



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SIXTH GENERAL ASSEMBLY

73RD LEGISLATIVE DAY

TUESDAY, JANUARY 12, 2010

12:20 O'CLOCK P.M.

SENATE
Daily Journal Index
73rd Legislative Day

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The Senate met pursuant to adjournment.
 Senator Don Harmon, Oak Park, Illinois, presiding.
 Prayer by Pastor Daniel Shelton, South Side Christian Church, Springfield, Illinois.
 Senator Jacobs led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, May 5, 2009, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

The Journal of Wednesday, May 6, 2009, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

The Journal of Thursday, May 7, 2009, was being read when on motion of Senator Hunter, further reading of same was dispensed with, and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

Senator Hunter moved that reading and approval of the Journal of Friday, October 30, 2009, be postponed, pending arrival of the printed Journal.
 The motion prevailed.

Senator Hunter moved that reading and approval of the Journal of Wednesday, January 6, 2010, be postponed, pending arrival of the printed Journal.
 The motion prevailed.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

FY 2009 Report on the Hiring of Ex-Offenders by State Vendors, submitted by the Department of Central Management Services.

FY 2009 Report on the Hiring of Veterans by State Vendors, submitted by the Department of Central Management Services.

2009 Annual Report on State Employee Child Care Centers, submitted by the Department of Central Management Services.

Annual Real Property Utilization Report, December 2009, submitted by the Department of Central Management Services.

Small Business Set Aside Program FY 2009 Annual Report, submitted by the Department of Central Management Services.

2008 Annual Flex Time Report, submitted by the Department of Central Management Services.

Annual Report of the Supported Employment Program, submitted by the Department of Central Management Services.

Bilingual Needs and Bilingual Pay Survey Report for Fiscal Year 2009, submitted by the Department of Central Management Services.

State Government Suggestion Award Board 2009 Annual Report, submitted by the Department of Central Management Services.

Personal Information Protection Act Report, submitted by Southern Illinois University Carbondale.

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Personal Information Protection Act Report, submitted by Northern Illinois University.

Personal Information Protection Act Report, submitted by Eastern Illinois University.

CPS Legislative 265 BiAnnual Report, submitted by the Public Building Commission of Chicago.

FY 2008 Fiscal Responsibility Report Card, submitted by the Comptroller.

Social Security Number Protection Task Force Report, submitted by the Attorney General.

Report on Social Services Block Grant Fund and Local Initiative Fund Receipts and Transfers, State Fiscal Year 2010, submitted by the Department of Human Services.

Personal Information Protection Act Report, submitted by the Department of Human Services.

Abuse and Neglect of Adults with Disabilities, FY 09 Annual Report, submitted by the Department of Human Services.

FY 2009 Expenditures for Services Provided in Prior Fiscal Years, submitted by the Department of Human Services.

Medical Services for which Claims were Received in Prior Fiscal Years, submitted by the Department of Human Services.

Explanations of Variance Between the Previous Year's Estimated and Actual Liabilities and Factors Affecting the Department's Liabilities, submitted by the Department of Human Services.

Results of Department's Efforts to Combat Fraud and Abuse, submitted by the Department of Human Services.

Summary of Program Evaluation Findings, submitted by the Department of Human Services.

WIC Special Supplemental Nutrition Program Quarterly Food Expenditure Report, submitted by the Department of Human Services.

Veterans Health Insurance Program Act 2009 Annual Report, submitted by Department of Healthcare and Family Services and the Department of Veterans Affairs.

Perinatal Report, January 2010, submitted by Department of Healthcare and Family Services.

Report of Medicaid Services for Persons who are Medically Fragile, Technology Dependent, submitted by the Department of Healthcare and Family Services.

Report of the Joint Task Force on Breeders and Pet Stores, submitted by the Joint Task Force on Breeders and Pet Stores.

Report on Emerging Money Managers, submitted by the Illinois State Board of Investment.

Annual Tuition and Fee Waiver Report, December 2009, submitted by the Illinois Board of Education.

