Cemetery Relief Fund.

Section 90-25. The Crematory Regulation Act is amended by changing Sections 5, 10, 11, 11.5, 13, 20, 22, 25, 40, 55, 60, 62, 62.5, 62.10, 62.15, 62.20, 65, and 80 and by adding Sections 7, 85, 87, 88, 89, 90, 91, 92, 93, 94, and 95 as follows:

(410 ILCS 18/5)

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

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit. The address of record shall be the permanent street address of the crematory.

"Alternative container" means a receptacle, other than a casket, in which human remains are transported to the crematory and placed in the cremation chamber for cremation. An alternative container shall be (i) composed of readily combustible materials suitable for cremation, (ii) able to be closed in order to provide a complete covering for the human remains, (iii) resistant to leakage or spillage, (iv) rigid enough for handling with ease, and (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

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

"Body parts" means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or

medical research; or human bodies or any portion of bodies that have been donated to science for medical research purposes.

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

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

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

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

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

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

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

"Cremation interment container" means a rigid outer container that, subject to a cemetery's rules and regulations,

is composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground, and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

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

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

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

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

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

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

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

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

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

"Licensee" means an entity licensed under this Act. An entity that holds itself as a licensee or that is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

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

"Person" means any person, partnership, association, corporation, limited liability company, or other entity, and in the case of any such business organization, its officers, partners, members, or shareholders possessing 25% or more of ownership of the entity.

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

"Pulverization" means the reduction of identifiable bone

fragments after the completion of the cremation process to granulated particles by manual or mechanical means.

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

"Secretary" means the Secretary of Financial and Professional Regulation.

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

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

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

(410 ILCS 18/7 new)

Sec. 7. Powers and duties of the Department. Subject to the provisions of this Act, the Department may exercise any of the following powers and duties:

(1) Authorize standards to ascertain the qualifications and fitness of applicants for licensing as



licensed crematory authorities and pass upon the qualifications of applicants for licensure.

(2) Examine and audit a licensed crematory authority's records, crematory, or any other aspects of crematory operation as the Department deems appropriate.

(3) Investigate any and all unlicensed activity.

(4) Conduct hearings on proceedings to refuse to issue licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline licensees and to refuse to issue licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline licensees.

(5) Formulate rules required for the administration of this Act.

(6) Maintain rosters of the names and addresses of all licensees, and all entities whose licenses have been suspended, revoked, or otherwise disciplined. These rosters shall be available upon written request and payment of the required fee as established by rule.

(410 ILCS 18/10)

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

(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity, may erect, maintain, and operate a crematory in this State and

provide the necessary appliances and facilities for the cremation of human remains in accordance with this Act.

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

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

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

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

(2) The address and location of the crematory.

(3) A description of the type of structure and equipment to be used in the operation of the crematory, including the operating permit number issued to the cremation device by the Illinois Environmental Protection Agency.

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

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

(4) Any further information that the Department Comptroller reasonably may require as established by rule.

(e) Each crematory authority shall file an annual report with the Department Comptroller, accompanied with a reasonable \$25 fee determined by rule, providing (i) an affidavit signed by the owner of the crematory authority that at the time of the report the cremation device was in proper operating condition, (ii) the total number of all cremations performed at the crematory during the past year, (iii) attestation by the licensee that all applicable permits and certifications are valid, ~~and~~ (iv) either (A) any changes required in the information provided under subsection (d) or (B) an indication that no changes have occurred, and (v) any other information that the Department may require as established by rule. The

annual report shall be filed by a crematory authority on or before March 15 of each calendar year, ~~in the Office of the Comptroller. If the fiscal year of a crematory authority is other than on a calendar year basis, then the crematory authority shall file the report required by this Section within 75 days after the end of its fiscal year. The Comptroller shall, for good cause shown, grant an extension for the filing of the annual report upon the written request of the crematory authority. An extension shall not exceed 60 days. If the fiscal year of a crematory authority is other than on a calendar year basis, then the crematory authority shall file the report required by this Section within 75 days after the end of its fiscal year. If a crematory authority fails to submit an annual report to the Department Comptroller within the time specified in this Section, the Department Comptroller shall impose upon the crematory authority a penalty as provided for by rule ~~of \$5~~ for each and every day the crematory authority remains delinquent in submitting the annual report. The Department Comptroller may abate all or part of the ~~\$5 daily~~ penalty for good cause shown.~~

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

(g) The Department Comptroller may inspect crematory

records at the crematory authority's place of business to review the licensee's compliance with this Act. The inspection must include verification that:

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

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

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

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

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

(6) other details as determined by rule.

(h) The Department Comptroller shall issue licenses under this Act to the crematories that are registered with the Comptroller as of on March 1, 2012 ~~July 1, 2003~~ without requiring the previously registered crematories to complete license applications.

(Source: P.A. 92-419, eff. 1-1-02; 92-675, eff. 7-1-03.)

(410 ILCS 18/11)

Sec. 11. Grounds for denial or discipline ~~refusal of license or suspension or revocation of license.~~

(a) In this Section, "applicant" means a person who has applied for a license under this Act including those persons whose names are listed on a license application in Section 10 of this Act.

(b) The Department ~~Comptroller~~ may refuse to issue a license, place on probation, reprimand, or take other disciplinary action that the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any ~~a~~ license under this Act, or may suspend or revoke a license issued under this Act, on any of the following grounds:

(1) The applicant or licensee has made any misrepresentation or false statement or concealed any material fact in furnishing information to the Department ~~connection with a license application or licensure under this Act.~~

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

(3) The applicant or licensee has refused to give information required under this Act to be disclosed to the Department or failing, within 30 days, to provide information in response to a written request made by the Department ~~Comptroller.~~

(4) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. ~~The applicant or licensee has~~

~~conducted or is about to conduct cremation business in a fraudulent manner.~~

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

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

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

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

(9) Any violation of this Act or of the rules adopted

under this Act.

(10) Incompetence.

(11) Gross malpractice.

(12) Discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

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

(14) A finding by the Department that the licensee, after having its license placed on probationary status, has violated the terms of probation.

(15) Willfully making or filing false records or reports, including, but not limited to, false records filed with State agencies or departments.

(16) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(17) Practicing under a false or, except as provided by law, an assumed name.

(18) Cheating on or attempting to subvert this Act's licensing application process.

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



(410 ILCS 18/11.5)

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

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

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

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

(410 ILCS 18/13)

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

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

(b) After initial licensure, if any person comes to obtain at least 25% of the ownership over the licensed crematory authority, then the crematory authority shall have to apply for a new license and receive licensure in the required time as set out by rule. ~~No license is transferable or assignable without~~

~~the express written consent of the Comptroller. A transfer of more than 50% of the ownership of any business licensed under this Act shall be deemed to be an attempted assignment of the license originally issued to the licensee for whom consent of the Comptroller is required.~~

(c) Every license issued under this Act shall remain in force until it has been surrendered, suspended, or revoked in accordance with this Act. Upon the request of an interested person or on the Department's ~~Comptroller's~~ own motion, the Department ~~Comptroller~~ may issue a new license to a licensee whose license has been revoked under this Act if no factor or condition then exists which would have warranted the Department ~~Comptroller~~ in originally refusing the issuance of the license. (Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/20)

Sec. 20. Authorization to cremate.

(a) A crematory authority shall not cremate human remains until it has received all of the following:

(1) A cremation authorization form signed by an authorizing agent. The cremation authorization form shall be provided by the crematory authority and shall contain, at a minimum, the following information:

(A) The identity of the human remains and the time and date of death.

(B) The name of the funeral director and ~~or~~ funeral

establishment, if applicable, that obtained the cremation authorization.

(C) Notification as to whether the death occurred from a disease declared by the Department of Health to be infectious, contagious, communicable, or dangerous to the public health.

(D) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(E) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent, and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in Section 15. In the event there is another living person who has a superior priority right to that of the authorizing agent, the form shall contain a representation that the authorizing agent has made all reasonable efforts to contact that person, has been unable to do so, and has no reason to believe that the person would object to the cremation of the decedent.

(F) Authorization for the crematory authority to cremate the human remains.

(G) A representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to

the cremation chamber or the person performing the cremation.

(H) The name of the person authorized to receive the cremated remains from the crematory authority.

(I) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form may indicate that the cremated remains will be held by the crematory authority for 30 days before they are released, unless they are picked up from the crematory authority prior to that time, in person, by the authorizing agent. At the end of the 30 days the crematory authority may return the cremated remains to the authorizing agent if no final disposition arrangements are made; or at the end of 60 days the crematory authority may dispose of the cremated remains in accordance with subsection (d) of Section 40.

(J) A listing of any items of value to be delivered to the crematory authority along with the human remains, and instructions as to how the items should be handled.

(K) A specific statement as to whether the authorizing agent has made arrangements for any type of viewing of the decedent before cremation, or for a

service with the decedent present before cremation in connection with the cremation, and if so, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form, except as set forth in paragraph (M) of this subsection.

(M) If a cremation authorization form is being executed on a pre-need basis, the cremation authorization form shall contain the disclosure required by subsection (b) of Section 140 65.

(N) The cremation authorization form, other than pre-need cremation forms, shall also be signed by a funeral director or other representative of the funeral establishment that obtained the cremation authorization. That individual shall merely execute the cremation authorization form as a witness and shall not be responsible for any of the representations made by the authorizing agent, unless the individual has actual knowledge to the contrary. The information requested by items (A), (B), (C) and (G) of this subsection, however, shall be considered to be representations of the authorizing agent. In addition, the funeral director or funeral establishment shall

warrant to the crematory that the human remains delivered to the crematory authority are the human remains identified on the cremation authorization form.

(2) A completed and executed burial transit permit indicating that the human remains are to be cremated.

(3) Any other documentation required by this State.

(b) If an authorizing agent is not available to execute a cremation authorization form in person, that person may delegate that authority to another person in writing, or by sending the crematory authority a facsimile transmission that contains the name, address, and relationship of the sender to the decedent and the name and address of the individual to whom authority is delegated. Upon receipt of the written document, or facsimile transmission, telegram, or other electronic telecommunications transmission which specifies the individual to whom authority has been delegated, the crematory authority shall allow this individual to serve as the authorizing agent and to execute the cremation authorization form. The crematory authority shall be entitled to rely upon the cremation authorization form without liability.

(c) An authorizing agent who signs a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth on the cremation authorization form, including that person's authority to order the cremation; except for the information required by items (C) and (G) of

paragraph (1) of subsection (a) of this Section, unless the authorizing agent has actual knowledge to the contrary. An authorizing agent signing a cremation authorization form shall be personally and individually liable for all damages occasioned by and resulting from authorizing the cremation.

(d) A crematory authority shall have authority to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory authority that cremates human remains according to an authorization, or that releases or disposes of the cremated remains according to an authorization, except for a crematory authority's gross negligence, provided that the crematory authority performs its functions in compliance with this Act.

(e) After an authorizing agent has executed a cremation authorization form, the authorizing agent may revoke the authorization and instruct the crematory authority to cancel the cremation and to release or deliver the human remains to another crematory authority or funeral establishment. The instructions shall be provided to the crematory authority in writing. A crematory authority shall honor any instructions given to it by an authorizing agent under this Section if it receives the instructions prior to beginning the cremation of the human remains.

(Source: P.A. 87-1187.)

(410 ILCS 18/22)

Sec. 22. Performance of cremation service; training. A person may not perform a cremation service in this State unless he or she has completed training in performing cremation services and received certification by a program recognized by the Department ~~Comptroller~~. The crematory authority must conspicuously display the certification at the crematory authority's place of business. Any new employee shall have a reasonable time period, as determined by rule ~~not to exceed one year~~, to attend a recognized training program. In the interim, the new employee may perform a cremation service if he or she has received training from another person who has received certification by a program recognized by the Department and is under the supervision of the trained person ~~Comptroller~~. For purposes of this Act, the Department may ~~Comptroller shall~~ recognize any training program that provides training in the operation of a cremation device, in the maintenance of a clean facility, and in the proper handling of human remains. The Department may ~~Comptroller shall~~ recognize any course that is conducted by a death care trade association in Illinois or the United States or by a manufacturer of a cremation unit that is consistent with the standards provided in this Act or as otherwise determined by rule.

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

(410 ILCS 18/25)



Sec. 25. Recordkeeping.

(a) The crematory authority shall furnish to the person who delivers human remains to the crematory authority a receipt signed at the time of delivery by both the crematory authority and the person who delivers the human remains, showing the date and time of the delivery, the type of casket or alternative container that was delivered, the name of the person from whom the human remains were received and the name of the funeral establishment or other entity with whom the person is affiliated, the name of the person who received the human remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(b) Upon its release of cremated remains, the crematory authority shall furnish to the person who receives the cremated remains from the crematory authority a receipt signed by both the crematory authority and the person who receives the cremated remains, showing the date and time of the release, the name of the person to whom the cremated remains were released and the name of the funeral establishment, cemetery, or other entity with whom the person is affiliated, the name of the person who released the cremated remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(c) A crematory authority shall maintain at its place of

business a permanent record of each cremation that took place at its facility which shall contain the name of the decedent, the date of the cremation, and the final disposition of the cremated remains.

(d) The crematory authority shall maintain a record of all cremated remains disposed of by the crematory authority in accordance with subsection (d) of Section 40.

(e) Upon completion of the cremation, the crematory authority shall file the burial transit permit as required by the Illinois Vital Records Act and rules adopted under that Act and the Illinois Counties Code law, and transmit a photocopy of the burial transit permit along with the cremated remains to whoever receives the cremated remains from the authorizing agent unless the cremated remains are to be interred, entombed, inurned, or placed in a scattering area, in which case the crematory authority shall retain a copy of the burial transit permit and shall send the permit, along with the cremated remains, to the cemetery, which shall file the permit with the designated agency after the interment, entombment, inurnment, or scattering has taken place.

(f) All cemeteries shall maintain a record of all cremated remains that are disposed of on their property, provided that the cremated remains were properly transferred to the cemetery and the cemetery issued a receipt acknowledging the transfer of the cremated remains.

(Source: P.A. 87-1187.)

(410 ILCS 18/40)

Sec. 40. Disposition of cremated remains.

(a) The authorizing agent shall be responsible for the final disposition of the cremated remains.

(b) Cremated remains may be disposed of by placing them in a grave, crypt, or niche, by scattering them in a scattering area as defined in this Act, or in any manner whatever on the private property of a consenting owner.

(c) Upon the completion of the cremation process, and except as provided for in item (I) ~~(J)~~ of paragraph (1) of subsection (a) of Section 20, if the crematory authority has not been instructed to arrange for the interment, entombment, inurnment, or scattering of the cremated remains, the crematory authority shall deliver the cremated remains to the individual specified on the cremation authorization form, or if no individual is specified then to the authorizing agent. The delivery may be made in person or by registered mail. Upon receipt of the cremated remains, the individual receiving them may transport them in any manner in this State without a permit, and may dispose of them in accordance with this Section. After delivery, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains.

(d) If, after a period of 60 days from the date of the cremation, the authorizing agent or the agent's designee has

not instructed the crematory authority to arrange for the final disposition of the cremated remains or claimed the cremated remains, the crematory authority may dispose of the cremated remains in any manner permitted by this Section. The crematory authority, however, shall keep a permanent record identifying the site of final disposition. The authorizing agent shall be responsible for reimbursing the crematory authority for all reasonable expenses incurred in disposing of the cremated remains. Upon disposing of the cremated remains, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains. Any person who was in possession of cremated remains prior to the effective date of this Act may dispose of them in accordance with this Section.

(e) Except with the express written permission of the authorizing agent, no person shall:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition shall not apply to the scattering of cremated remains at sea, by air, or in an area located in a dedicated cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary container or urn.

(Source: P.A. 87-1187.)

(410 ILCS 18/55)

Sec. 55. Penalties. Violations of this Act shall be punishable as follows:

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

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

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

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

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

(4.10) Any person who intentionally violates a provision of this Act or a final order of the Department ~~Comptroller~~ is liable for a civil penalty not to exceed \$10,000 ~~\$5,000~~ per violation.