Illinois Workers' Compensation Medical Fee Schedule, January 1, 2010, submitted by the Illinois Workers' Compensation Commission.

Use of Emerging Investment Managers, December 23, 2009, submitted by the State Universities Retirement System.

[January 12, 2010]

Homeless Prevention Program Annual Report for FY 2009, submitted by the Department of Human Services.

2009 WIA Annual Report, Individuals with Disabilities Served, submitted by the Department of Commerce and Economic Opportunity.

Use of Emerging Investment Managers, January 1, 2010, submitted by the Retirement Board of the County Employees' Annuity and Benefits Fund and Ex Officio for the Forest Preserve District Annuity and Benefit Fund.

Affirmative Action Plan FY 2010, submitted by the Department of Human Services.

2009 Annual Report, Administration and Enforcement Activities of the Equal Pay Act, submitted by the Department of Labor.

Activities and Enforcement of the Child Labor Law, FY09, submitted by the Department of Labor.

Underrepresented Groups in Illinois Higher Education, 2009, submitted by the Board of Higher Education.

Metropolitan Pier and Exposition Authority's Financial Statements for the three months ended September 30, 2009, submitted by the Metropolitan Pier and Exposition Authority.

Public Library Capital Needs Assessment Report, submitted by the Secretary of State.

Chicago Board of Education OIG Annual Report, July 1, 2008 – June 30, 2009, submitted by the Office of the Inspector General, Chicago Board of Education.

Report of the Illinois Delegation to the National Conference of Commissioners of Uniform State Laws, submitted by the Legislative Reference Bureau.

Property Tax Reform and Relief Task Force Report, submitted by the Property Tax Reform and Relief Task Force.

DJJ Quarterly Report to the Legislature, April 1, 2009, submitted by the Department of Juvenile Justice.

DJJ Quarterly Report to the Legislature, July 1, 2009, submitted by the Department of Juvenile Justice.

Report of Annual Capital Expenditures 2008, submitted by the Department of Public Health.

Long-term Care Annual Report, August 2009, submitted by the Department of Public Health.

Ashland Flood Control Project, Village of Ashland, IL, Cass County, May 2009, submitted by the Department of Natural Resources.

Farmers/Prairie Creek Strategic Planning Study, Cook County, IL, September 2009, submitted by the Department of Natural Resources.

For the Record 2009, Fiscal Year 2009 Highway Improvement Accomplishments, submitted by the Department of Transportation.

Annual Unified Economic Development Budget for tax year 2006, submitted by the Department of Revenue.

Annual Unified Economic Development Budget for tax year 2007, submitted by the Department of Revenue.

[January 12, 2010]

River Edge Redevelopment Zone Program Evaluation Report, December 31, 2009, submitted by the Department of Commerce and Economic Opportunity.

Personal Information Protection Act Report, submitted by Northern Illinois University.

Personal Information Protection Act Report, submitted by the Department of Human Services.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

MESSAGE FROM THE PRESIDENT

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706

January 8, 2010

Ms. Jillayne Rock
Secretary of the Senate
Room 403 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 2-10, I am canceling Session scheduled Thursday, January 14, 2010.

Sincerely,
s/John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno
Democrat Caucus Members
Tim Mapes

COMMUNICATION

**GENERAL ASSEMBLY
STATE OF ILLINOIS**

SUBPOENA DUCES TECUM

TO: Office of the Executive Inspector General
c/o Sean Ginty
607 East Adams, 14th Floor
Springfield, IL 62701-1634

YOU ARE COMMANDED to produce to the Senate State Government and Veterans Affairs Committee of the 96th General Assembly, at the State Capitol Building, Room 605, in the City of Springfield, Sangamon County, Illinois on the 8th day of January, 2009 on or before 12 p.m., a true and accurate copy of *the Final Report created by the Office of the Executive Inspector General related to case number 05-00263*, in your possession or control.

[January 12, 2010]

You shall deliver a copy of the Report to Eric M. Madiar, Chief Legal Counsel & Parliamentarian, Office of the Senate President, State House, Room 605, Springfield, Illinois 67206. Mr. Madiar is authorized to accept the Report on behalf of the Committee.