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

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

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

(410 ILCS 18/60)

Sec. 60. Failure to file annual report. Whenever a crematory authority refuses or neglects to file its annual report in violation of Section 10 of this Act, or fails to otherwise comply with the requirements of this Act, the Department shall impose a penalty as provided for by rule for each and every day the licensee remains delinquent in submitting the annual report. Such report shall be made under oath and shall be in a form determined by the Department. ~~Comptroller may commence an administrative proceeding as authorized by this Act or may communicate the facts to the Attorney General of the State of Illinois who shall thereupon institute such proceedings against the crematory authority or its officers as the nature of the case may require.~~

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

(410 ILCS 18/62)

Sec. 62. Injunctive action; cease and desist order ~~Investigation of unlawful practices.~~

(a) If any person violates the provisions of this Act, the Secretary, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the

county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

~~If the Comptroller has good cause to believe that a person has engaged in, is engaging in, or is about to engage in any practice in violation of this Act, the Comptroller may do any one or more of the following:~~

~~(1) Require that person to file, on terms the Comptroller prescribes, a statement or report in writing,~~

~~under oath or otherwise, containing all information that the Comptroller considers necessary to ascertain whether a licensee is in compliance with this Act, or whether an unlicensed person is engaging in activities for which a license is required under this Act.~~

~~(2) Examine under oath any person in connection with the books and records required to be maintained under this Act.~~

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

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

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

(410 ILCS 18/62.5)

Sec. 62.5. Service of notice. Service by the Department Comptroller of any notice requiring a person to file a statement or report under this Act shall be made: (1) personally by delivery of a duly executed copy of the notice to the person to be served or, if that person is not a natural person, in the manner provided in the Civil Practice Law when a complaint is filed; or (2) by mailing by certified mail a duly



executed copy of the notice to the person at his or her address of record ~~to be served at his or her last known abode or principal place of business within this State.~~

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

(410 ILCS 18/62.10)

Sec. 62.10. Investigations; notice and hearing  
~~Investigation of actions; hearing.~~ The Department may at any time investigate the actions of any applicant or of any person, persons, or entity rendering or offering to render cremation services or any person or entity holding or claiming to hold a license as a licensed crematory. The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 11 of this Act, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct the accused applicant or licensee to file a written answer to the charges with the Department under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper.

At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

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

~~(b) Before refusing to issue, and before suspending or revoking, a license under this Act, the Comptroller shall hold a hearing to determine whether the applicant for a license or~~

~~the licensee ("the respondent") is entitled to hold such a license. At least 10 days before the date set for the hearing, the Comptroller shall notify the respondent in writing that (i) on the designated date a hearing will be held to determine the respondent's eligibility for a license and (ii) the respondent may appear in person or by counsel. The written notice may be served on the respondent personally, or by registered or certified mail sent to the respondent's business address as shown in the respondent's latest notification to the Comptroller. The notice must include sufficient information to inform the respondent of the general nature of the reason for the Comptroller's action.~~

~~(c) At the hearing, both the respondent and the complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence, and argument as may be pertinent to the charge or to any defense to the charge. The Comptroller may reasonably continue the hearing from time to time. The Comptroller may subpoena any person or persons in this State and take testimony orally, by deposition, or by exhibit, in the same manner and with the same fees and mileage as prescribed in judicial proceedings in civil cases. Any authorized agent of the Comptroller may administer oaths to witnesses at any hearing that the Comptroller is authorized to conduct.~~

~~(d) The Comptroller, at the Comptroller's expense, shall provide a certified shorthand reporter to take down the~~

~~testimony and preserve a record of every proceeding at the hearing of any case involving the refusal to issue a license under this Act, the suspension or revocation of such a license, the imposition of a monetary penalty, or the referral of a case for criminal prosecution. The record of any such proceeding shall consist of the notice of hearing, the complaint, all other documents in the nature of pleadings and written motions filed in the proceeding, the transcript of testimony, and the report and orders of the Comptroller. Copies of the transcript of the record may be purchased from the certified shorthand reporter who prepared the record or from the Comptroller.~~

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

(410 ILCS 18/62.15)

Sec. 62.15. Compelling testimony Court order. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt. ~~Upon the application of the Comptroller or of the applicant or licensee against whom proceedings under Section 62.10 are pending, any circuit court may enter an order requiring witnesses to attend and testify and requiring the production of documents, papers, files, books, and records in connection with any hearing in any~~

~~proceeding under that Section. Failure to obey such a court order may result in contempt proceedings.~~

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

(410 ILCS 18/62.20)

Sec. 62.20. Administrative review; venue; certification of record; costs ~~Judicial review.~~

(a) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

(c) The Department shall not be required to certify any record of the court, file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to make such payment to the Department is grounds for dismissal of the action. ~~Any person affected by a final administrative decision of the Comptroller under this Act may have the decision reviewed judicially by the circuit court of the county where the person resides or, in the case of a~~

~~corporation, where the corporation's registered office is located. If the plaintiff in the judicial review proceeding is not a resident of this State, venue shall be in Sangamon County. The provisions of the Administrative Review Law and any rules adopted under it govern all proceedings for the judicial review of final administrative decisions of the Comptroller under this Act. The term "administrative decision" is defined as in the Administrative Review Law.~~

~~(b) The Comptroller is not required to certify the record of the proceeding unless the plaintiff in the review proceeding has purchased a copy of the transcript from the certified shorthand reporter who prepared the record or from the Comptroller. Exhibits shall be certified without cost.~~

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

(410 ILCS 18/65)

Sec. 65. Pre-need cremation arrangements.

(a) Any person, or anyone who has legal authority to act on behalf of a person, on a pre-need basis, may authorize his or her own cremation and the final disposition of his or her cremated remains by executing, as the authorizing agent, a cremation authorization form on a pre-need basis. A copy of this form shall be provided to the person. Any person shall have the right to transfer or cancel this authorization at any time prior to death by destroying the executed cremation authorization form and providing written notice to the

crematory authority.

(b) Any cremation authorization form that is being executed by an individual as his or her own authorizing agent on a pre-need basis shall contain the following disclosure, which shall be completed by the authorizing agent:

"( ) I do not wish to allow any of my survivors the option of cancelling my cremation and selecting alternative arrangements, regardless of whether my survivors deem a change to be appropriate.

( ) I wish to allow only the survivors whom I have designated below the option of cancelling my cremation and selecting alternative arrangements, if they deem a change to be appropriate:....."

(c) Except as provided in subsection (b) of this Section, at the time of the death of a person who has executed, as the authorizing agent, a cremation authorization form on a pre-need basis, any person in possession of an executed form and any person charged with making arrangements for the final disposition of the decedent who has knowledge of the existence of an executed form, shall use their best efforts to ensure that the decedent is cremated and that the final disposition of the cremated remains is in accordance with the instructions contained on the cremation authorization form. If a crematory authority (i) is in possession of a completed cremation authorization form that was executed on a pre-need basis, (ii) is in possession of the designated human remains, and (iii) has

received payment for the cremation of the human remains and the final disposition of the cremated remains or is otherwise assured of payment, then the crematory authority shall be required to cremate the human remains and dispose of the cremated remains according to the instructions contained on the cremation authorization form, and may do so without any liability.

(d) ~~(e)~~ Any pre-need contract sold by, or pre-need arrangements made with, a cemetery, funeral establishment, crematory authority, or any other party that includes a cremation shall specify the final disposition of the cremated remains, in accordance with Section 40. In the event that no different or inconsistent instructions are provided to the crematory authority by the authorizing agent at the time of death, the crematory authority shall be authorized to release or dispose of the cremated remains as indicated in the pre-need agreement. Upon compliance with the terms of the pre-need agreement, the crematory authority shall be discharged from any legal obligation concerning the cremated remains. The pre-need agreement shall be kept as a permanent record by the crematory authority.

(e) ~~(f)~~ This Section shall not apply to any cremation authorization form or pre-need contract executed prior to the effective date of this Act. Any cemetery, funeral establishment, crematory authority, or other party, however, with the written approval of the authorizing agent or person



who executed the pre-need contract, may designate that the cremation authorization form or pre-need contract shall be subject to this Act.

(Source: P.A. 87-1187.)

(410 ILCS 18/80)

Sec. 80. Record of proceedings; transcript ~~Home Rule. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. Any notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the hearing officer, and orders of the Department shall be in the record of the proceeding. The Department shall furnish a transcript of such record to any person interested in such hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law. The regulation of crematories and crematory authorities as set forth in this Act is an exclusive power and function of the State. A home rule unit may not regulate crematories or crematory authorities. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.~~

(Source: P.A. 91-357, eff. 7-29-99.)

(410 ILCS 18/85 new)

Sec. 85. Subpoenas; depositions; oaths. The Department has the power to subpoena documents, books, records or other materials and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Secretary, the designated hearing officer, or any qualified person the Department may designate has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

Every person having taken an oath or affirmation in any proceeding or matter wherein an oath is required by this Act, who shall swear willfully, corruptly and falsely in a matter material to the issue or point in question, or shall suborn any other person to swear as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be and shall be punished as provided by State law relative to perjury and subornation of perjury.

(410 ILCS 18/87 new)

Sec. 87. Findings and recommendations. At the conclusion of the hearing, the hearing officer shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or its rules or

failed to comply with the conditions required in this Act or its rules. The hearing officer shall specify the nature of any violations or failure to comply and shall make recommendations to the Secretary. In making recommendations for any disciplinary actions, the hearing officer may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the hearing officer shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation. The report of findings of fact, conclusions of law, and recommendation of the hearing officer shall be the basis for the Department's order refusing to issue, restore, place on probation, fine, suspend, revoke a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the hearing officer, the Secretary may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a

bar to a criminal prosecution brought for a violation of this Act.

(410 ILCS 18/88 new)

Sec. 88. Rehearing. At the conclusion of the hearing, a copy of the hearing officer's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Act. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with recommendations of the hearing officer except as provided in Section 89 of this Act.

If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

(410 ILCS 18/89 new)

Sec. 89. Secretary; rehearing. Whenever the Secretary

believes that substantial justice has not been done in the revocation, suspension, or refusal to issue or restore a license or other discipline of an applicant or licensee, he or she may order a rehearing by the same or other hearing officers.

(410 ILCS 18/90 new)

Sec. 90. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

(a) the signature is the genuine signature of the Secretary;

(b) the Secretary is duly appointed and qualified; and

(c) the hearing officer is qualified to act.

(410 ILCS 18/91 new)

Sec. 91. Civil action and civil penalties. In addition to the other penalties and remedies provided in this Act, the Department may bring a civil action in the county of residence of the licensee or any other person to enjoin any violation or threatened violation of this Act. In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed \$10,000 for each violation as determined by the Department. The civil penalty shall be assessed by the

Department in accordance with the provisions of this Act.

Any civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record. All moneys collected under this Section shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund.

(410 ILCS 18/92 new)

Sec. 92. Consent order. At any point in any investigation or disciplinary proceedings as provided in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

(410 ILCS 18/93 new)

Sec. 93. Illinois Administrative Procedure Act; application. The Illinois Administrative Procedure Act is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of the Illinois Administrative Procedure Act, which provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention or continuation of the license, is specifically excluded. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative

Procedure Act is considered sufficient when mailed to the address of record.

(410 ILCS 18/94 new)

Sec. 94. Summary suspension of a license. The Secretary may summarily suspend a license of a licensed crematory without a hearing, simultaneously with the institution of proceedings for a hearing provided for in this Act, if the Secretary finds that evidence in the Secretary's possession indicates that the licensee's continued practice would constitute an imminent danger to the public. In the event that the Secretary summarily suspends the license of a licensed crematory without a hearing, a hearing must be commenced within 30 days after the suspension has occurred and concluded as expeditiously as practical. In the event of a summary suspension, the county coroner or medical examiner responsible for the area where the crematory is located shall make arrangements to dispose of any bodies in the suspended licensee's possession after consulting with the authorizing agents for those bodies.

(410 ILCS 18/95 new)

Sec. 95. Home Rule. The regulation of crematories and crematory authorities as set forth in this Act is an exclusive power and function of the State. A home rule unit may not regulate crematories or crematory authorities. This Section is a denial and limitation of home rule powers and functions under

subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 90-30. The Vital Records Act is amended by changing Sections 11 and 18.5 as follows:

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

Sec. 11. Information required on forms.

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

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

(c) Effective November 1, 1990, the social security numbers of the mother and father shall be collected at the time of the birth of the child. These numbers shall not be recorded on the certificate of live birth. The numbers may be used only for



those purposes allowed by Federal law.

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

(e) If the place of disposition of a dead human body or cremated remains is in a cemetery, the burial permit shall include the place of disposition. The place of disposition shall include the lot, block, section, and plot or niche where the dead human body or cremated remains are located. This subsection does not apply to cremated remains scattered in a cemetery.

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

(410 ILCS 535/18.5)

Sec. 18.5. Electronic reporting system for death registrations. The State Registrar shall ~~may~~ facilitate death registration by implementing an electronic reporting system. The system may be used to transfer information to individuals and institutions responsible for completing and filing certificates and related reports for deaths that occur in the State. The system shall be capable of storing and retrieving accurate and timely data and statistics for those persons and agencies responsible for vital records registration and administration. Upon establishment of such an electronic

reporting system, but not later than January 1, 2011, the county clerk in the county in which a death occurred or the county clerk of the county where a decedent last resided, as indicated on the decedent's death certificate, shall be authorized to issue certifications of death records from such system, and the State Registrar shall cause the electronic reporting system to provide for such capability. The Department of Financial and Professional Regulation shall have access to the system to enhance its enforcement of the Cemetery Oversight Act.

(Source: P.A. 96-327, eff. 8-11-09.)

Section 90-33. The Eminent Domain Act is amended by changing Section 15-5-40 as follows:

(735 ILCS 30/15-5-40)

Sec. 15-5-40. Eminent domain powers in ILCS Chapters 705 through 820. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(765 ILCS 230/2); Coast and Geodetic Survey Act; United States of America; for carrying out coast and geodetic surveys.

(765 ILCS 505/1); Mining Act of 1874; mine owners and operators; for roads, railroads, and ditches.

(805 ILCS 25/2); Corporation Canal Construction Act; general

corporations; for levees, canals, or tunnels for agricultural, mining, or sanitary purposes.

(805 ILCS 30/7); Gas Company Property Act; consolidating gas companies; for acquisition of stock of dissenting stockholder.

(805 ILCS 120/9); Merger of Not For Profit Corporations Act; merging or consolidating corporations; for acquisition of interest of objecting member or owner.

~~(805 ILCS 320/16 through 320/20); Cemetery Association Act; cemetery associations; for cemetery purposes.~~

(Source: P.A. 94-1055, eff. 1-1-07.)

Section 90-35. The Crime Victims Compensation Act is amended by changing Section 2 as follows:

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

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

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

(b) "Court of Claims" means the Court of Claims created by

the Court of Claims Act.

(c) "Crime of violence" means and includes any offense defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-11, 11-19.2, 11-20.1, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1 of the Criminal Code of 1961, Sections 1(a) and 1(a-5) of the Cemetery Protection Act, driving under the influence of intoxicating liquor or narcotic drugs as defined in Section 11-501 of the Illinois Vehicle Code, and a violation of Section 11-401 of the Illinois Vehicle Code, provided the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of contact; so long as the offense did not occur during a civil riot, insurrection or rebellion. "Crime of violence" does not include any other offense or accident involving a motor vehicle except those vehicle offenses specifically provided for in this paragraph. "Crime of violence" does include all of the offenses specifically provided for in this paragraph that occur within this State but are subject to federal jurisdiction and crimes involving terrorism as defined in 18 U.S.C. 2331.

(d) "Victim" means (1) a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against him or her, (2) the parent of a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against the person, (3) a person

killed or injured in this State while attempting to assist a person against whom a crime of violence is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable person ~~man~~ under the circumstances, (4) a person killed or injured in this State while assisting a law enforcement official apprehend a person who has perpetrated a crime of violence or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official, (5) a person who personally witnessed a violent crime, (5.1) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any other person under the age of 18 who is the brother, sister, half brother, half sister, child, or stepchild of a person killed or injured in this State as a result of a crime of violence, ~~or~~ (6) an Illinois resident who is a victim of a "crime of violence" as defined in this Act except, if the crime occurred outside this State, the resident has the same rights under this Act as if the crime had occurred in this State upon a showing that the state, territory, country, or political subdivision of a country in which the crime occurred does not have a compensation of victims of crimes law for which that Illinois resident is eligible, (7) a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence, or (8) solely for the purpose of compensating for pecuniary loss incurred for

psychological treatment of a mental or emotional condition caused or aggravated by the crime, any parent, spouse, or child under the age of 18 of a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence.