YOUR FAILURE TO RESPOND TO THIS SUBPOENA WILL SUBJECT YOU TO ARREST AND PUNISHMENT AS PROVIDED BY THE ILLINOIS CONSTITUTION, THE STATUTES OF ILLINOIS, AND THE RULES OF THE ILLINOIS STATE SENATE.

Witness: January 7, 2010

s /Deanna Demuzio
Deanna Demuzio, Chairperson
Senate State Government and
Veteran Affairs Committee

s/John J. Cullerton
John J. Cullerton, President of the
Illinois State Senate

Attest: s/Jillayne Rock
Jillayne Rock, Secretary of the Senate
Room 401 State House
Springfield, IL 62706
(217)782-5715

I served this subpoena by handing a copy to Sally Jefferson on 01/07, 2010.

s/Claricel (Joe) Agans-Dominguez
Senate Sergeant-At-Arms
Senate of the State of Illinois

SIGNED AND SWORN TO BEFORE ME
Jan. 7, 2010

s/Cynthia J. Spears
Notary Public

INTRODUCTION OF BILLS

SENATE BILL NO. 2510. Introduced by Senator Martinez, a bill for AN ACT concerning insurance.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2511. Introduced by Senator Silverstein, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2512. Introduced by Senator Silverstein, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2513. Introduced by Senator Silverstein, a bill for AN ACT concerning criminal law.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2514. Introduced by Senator Silverstein, a bill for AN ACT concerning civil law.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

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SENATE BILL NO. 2515. Introduced by Senator Silverstein, a bill for AN ACT concerning transportation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2516. Introduced by Senator Silverstein, a bill for AN ACT concerning insurance.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2517. Introduced by Senator Clayborne, a bill for AN ACT concerning regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2518. Introduced by Senator Clayborne, a bill for AN ACT concerning regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2519. Introduced by Senator Forby, a bill for AN ACT concerning appropriations.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2520. Introduced by Senator Haine, a bill for AN ACT concerning local government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2521. Introduced by Senator Delgado, a bill for AN ACT concerning education, which may be referred to as Candace's Law.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2522. Introduced by Senator Hunter, a bill for AN ACT concerning public health.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2523. Introduced by Senator Clayborne, a bill for AN ACT concerning local government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2524. Introduced by Senator Cronin, a bill for AN ACT concerning local government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2525. Introduced by Senator Martinez, a bill for AN ACT concerning public employee benefits.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2526. Introduced by Senator Steans, a bill for AN ACT concerning professional regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

[January 12, 2010]

SENATE BILL NO. 2527. Introduced by Senator Kotowski, a bill for AN ACT concerning regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 562

Offered by Senator Link and all Senators:
Mourns the death of William H. Richter, Jr.

SENATE RESOLUTION NO. 563

Offered by Senator Link and all Senators:
Mourns the death of Stanley Peter Skarbalus of Gurnee.

SENATE RESOLUTION NO. 564

Offered by Senator Link and all Senators:
Mourns the death of Andrew "Carl" Cepon of Gurnee.

SENATE RESOLUTION NO. 565

Offered by Senator Martinez and all Senators:
Mourns the death of Graciela J. Juarez of Springfield.

SENATE RESOLUTION NO. 566

Offered by Senator Haine and all Senators:
Mourns the death of June L. Jabusch of Godfrey.

SENATE RESOLUTION NO. 567

Offered by Senator Haine and all Senators:
Mourns the death of Carl Eldreth Timmins.

SENATE RESOLUTION NO. 568

Offered by Senator Forby and all Senators:
Mourns the death of John D. Drew of Benton.

SENATE RESOLUTION NO. 569

Offered by Senator Harmon and all Senators:
Mourns the death of Lyman Shepard of Oak Park.

SENATE RESOLUTION NO. 570

Offered by Senator Dillard and all Senators:
Mourns the death of Esther N. Schulman of Chicago.

SENATE RESOLUTION NO. 571

Offered by Senator Dillard and all Senators:
Mourns the death of Anton John Valukas.