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

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

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

(h) "Pecuniary loss" means, in the case of injury, appropriate medical expenses and hospital expenses including expenses of medical examinations, rehabilitation, medically required nursing care expenses, appropriate psychiatric care or psychiatric counseling expenses, expenses for care or counseling by a licensed clinical psychologist, licensed clinical social worker, or licensed clinical professional counselor and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto; transportation expenses to and from medical and treatment

facilities; prosthetic appliances, eyeglasses, and hearing aids necessary or damaged as a result of the crime; replacement costs for clothing and bedding used as evidence; costs associated with temporary lodging or relocation necessary as a result of the crime, including, but not limited to, the first month's rent and security deposit of the dwelling that the claimant relocated to and other reasonable relocation expenses incurred as a result of the violent crime; locks or windows necessary or damaged as a result of the crime; the purchase, lease, or rental of equipment necessary to create usability of and accessibility to the victim's real and personal property, or the real and personal property which is used by the victim, necessary as a result of the crime; the costs of appropriate crime scene clean-up; replacement services loss, to a maximum of \$1000 per month; dependents replacement services loss, to a maximum of \$1000 per month; loss of tuition paid to attend grammar school or high school when the victim had been enrolled as a student prior to the injury, or college or graduate school when the victim had been enrolled as a day or night student prior to the injury when the victim becomes unable to continue attendance at school as a result of the crime of violence perpetrated against him or her; loss of earnings, loss of future earnings because of disability resulting from the injury, and, in addition, in the case of death, expenses for funeral, burial, and travel and transport for survivors of homicide victims to secure bodies of deceased victims and to

transport bodies for burial all of which may not exceed a maximum of \$5,000 and loss of support of the dependents of the victim; in the case of dismemberment or desecration of a body, expenses for funeral and burial, all of which may not exceed a maximum of \$5,000. Loss of future earnings shall be reduced by any income from substitute work actually performed by the victim or by income he or she would have earned in available appropriate substitute work he or she was capable of performing but unreasonably failed to undertake. Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average net monthly earnings for the 6 months immediately preceding the date of the injury or on \$1000 per month, whichever is less. If a divorced or legally separated applicant is claiming loss of support for a minor child of the deceased, the amount of support for each child shall be based either on the amount of support pursuant to the judgment prior to the date of the deceased victim's injury or death, or, if the subject of pending litigation filed by or on behalf of the divorced or legally separated applicant prior to the injury or death, on the result of that litigation. Real and personal property includes, but is not limited to, vehicles, houses, apartments, town houses, or condominiums. Pecuniary loss does not include pain and suffering or property loss or damage.

(i) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu



of those the injured person would have performed, not for income, but for the benefit of himself or herself or his or her family, if he or she had not been injured.

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

(k) "Survivor" means immediate family including a parent, step-father, step-mother, child, brother, sister, or spouse.

(Source: P.A. 96-267, eff. 8-11-09.)

Section 90-40. The Burial Lot Perpetual Trust Act is amended by changing Section 2 as follows:

(760 ILCS 90/2) (from Ch. 21, par. 32)

Sec. 2. Every company or association incorporated for cemetery purposes under any general or special law of the State of Illinois may receive, by gift, legacy, or otherwise, moneys or real or personal property, or the income or avails of such moneys or property, in trust, in perpetuity, for the improvement, maintenance, ornamentation, repair, care and preservation of any burial lot or grave, vault, tomb, or other such structures, in any cemetery owned or controlled by such cemetery company or association, upon such terms and in such

manner as may be provided by the terms of such gift, legacy or other conveyance of such moneys or property in trust and assented to by such company or association, and subject to the rules and regulations of such company or association, and every such company or association owning or controlling any such cemetery may make contracts with the owner or owners or legal representatives of any lot, grave, vault, tomb, or other such structure in such cemetery, for the improvement, maintenance, ornamentation, care, preservation and repair of any such lot, grave, vault, tomb, or other such structure in such cemetery owned or controlled by such cemetery company or association. If the cemetery is a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, or if the burial lot or grave, vault, tomb, or other such structures are in a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, then such company or association shall also comply with the provisions of the Cemetery Care Act or Cemetery Oversight Act, whichever is applicable. ~~Where the cemetery is a privately operated cemetery, as defined in section 2 of the Cemetery Care Act, approved July 21, 1947, as amended, or where the burial lot or grave, vault, tomb, or other such structures are in a privately operated cemetery, as defined in section 2 of that Act, then such company or association shall also comply with the provisions of the~~

~~Cemetery Care Act.~~

(Source: P.A. 83-388.)

Section 90-45. The Cemetery Perpetual Trust Authorization Act is amended by changing Section 2 as follows:

(760 ILCS 95/2) (from Ch. 21, par. 64)

Sec. 2. Any incorporated cemetery association incorporated not for pecuniary profit, may if it elects to do so, receive and hold money, funds and property in perpetual trust pursuant to the provisions of this act. Such election shall be evidenced by a by-law or resolution adopted by the board of directors, or board of trustees of the incorporated cemetery association. Any person is authorized to give, donate or bequeath any sum of money or any funds, securities, or property of any kind to the cemetery association, in perpetual trust, for the maintenance, care, repair, upkeep or ornamentation of the cemetery, or any lot or lots, or grave or graves in the cemetery, specified in the instrument making the gift, donation or legacy. The cemetery association may receive and hold in perpetual trust, any such money, funds, securities and property so given, donated or bequeathed to it, and may convert the property, funds and securities into money and shall invest and keep invested the proceeds thereof and the money so given, donated and bequeathed, in safe and secure income bearing investments, including investments in income producing real estate,

provided the purchase price of the real estate shall not exceed the fair market value thereof on the date of its purchase as such value is determined by the board of directors or board of trustees of the association. The principal of the trust fund shall be kept intact and the income arising therefrom shall be perpetually applied for the uses and purposes specified in the instrument making the gift, donation or legacy and for no other purpose.

The by-laws of the cemetery association shall provide for a permanent committee to manage and control the trust funds so given, donated and bequeathed to it. The members of the committee shall be appointed by the board of directors, or board of trustees of the cemetery association from among the members of the board of directors or board of trustees. The committee shall choose a chairman, a secretary and a treasurer from among the members, and shall have the management and control of the trust funds of the cemetery association so given, donated and bequeathed in trust, under the supervision of the board of directors or board of trustees. The treasurer of the committee shall execute a bond to the People of the State of Illinois for the use of the cemetery association, in a penal sum of not less than double the amount of the trust funds coming into his possession as treasurer, conditioned for the faithful performance of his duties and the faithful accounting for all money or funds which by virtue of his treasurership come into his possession, and be in such form and with such

securities as may be prescribed and approved by the board of directors, or board of trustees, and shall be approved by such board of directors, or board of trustees, and filed with the secretary of the cemetery association.

The treasurer of the committee shall have the custody of all money, funds and property received in trust by the cemetery association and shall invest the same in accordance with the directions of the committee as approved by the board of directors or board of trustees of the cemetery association, and shall receive and have the custody of all of the income arising from such investments and as the income is received by him, he shall pay it to the treasurer of the cemetery association, and he shall keep permanent books of record of all such trust funds and of all receipts arising therefrom and disbursements thereof, and shall annually make a written report to the board of directors or board of trustees of the cemetery association, under oath, showing receipts and disbursements, including a statement showing the amount and principal of trust funds on hand and how invested, which report shall be audited by the board of directors, or board of trustees, and if found correct, shall be approved, and filed with the secretary of the cemetery association.

The secretary of the committee shall keep, in a book provided for such purpose, a permanent record of the proceedings of the committee, signed by the president and attested by the secretary, and shall also keep a permanent

record of the several trust funds, the amounts thereof, and for what uses and purposes, respectively, and he shall annually, at the time the treasurer makes his report, make a written report under oath, to the board of directors or board of trustees, stating therein substantially the same matter required to be reported by the treasurer of the committee, which report, if found to be correct, shall be approved, and filed with the secretary of the association.

The treasurer shall execute a bond to the People of the State of Illinois, in a penal sum of not less than double the amount of money or funds coming into his possession as such treasurer, conditioned for the faithful performance of his duties and the faithful accounting of all money or funds which by virtue of his office come into his possession and be in such form and with such securities as may be prescribed and approved by the board of directors, or board of trustees, and shall be approved by such board of directors or board of trustees and filed with the secretary of the cemetery association.

The trust funds, gifts and legacies mentioned in this section and the income arising therefrom shall be exempt from taxation and from the operation of all laws of mortmain, and the laws against perpetuities and accumulations.

No loan; investment; purchase of insurance on the life of any trustee or employee; purchase of any real estate; or any other transaction using care funds by any trustee, director, or committee member shall be made to or for the benefit of any

person, officer, trustee, or party having any interest, or to any firm, corporation, trade association, or partnership in which any officer, director, trustee, or party has any interest, is a member of, or serves as an officer or director. A violation of this Section shall constitute the intentional and improper withdrawal of trust funds.

No loan or investment in any unproductive real estate or real estate outside of this State or in permanent improvements of the cemetery or any of its facilities shall be made, unless specifically authorized by the instrument whereby the principal fund was created. No commission or brokerage fee for the purchase or sale of any property shall be paid in excess of that usual and customary at the time and in the locality where such purchase or sale is made, and all such commissions and brokerage fees shall be fully reported in the next annual report filed by such cemetery association or trustee.