SENATE RESOLUTION NO. 572

Offered by Senator Dillard and all Senators:
Mourns the death of Dennis J. Fox.

SENATE RESOLUTION NO. 573

Offered by Senator J. Jones and all Senators:
Mourns the death of Wilbert B. "Cotton" Wuebbels of Germantown.

SENATE RESOLUTION NO. 574

Offered by Senator McCarter and all Senators:

Mourns the death of U.S. Air Force Senior Airman Bradley Smith.

SENATE RESOLUTION NO. 575

Offered by Senator McCarter and all Senators:

Mourns the death of Alexander Edward Tegtmeier of Millstadt.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Koehler offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 576

WHEREAS, Jasper Rylan Sherman was born on September 1, 2005 and passed away on February 25, 2009 after waging a courageous battle against Mitochondrial Disease; Jasper's memory lives on in the minds and hearts of his loving family and friends who remain committed to educating the public about Mitochondrial Disease with the hope of one day finding a cure; and

WHEREAS, Mitochondria are the power plants in every cell of a person's body and create more than 90% of the energy needed by the body to sustain life and support growth; mitochondria may not function correctly due to genetic defects, damage caused by drugs, or damage caused by destructive molecules called free radicals; and

WHEREAS, When mitochondria fail, cell injury and cell death follow, and if the process is repeated throughout the body, whole systems begin to fail; and

WHEREAS, Mitochondrial diseases can cause isolated symptoms like seizures, low blood counts, blindness, deafness, dementia, heart failure, and progressive muscle weakness, but more often they cause failure of several organ systems in sequence; and

WHEREAS, Mitochondrial diseases can affect any person at any age; it is estimated that more than one in 4,000 children born in the United States each year will develop a mitochondrial disease by 10 years of age; and

WHEREAS, Since mitochondrial disorders mimic other diseases, it is believed that they are under-diagnosed; and

WHEREAS, Currently no cures or effective therapies exist, but early diagnosis can help patients and their families use proper medication and nutritional supplements to improve the quality of life, and even prolong life; and

WHEREAS, It is appropriate that all citizens of the State of Illinois be better informed about mitochondrial diseases and their impact; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we designate the third full week of September in each year as Mitochondrial Disease Awareness Week in the State of Illinois, and the citizens of the State of Illinois are urged to observe the week with appropriate activities and programs.

Senator Koehler offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 577

WHEREAS, Unused and unwanted consumer pharmaceuticals have a negative impact on public
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health and the environment; the lack of effective and efficient methods of drug disposal has resulted in unwelcome social, cultural, ecological, and global effects; and

WHEREAS, The theft and social use, misuse, and abuse of pharmaceuticals by teenagers, adults, and older adults has increased; and

WHEREAS, Increasing polypharmacy, non-adherence to prescriptions, and medication errors all contribute to accumulation of drugs and poor patient outcomes; and

WHEREAS, Potential deleterious effects on wildlife and humans due to drug disposition in surface and ground waters are a result of improper disposal; and

WHEREAS, Unused medications represent wasted health care dollars to consumers, insurance carriers, and taxpayers alike; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we designate the date of May 1, 2010 as "Proper Drug Disposal Day" throughout the State of Illinois and urge all citizens to recognize the need for proper adherence to medication and appropriate drug disposal across the State of Illinois.

Senator Murphy offered the following Senate Joint Resolution, which was referred to the Committee on Assignments:

SENATE JOINT RESOLUTION NO. 83

WHEREAS, The federal government has expressed an interest in purchasing the State of Illinois Thomson Maximum Security Correctional Center in Thomson, Illinois, for the purpose of operating the facility as a federal maximum security prison for 1600 or more federal inmates with a portion leased to the Department of Defense for holding a number of Guantanamo terrorist detainees; and

WHEREAS, The Governor has indicated his support for the closure and sale of the Thomson Correctional Center to the federal government; and