If the cemetery is a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, or if the burial lot or grave, vault, tomb, or other such structures are in a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, then such company or association shall also comply with the provisions of the Cemetery Care Act or Cemetery Oversight Act, whichever is applicable. ~~Where the cemetery is a privately operated cemetery, as defined in~~

~~section 2 of the Cemetery Care Act, approved July 21, 1947, as amended, or where the lot or lots or grave or graves are in a privately operated cemetery, as defined in section 2 of that Act, then such cemetery association or such committee, shall also comply with the provisions of the Cemetery Care Act.~~

(Source: P.A. 95-331, eff. 8-21-07.)

Section 90-50. The Cemetery Protection Act is amended by changing Sections .01, 1 and 8 as follows:

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

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

"Cemetery manager" means an individual who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property. This definition also includes, without limitation, an individual that is an independent contractor or individuals employed or contracted by an independent contractor who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care,



preservation, and embellishment of cemetery property.

~~"Cemetery authority" is defined as in Section 2 of the "Cemetery Care Act", approved July 21, 1947, as now and hereafter amended.~~

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

(Source: P.A. 94-44, eff. 6-17-05.)

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

Sec. 1. (a) Any person who acts without proper legal authority and who willfully and knowingly destroys or damages the remains of a deceased human being or who desecrates human remains is guilty of a Class 3 felony.

(a-5) Any person who acts without proper legal authority and who willfully and knowingly removes any portion of the remains of a deceased human being from a burial ground where skeletal remains are buried or from a grave, crypt, vault, mausoleum, or other repository of human remains is guilty of a Class 4 felony.

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

(1) obliterates, vandalizes, or desecrates a burial ground where skeletal remains are buried or a grave, crypt, vault, mausoleum, or other repository of human remains;

(2) obliterates, vandalizes, or desecrates a park or

other area clearly designated to preserve and perpetuate the memory of a deceased person or group of persons;

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

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

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

(b-5) Any person who acts without proper legal authority and who willfully and knowingly defaces, vandalizes, injures, or removes a gravestone or other memorial, monument, or marker commemorating a deceased person or group of persons, whether located within or outside of a recognized cemetery, memorial park, or battlefield is guilty of a Class 4 felony for damaging at least one but no more than 4 gravestones, a Class 3 felony for damaging at least 5 but no more than 10 gravestones, or a

Class 2 felony for damaging more than 10 gravestones and shall provide restitution to the cemetery authority or property owner for the amount of any damage caused.

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

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

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

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

(1) any unauthorized, non-related third party or

person who enters any sheds, crematories, or employee areas;

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

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

(4) any unauthorized person who removes, destroys, or disturbs any cemetery devices or property placed for safety of visitors and cemetery employees;

is guilty of a Class A misdemeanor for the first offense and of a Class 4 felony for a second or subsequent offense.

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

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

(g) All fines when recovered, shall be paid over by the court or officer receiving the same to the cemetery authority

and be applied, as far as possible in repairing the injury, if any, caused by such offense. Provided, nothing contained in this Act shall deprive such cemetery authority or the owner of any interment, entombment, or inurnment ~~inurement~~ right or monument from maintaining an action for the recovery of damages caused by any injury caused by a violation of the provisions of this Act, or of the rules established by the board of directors of such cemetery authority. Nothing in this Section shall be construed to prohibit the discharge of firearms loaded with blank ammunition as part of any funeral, any memorial observance or any other patriotic or military ceremony.

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

(765 ILCS 835/8) (from Ch. 21, par. 21.1)

Sec. 8. If the cemetery is a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, or if the burial lot or grave, vault, tomb, or other such structures are in a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, then such company or association shall also comply with the provisions of the Cemetery Care Act or Cemetery Oversight Act, whichever is applicable. Furthermore, no cemetery authority company or other legal entity may deny burial space to any person because of race, creed, marital

status, sex, national origin, sexual orientation, or color. A cemetery company or other entity operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation. Religious institution cemeteries may limit burials to members of the religious institution and their families.  
~~Where the cemetery is a privately operated cemetery, as defined in Section 2 of the Cemetery Care Act, enacted by the Sixty fifth General Assembly or where the interment, entombment rights in a community mausoleum or lawn crypt section, or inurnment rights in a community columbarium, vault or vaults, tomb or tombs, or other such structures in the cemetery or graveyard are in a privately operated cemetery, as defined in Section 2 of that Act, then such board of directors or managing officers of such cemetery, society or cemetery authority, or the trustees of any public graveyard or the cemetery society or cemetery association, shall also comply with the provisions of the Cemetery Care Act, enacted by the Sixty fifth General Assembly.~~

(Source: P.A. 94-44, eff. 6-17-05.)

Section 90-57. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2Z as follows:

(815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

Sec. 2Z. Violations of other Acts. Any person who knowingly

violates the Automotive Repair Act, the Automotive Collision Repair Act, the Home Repair and Remodeling Act, the Dance Studio Act, the Physical Fitness Services Act, the Hearing Instrument Consumer Protection Act, the Illinois Union Label Act, the Job Referral and Job Listing Services Consumer Protection Act, the Travel Promotion Consumer Protection Act, the Credit Services Organizations Act, the Automatic Telephone Dialers Act, the Pay-Per-Call Services Consumer Protection Act, the Telephone Solicitations Act, the Illinois Funeral or Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax Act, ~~the Payday Loan Reform Act~~, subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the Internet Caller Identification Act, paragraph (6) of subsection (k) of Section 6-305 of the Illinois Vehicle Code, Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the Illinois Vehicle Code, Article 3 of the Residential Real Property Disclosure Act, the Automatic Contract Renewal Act, or the Personal Information Protection Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413, eff. 1-1-08; 95-562, eff. 7-1-08; 95-876, eff. 8-21-08; revised

11-4-09.)

Section 90-60. The Burial Rights Act is amended by changing Sections 1 and 2.3 as follows:

(820 ILCS 135/1) (from Ch. 21, par. 101)

Sec. 1. (a) Every contract, agreement or understanding between a cemetery authority and a cemetery workers' association which totally prohibits burials of human remains on Sundays or legal holidays shall be deemed to be void as against public policy and wholly unenforceable.

(b) Nothing in this Section shall prohibit a cemetery authority and a cemetery workers' association from entering into a contract, agreement or understanding which limits Sunday or holiday burials of human remains to decedents who were members of religious sects whose tenets or beliefs require burials within a specified period of time and whose deaths occurred at such times as to necessitate Sunday or holiday burials. Such contract, agreement or understanding may provide that a funeral director notify the cemetery authority within a reasonable time when a Sunday or holiday burial is necessitated by reason of the decedent's religious tenets or beliefs.

(c) It shall be unlawful for any person to restrain, prohibit or interfere with the burial of a decedent whose time of death and religious tenets or beliefs necessitate burial on a Sunday or legal holiday.



(d) A violation of this Section is a Class A misdemeanor.

(e) For the purposes of this Act, "cemetery authority" shall have the meaning ascribed to it in Section 2 of the Cemetery Care Act or the Cemetery Oversight Act, whichever is applicable; and "cemetery workers' association" means an organization of workers who are employed by cemetery authorities to perform the task of burying human remains or transporting remains to cemeteries or other places of interment, and who join together for collective bargaining purposes or to negotiate terms and conditions of employment.

(Source: P.A. 83-384.)

(820 ILCS 135/2.3)

Sec. 2.3. Sections of cemeteries. No provision of any law of this State may be construed to prohibit a cemetery authority from reserving, in a cemetery not owned by a religious organization or institution, a section of interment rights, entombment rights, or inurnment rights for sale exclusively to persons of a particular religion, unless membership in the religion is restricted on account of race, color, or national origin. As used in this Section, "interment rights", "entombment rights", and "inurnment rights" have the meanings ascribed to those terms in the Cemetery Care Act or the Cemetery Oversight Act, whichever is applicable.

(Source: P.A. 88-659.)

(760 ILCS 100/Act rep.)

Section 90-90. The Cemetery Care Act is repealed.

(805 ILCS 320/16 rep.)

(805 ILCS 320/16.5 rep.)

(805 ILCS 320/17 rep.)

(805 ILCS 320/18 rep.)

(805 ILCS 320/19 rep.)

(805 ILCS 320/20 rep.)

Section 90-92. The Cemetery Association Act is amended by repealing Sections 16, 16.5, 17, 18, 19, and 20.

(805 ILCS 320/Act rep.)

Section 90-95. The Cemetery Association Act is repealed.