WHEREAS, Toward that end the Illinois Department of Corrections has pursuant to the State Facilities Closure Act filed a Recommendation to close the Thomson Correctional Facility with the Commission on Government Forecasting and Accountability; and

WHEREAS, Even though the Commission on Government Forecasting and Accountability has carried out its obligation under the State Facilities Closure Act to hold a hearing and render an advisory opinion on the proposed Thomson closure; the highly unusual circumstances surrounding the use of the Thomson facility to house an as yet undetermined number of Guantanamo terrorist detainees raise significant public safety and security concerns for the entire State of Illinois which should be debated and voted upon by the entire General Assembly; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that the President of the Senate and the Speaker of the House shall cause the matter of the closure and sale of the Thomson Correctional Center to the federal government to be submitted to their respective houses of the General Assembly for their consideration and vote, and that the results of the votes shall be forwarded to the Governor.

MESSAGE FROM THE GOVERNOR

Message for the Governor by Lindsay Hansen Anderson
Legislative Director for Governor Pat Quinn

[January 12, 2010]

January 11, 2010

Mr. President,

The Governor directs me to lay before the Senate the following Message:

STATE OF ILLINOIS
EXECUTIVE DEPARTMENT

To the Honorable
Members of the Senate
Ninety-Sixth General Assembly

I have nominated and appointed the following named individual to the office enumerated below and respectfully ask concurrence in and confirmation of this appointment by your Honorable Body.

s/Pat Quinn
GOVERNOR

PUBLIC ADMINISTRATOR & PUBLIC GUARDIAN OF MONROE COUNTY

To be the Public Administrator and Public Guardian of Monroe County for a term commencing January 11, 2010 and ending December 2, 2013:

Arlie Traugher
Non-Salaried

Under the rules, the foregoing Message from the Governor was referred to the Committee on Executive Appointments.

ANNOUNCEMENT

Senator Maloney announced the Education Caucus to meet at 6:00 o'clock p.m. this evening.

At the hour of 12:38 o'clock p.m., the Chair announced that the Senate stand at ease.

AT EASE

At the hour of 12:53 o'clock p.m., the Senate resumed consideration of business.
Senator Harmon, presiding

LEGISLATIVE MEASURE FILED

The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to House Bill 1188

REPORTS FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its January 12, 2010 meeting, to which was referred **House Bill No. 1188** on November 30, 2009, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

[January 12, 2010]

And **House Bill No. 1188** was returned to the order of third reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its January 12, 2010 meeting, reported the following Legislative Measure has been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Floor Amendment No. 2 to House Bill 1188.**

COMMITTEE MEETING ANNOUNCEMENT

The Chair announced the Committee on Executive will meet in Room 212 at 2:00 o'clock p.m.

MESSAGE FROM THE PRESIDENT

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706

January 12, 2010

Ms. Jillayne Rock
Secretary of the Senate
Room 401 State House
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Donne Trotter to temporarily replace Senator Ira Silverstein as a member of the Senate Executive Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Committee Executive Committee.

Sincerely,
s/John J. Cullerton
Senate President

cc: Senate Minority Leader Christine Radogno

Senator Muñoz asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Syverson asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 12:58 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 3:57 o'clock p.m., the Senate resumed consideration of business.
Senator Hendon, presiding.

INTRODUCTION OF BILLS

[January 12, 2010]

SENATE BILL NO. 2528. Introduced by Senator Demuzio, a bill for AN ACT concerning State government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2529. Introduced by Senator Forby, a bill for AN ACT concerning local government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2530. Introduced by Senator Forby, a bill for AN ACT concerning local government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2531. Introduced by Senator Collins, a bill for AN ACT concerning regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2532. Introduced by Senator Steans, a bill for AN ACT concerning elections.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2533. Introduced by Senator Clayborne, a bill for AN ACT concerning State government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2534. Introduced by Senator Clayborne, a bill for AN ACT concerning State government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2535. Introduced by Senator Trotter, a bill for AN ACT concerning transportation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2536. Introduced by Senator Trotter, a bill for AN ACT concerning transportation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2537. Introduced by Senator Maloney, a bill for AN ACT concerning education.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2538. Introduced by Senator Maloney, a bill for AN ACT concerning education.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2539. Introduced by Senator Millner, a bill for AN ACT concerning appropriations.