#### Article 91.

##### Additional Amendatory Provisions

Section 91-5. The Funeral Directors and Embalmers Licensing Code is amended by changing Sections 1-10, 15-50, 15-60, and 15-75 and adding Article 12 and Section 15-76 as follows:

(225 ILCS 41/1-10)

(Section scheduled to be repealed on January 1, 2013)

Sec. 1-10. Definitions. As used in this Code:

"Applicant" means any person making application for a license or certificate of registration.

"Board" means the Funeral Directors and Embalmers Licensing and disciplinary Board.

"Customer service employee" means a funeral establishment, funeral chapel, funeral home, or mortuary employee who has direct contact with consumers and explains funeral or burial merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition includes, without limitation, an individual that is an independent contractor or an individual employed or contracted by an independent contractor who has direct contact with consumers and explains funeral or burial merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition does not include a funeral establishment, funeral chapel, funeral home, or mortuary employee, an individual who is an independent contractor, or an individual employed or contracted by an independent contractor who merely provides a printed price list to a consumer, processes payment from a consumer, or performs sales functions related solely to incidental merchandise like flowers, keepsakes, memorial tributes, or other similar items.

"Department" means the Department of Professional Regulation.

"Director" means the Director of Professional Regulation.

"Funeral director and embalmer" means a person who is

licensed and qualified to practice funeral directing and to prepare, disinfect and preserve dead human bodies by the injection or external application of antiseptics, disinfectants or preservative fluids and materials and to use derma surgery or plastic art for the restoring of mutilated features. It further means a person who restores the remains of a person for the purpose of funeralization whose organs or bone or tissue has been donated for anatomical purposes.

"Funeral director and embalmer intern" means a person licensed by the State who is qualified to render assistance to a funeral director and embalmer in carrying out the practice of funeral directing and embalming under the supervision of the funeral director and embalmer.

"Embalming" means the process of sanitizing and chemically treating a deceased human body in order to reduce the presence and growth of microorganisms, to retard organic decomposition, to render the remains safe to handle while retaining naturalness of tissue, and to restore an acceptable physical appearance for funeral viewing purposes.

"Funeral director" means a person, known by the title of "funeral director" or other similar words or titles, licensed by the State who practices funeral directing.

"Funeral establishment", "funeral chapel", "funeral home", or "mortuary" means a building or separate portion of a building having a specific street address or location and devoted to activities relating to the shelter, care, custody

and preparation of a deceased human body and which may contain facilities for funeral or wake services.

"Owner" means the individual, partnership, corporation, association, trust, estate, or agent thereof, or other person or combination of persons who owns a funeral establishment or funeral business.

"Person" means any individual, partnership, association, firm, corporation, trust or estate, or other entity.

(Source: P.A. 93-268, eff. 1-1-04.)

(225 ILCS 41/Art. 12 heading new)

ARTICLE 12. CUSTOMER SERVICE EMPLOYEES

(225 ILCS 41/12-5 new)

(Section scheduled to be repealed on January 1, 2013)

Sec. 12-5. License requirement. Customer service employees employed by a funeral establishment, funeral chapel, funeral home, or mortuary must apply for licensure as a customer service employee on forms prescribed by the Department and pay the fee established by rule. Funeral directors and embalmers already licensed under this Act need not obtain a separate license as a customer service employee. It is unlawful for any person to act as a customer service employee without a customer service employee license issued by the Department unless otherwise exempted under this Section.

A person acting as a customer service employee who, prior

to the effective date of this amendatory Act of the 96th General Assembly, was not required to obtain licensure need not comply with the licensure requirement in this Article until the Department takes action on the person's application for a license. The application for a customer service employee license must be submitted to the Department within 4 months after the Department adopts rules regarding licensure under this amendatory Act of the 96th General Assembly. If the person fails to submit the application within this time period, then the person shall be considered to be engaged in unlicensed practice and shall be subject to discipline under this Act.

(225 ILCS 41/12-10 new)

(Section scheduled to be repealed on January 1, 2013)

Sec. 12-10. Qualifications for licensure.

(a) A person is qualified for licensure as a customer service employee if he or she meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Is of good moral character, including compliance with the Code of Professional Conduct and Ethics as provided for by rule. Good moral character is a continuing requirement of licensure. In determining good moral character, the Department may take into consideration conviction of any crime under the laws of any jurisdiction.

(3) Submits proof of successful completion of a high

school education or its equivalent as established by rule.

(4) Submits his or her fingerprints in accordance with subsection (b) of this Section.

(5) Has not committed a violation of this Act or any rules adopted under this Act that, in the opinion of the Department, renders the applicant unqualified to be a customer service employee.

(6) Successfully passes the examination authorized by the Department for customer service employees.

(7) Has complied with all other requirements of this Act and rules established for the implementation of this Act.

(8) Can be reasonably expected to treat consumers professionally, fairly, and ethically.

(b) Each applicant for a customer service employee license shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information that is prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall

furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or directly to a designated fingerprint vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated fingerprint vendor to provide his or her fingerprints in an alternative manner. The Department, in its discretion, may also use other procedures in performing or obtaining criminal background checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted.

(225 ILCS 41/12-11 new)

(Section scheduled to be repealed on January 1, 2013)

Sec. 12-11. Code of Professional Conduct and Ethics. The Department shall implement a Code of Professional Conduct and Ethics. Customer service employees shall abide by the Code of Professional Conduct and Ethics.

(225 ILCS 41/12-15 new)

(Section scheduled to be repealed on January 1, 2013)

Sec. 12-15. Examination; failure or refusal to take the examination.

(a) The Department shall authorize examinations of



customer service employee applicants at such times and places as it may determine. The examinations shall fairly test an applicant's qualifications to practice as customer service employee and knowledge of the theory and practice of funeral home customer service. The examination shall further test the extent to which the applicant understands and appreciates that the final disposal of a deceased human body should be attended with appropriate observance and understanding, having due regard and respect for the reverent care of the human body and for those bereaved and for the overall spiritual dignity of an individual.

(b) Applicants for examinations shall pay, either to the Department or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date at the time and place specified after the application for examination has been received and acknowledged by the Department or the designated testing service shall result in forfeiture of the examination fee.

(c) If the applicant neglects, fails, or refuses to take an examination or fails to pass an examination for a license under this Act within one year after filing an application, then the application shall be denied. However, the applicant may thereafter submit a new application accompanied by the required fee. The applicant shall meet the requirements in force at the time of making the new application.

(d) The Department may employ consultants for the purpose of preparing and conducting examinations.

(e) The Department shall have the authority to adopt or recognize, in part or in whole, examinations prepared, administered, or graded by other organizations in the cemetery industry that are determined appropriate to measure the qualifications of an applicant for licensure.

(225 ILCS 41/12-20 new)

(Section scheduled to be repealed on January 1, 2013)

Sec. 12-20. Continuing education. The Department shall adopt rules of continuing education for customer service employees. The requirements of this Section apply to any person seeking renewal or restoration under this Code.

(225 ILCS 41/15-50)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15-50. Practice by corporation, partnership, or association. No corporation, partnership or association of individuals, as such, shall be issued a license as a licensed funeral director and embalmer or licensed funeral director, nor shall any corporation, partnership, firm or association of individuals, or any individual connected therewith, publicly advertise any corporation, partnership or association of individuals as being licensed funeral directors and embalmers or licensed funeral directors. Nevertheless, nothing in this

Act shall restrict funeral director licensees or funeral director and embalmer licensees from forming professional service corporations under the Professional Service Corporation Act or from having these corporations registered for the practice of funeral directing.

No funeral director licensee or funeral director and embalmer licensee, and no partnership or association of those licensees, formed since July 1, 1935, shall engage in the practice of funeral directing and embalming or funeral directing under a trade name or partnership or firm name unless in the use and advertising of the trade name, partnership or firm name there is published in connection with the advertising the name of the owner or owners as the owner or owners.

(Source: P.A. 87-966.)

(225 ILCS 41/15-60)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15-60. Determination of life. Every funeral director licensee or funeral director and embalmer licensee under this Code before proceeding to prepare or embalm a human body to cremate or bury shall determine that life is extinct by ascertaining that:

(a) pulsation has entirely ceased in the radial or other arteries; and

(b) heart or respiratory sounds are not audible with the use of a stethoscope or with the ear applied directly over the

heart.

(Source: P.A. 87-966.)

(225 ILCS 41/15-75)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15-75. Violations; grounds for discipline; penalties.

(a) Each of the following acts is a Class A misdemeanor for the first offense, and a Class 4 felony for each subsequent offense. These penalties shall also apply to unlicensed owners of funeral homes.