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The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2540. Introduced by Senator Wilhelmi, a bill for AN ACT concerning business.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2541. Introduced by Senator Wilhelmi, a bill for AN ACT concerning professional regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2542. Introduced by Senator Wilhelmi, a bill for AN ACT concerning athlete agents.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2543. Introduced by Senator Haine, a bill for AN ACT concerning civil law.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2544. Introduced by Senator Haine, a bill for AN ACT concerning insurance.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

SENATE BILL NO. 2545. Introduced by Senator Hunter, a bill for AN ACT concerning public aid.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

REPORT FROM STANDING COMMITTEE

Senator Hendon, Vice-Chairperson of the Committee on Executive, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to House Bill 1188

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 578

Offered by Senators Demuzio – Viverito and all Senators:
Mourns the death of Berniece Eileen Tonsor of Jerseyville.

SENATE RESOLUTION NO. 579

Offered by Senator Demuzio and all Senators:
Mourns the death of Jerry A. Killam of Carlinville.

SENATE RESOLUTION NO. 580

Offered by Senator Demuzio and all Senators:
Mourns the death of Evelyn R. “Tootie” Greenwalt of Carlinville.

SENATE RESOLUTION NO. 581

[January 12, 2010]

Offered by Senator Demuzio and all Senators:
Mourns the death of Evanel Williams of Litchfield.

SENATE RESOLUTION NO. 582

Offered by Senator Frerichs and all Senators:
Mourns the death of Leonard A. Karuzis, Sr., of Westville.

SENATE RESOLUTION NO. 583

Offered by Senator Demuzio and all Senators:
Mourns the death of Lucille M. Deihl of Girard.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 315

A bill for AN ACT concerning education.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 315

House Amendment No. 2 to SENATE BILL NO. 315

Passed the House, as amended, January 12, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 315

AMENDMENT NO. 1. Amend Senate Bill 315 by replacing everything after the enacting clause with the following:

"Section 1. This amendatory Act may be referred to as the Performance Evaluation Reform Act of 2010.

Section 5. Findings; declarations. The General Assembly finds and declares all of the following:

(1) Effective teachers and school leaders are a critical factor contributing to student achievement.

(2) Many existing district performance evaluation systems fail to adequately distinguish between effective and ineffective teachers and principals. A recent study of evaluation systems in 3 of the largest Illinois districts found that out of 41,174 teacher evaluations performed over a 5-year period, 92.6% of teachers were rated "superior" or "excellent", 7% were rated "satisfactory", and only 0.4% were rated "unsatisfactory".

(3) Performance evaluation systems must assess professional competencies as well as student growth.

(4) School districts and the State must ensure that performance evaluation systems are valid and reliable and contribute to the development of staff and improved student achievement outcomes.

Section 10. The School Code is amended by changing Sections 2-3.25g, 24A-3, 24A-4, 24A-5, 24A-7, 24A-8, 24A-15, 34-8, and 34-85c and by adding Sections 24A-2.5, 24A-7.1, and 24A-20 as follows:
(105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

Sec. 2-3.25g. Waiver or modification of mandates within the School Code and administrative rules and regulations.

(a) In this Section:

[January 12, 2010]

"Board" means a school board or the governing board or administrative district, as the case may be, for a joint agreement.

"Eligible applicant" means a school district, joint agreement made up of school districts, or regional superintendent of schools on behalf of schools and programs operated by the regional office of education.

"Implementation date" has the meaning set forth in Section 24A-2.5 of this Code.

"State Board" means the State Board of Education.