(1) Practicing the profession of funeral directing and embalming or funeral directing, or attempting to practice the profession of funeral directing and embalming or funeral directing without a license as a licensed funeral director and embalmer or funeral director or acting as a customer service employee without a license as a customer service employee issued by the Department.

(2) Serving as an intern under a licensed funeral director and embalmer or attempting to serve as an intern under a licensed funeral director and embalmer without a license as a licensed funeral director and embalmer intern.

(3) Obtaining or attempting to obtain a license, practice or business, or any other thing of value, by fraud or misrepresentation.

(4) Permitting any person in one's employ, under one's control or in or under one's service to serve as a funeral

director and embalmer, funeral director, or funeral director and embalmer intern when the person does not have the appropriate license.

(5) Failing to display a license as required by this Code.

(6) Giving false information or making a false oath or affidavit required by this Code.

(b) Each of the following acts or actions is a violation of this Code for which the Department may refuse to issue or renew, or may suspend or revoke any license or may take any disciplinary action as the Department may deem proper including fines not to exceed \$1,000 for each violation.

(1) Obtaining or attempting to obtain a license by fraud or misrepresentation.

(2) Conviction in this State or another state of any crime that is a felony or misdemeanor under the laws of this State or conviction of a felony or misdemeanor in a federal court.

(3) Violation of the laws of this State relating to the funeral, burial or disposal of deceased human bodies or of the rules and regulations of the Department, or the Department of Public Health.

(4) Directly or indirectly paying or causing to be paid any sum of money or other valuable consideration for the securing of business or for obtaining authority to dispose of any deceased human body.

(5) Incompetence or untrustworthiness in the practice of funeral directing and embalming or funeral directing.

(6) False or misleading advertising as a funeral director and embalmer or funeral director, or advertising or using the name of a person other than the holder of a license in connection with any service being rendered in the practice of funeral directing and embalming or funeral directing. Nothing in this paragraph shall prevent including the name of any owner, officer or corporate director of a funeral business who is not a licensee in any advertisement used by a funeral home with which the individual is affiliated if the advertisement specifies the individual's affiliation with the funeral home.

(7) Engaging in, promoting, selling, or issuing burial contracts, burial certificates, or burial insurance policies in connection with the profession as a funeral director and embalmer, funeral director, or funeral director and embalmer intern in violation of any laws of the State of Illinois.

(8) Refusing, without cause, to surrender the custody of a deceased human body upon the proper request of the person or persons lawfully entitled to the custody of the body.

(9) Taking undue advantage of a client or clients as to amount to the perpetration of fraud.

(10) Engaging in funeral directing and embalming or

funeral directing without a license.

(11) Encouraging, requesting, or suggesting by a licensee or some person working on his behalf and with his consent for compensation that a person utilize the services of a certain funeral director and embalmer, funeral director, or funeral establishment unless that information has been expressly requested by the person. This does not prohibit general advertising or pre-need solicitation.

(12) Making or causing to be made any false or misleading statements about the laws concerning the disposal of human remains, including, but not limited to, the need to embalm, the need for a casket for cremation or the need for an outer burial container.

(13) Continued practice by a person having an infectious or contagious disease.

(14) Embalming or attempting to embalm a deceased human body without express prior authorization of the person responsible for making the funeral arrangements for the body. This does not apply to cases where embalming is directed by local authorities who have jurisdiction or when embalming is required by State or local law.

(15) Making a false statement on a Certificate of Death where the person making the statement knew or should have known that the statement was false.

(16) Soliciting human bodies after death or while death is imminent.

(17) Performing any act or practice that is a violation of this Code, the rules for the administration of this Code, or any federal, State or local laws, rules, or regulations governing the practice of funeral directing or embalming.

(18) Performing any act or practice that is a violation of Section 2 of the Consumer Fraud and Deceptive Business Practices Act.

(19) Engaging in unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(20) Taking possession of a dead human body without having first obtained express permission from next of kin or a public agency legally authorized to direct, control or permit the removal of deceased human bodies.

(21) Advertising in a false or misleading manner or advertising using the name of an unlicensed person in connection with any service being rendered in the practice of funeral directing or funeral directing and embalming. The use of any name of an unlicensed or unregistered person in an advertisement so as to imply that the person will perform services is considered misleading advertising. Nothing in this paragraph shall prevent including the name of any owner, officer or corporate director of a funeral home, who is not a licensee, in any advertisement used by a funeral home with which the individual is affiliated, if



the advertisement specifies the individual's affiliation with the funeral home.

(22) Directly or indirectly receiving compensation for any professional services not actually performed.

(23) Failing to account for or remit any monies, documents, or personal property that belongs to others that comes into a licensee's possession.

(24) Treating any person differently to his detriment because of race, color, creed, gender, religion, or national origin.

(25) Knowingly making any false statements, oral or otherwise, of a character likely to influence, persuade or induce others in the course of performing professional services or activities.

(26) Knowingly making or filing false records or reports in the practice of funeral directing and embalming.

(27) Failing to acquire continuing education required under this Code.

(28) Failing to comply with any of the following required activities:

(A) When reasonably possible, a funeral director licensee or funeral director and embalmer licensee or anyone acting on his or her behalf shall obtain the express authorization of the person or persons responsible for making the funeral arrangements for a deceased human body prior to removing a body from the

place of death or any place it may be or embalming or attempting to embalm a deceased human body, unless required by State or local law. This requirement is waived whenever removal or embalming is directed by local authorities who have jurisdiction. If the responsibility for the handling of the remains lawfully falls under the jurisdiction of a public agency, then the regulations of the public agency shall prevail.

(B) A licensee shall clearly mark the price of any casket offered for sale or the price of any service using the casket on or in the casket if the casket is displayed at the funeral establishment. If the casket is displayed at any other location, regardless of whether the licensee is in control of that location, the casket shall be clearly marked and the registrant shall use books, catalogues, brochures, or other printed display aids to show the price of each casket or service.

(C) At the time funeral arrangements are made and prior to rendering the funeral services, a licensee shall furnish a written statement to be retained by the person or persons making the funeral arrangements, signed by both parties, that shall contain: (i) the name, address and telephone number of the funeral establishment and the date on which the arrangements

were made; (ii) the price of the service selected and the services and merchandise included for that price; (iii) a clear disclosure that the person or persons making the arrangement may decline and receive credit for any service or merchandise not desired and not required by law or the funeral director or the funeral director and embalmer; (iv) the supplemental items of service and merchandise requested and the price of each item; (v) the terms or method of payment agreed upon; and (vi) a statement as to any monetary advances made by the registrant on behalf of the family.

(29) A finding by the Department that the license, after having his or her license placed on probationary status or subjected to conditions or restrictions, violated the terms of the probation or failed to comply with such terms or conditions.

(30) Violation of any final administrative action of the Director.

(31) Being named as a perpetrator in an indicated report by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act and, upon proof by clear and convincing evidence, being found to have caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(c) The Department may refuse to issue or renew, or may

suspend, the license of any person who fails to file a return, to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest as required by any tax Act administered by the Illinois Department of Revenue, until the time as the requirements of the tax Act are satisfied.

(Source: P.A. 93-268, eff. 1-1-04.)

(225 ILCS 41/15-76 new)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15-76. Vehicle traffic control. A funeral director licensee or funeral director and embalmer licensee planning a interment, inurnment, or entombment at a cemetery shall use its reasonable best efforts to ensure that funeral processions entering and exiting the cemetery grounds do not obstruct traffic on any street for a period in excess of 10 minutes, except where such funeral procession is continuously moving or cannot be moved by reason of circumstances over which the cemetery authority has no reasonable control. The funeral director licensee or funeral director and embalmer licensee arranging funeral processions to the cemetery shall use its reasonable best efforts to help prevent multiple funeral processions from arriving at the cemetery simultaneously. Notwithstanding any provision of this Act to the contrary, any funeral director licensee or funeral director and embalmer licensee who violates the provisions of this Section shall be

guilty of a business offense and punishable by a fine of not more than \$500 for each offense.

Article 900.

Severability

Section 900-5. Severability. This Act is declared to be severable, and should any word, phrase, sentence, provision or Section hereof be hereafter declared unconstitutional or otherwise invalid, the remainder of this Act shall not thereby be affected, but shall remain valid and in full force and effect for all intents and purposes.

Article 999.

Effective date

Section 999-5. Effective date. This Act takes effect March 1, 2010, except that Sections 90-25, 90-90, and 90-95 take effect March 1, 2012 and Sections 90-33, 90-57, 90-92, and 999-5 take effect upon becoming law.