(b) Notwithstanding any other provisions of this School Code or any other law of this State to the contrary, eligible applicants may petition the State Board of Education for the waiver or modification of the mandates of this School Code or of the administrative rules and regulations promulgated by the State Board of Education. Waivers or modifications of administrative rules and regulations and modifications of mandates of this School Code may be requested when an eligible applicant demonstrates that it can address the intent of the rule or mandate in a more effective, efficient, or economical manner or when necessary to stimulate innovation or improve student performance. Waivers of mandates of the School Code may be requested when the waivers are necessary to stimulate innovation or improve student performance. Waivers may not be requested from laws, rules, and regulations pertaining to special education, teacher certification, teacher tenure and seniority, or Section 5-2.1 of this Code or from compliance with the No Child Left Behind Act of 2001 (Public Law 107-110). On and after the applicable implementation date, eligible applicants may not seek a waiver or seek a modification of a mandate regarding the requirements for (i) student performance data to be a significant factor in teacher or principal evaluations or (ii) for teachers and principals to be rated using the 4 categories of "excellent", "proficient", "needs improvement", or "unsatisfactory". On the applicable implementation date, any previously authorized waiver or modification from such requirements shall terminate.

(c) Eligible applicants, as a matter of inherent managerial policy, and any Independent Authority established under Section 2-3.25f may submit an application for a waiver or modification authorized under this Section. Each application must include a written request by the eligible applicant or Independent Authority and must demonstrate that the intent of the mandate can be addressed in a more effective, efficient, or economical manner or be based upon a specific plan for improved student performance and school improvement. Any eligible applicant requesting a waiver or modification for the reason that intent of the mandate can be addressed in a more economical manner shall include in the application a fiscal analysis showing current expenditures on the mandate and projected savings resulting from the waiver or modification. Applications and plans developed by eligible applicants must be approved by the board or regional superintendent of schools applying on behalf of schools or programs operated by the regional office of education following a public hearing on the application and plan and the opportunity for the board or regional superintendent to hear testimony from staff directly involved in its implementation, parents, and students. The time period for such testimony shall be separate from the time period established by the eligible applicant for public comment on other matters. If the applicant is a school district or joint agreement requesting a waiver or modification of Section 27-6 of this Code, the public hearing shall be held on a day other than the day on which a regular meeting of the board is held. If the applicant is a school district, the public hearing must be preceded by at least one published notice occurring at least 7 days prior to the hearing in a newspaper of general circulation within the school district that sets forth the time, date, place, and general subject matter of the hearing. If the applicant is a joint agreement or regional superintendent, the public hearing must be preceded by at least one published notice (setting forth the time, date, place, and general subject matter of the hearing) occurring at least 7 days prior to the hearing in a newspaper of general circulation in each school district that is a member of the joint agreement or that is served by the educational service region, provided that a notice appearing in a newspaper generally circulated in more than one school district shall be deemed to fulfill this requirement with respect to all of the affected districts. The eligible applicant must notify in writing the affected exclusive collective bargaining agent and those State legislators representing the eligible applicant's territory of its intent to seek approval of a waiver or modification and of the hearing to be held to take testimony from staff. The affected exclusive collective bargaining agents shall be notified of such public hearing at least 7 days prior to the date of the hearing and shall be allowed to attend such public hearing. The eligible applicant shall attest to compliance with all of the notification and procedural requirements set forth in this Section.

(d) A request for a waiver or modification of administrative rules and regulations or for a modification of mandates contained in this School Code shall be submitted to the State Board of Education within 15 days after approval by the board or regional superintendent of schools. The application as submitted to the State Board of Education shall include a description of the public hearing. Following receipt of the request, the State Board shall have 45 days to review the application and request. If the State Board fails

to disapprove the application within that 45 day period, the waiver or modification shall be deemed granted. The State Board may disapprove any request if it is not based upon sound educational practices, endangers the health or safety of students or staff, compromises equal opportunities for learning, or fails to demonstrate that the intent of the rule or mandate can be addressed in a more effective, efficient, or economical manner or have improved student performance as a primary goal. Any request disapproved by the State Board may be appealed to the General Assembly by the eligible applicant as outlined in this Section.

A request for a waiver from mandates contained in this School Code shall be submitted to the State Board within 15 days after approval by the board or regional superintendent of schools. The application as submitted to the State Board of Education shall include a description of the public hearing. The description shall include, but need not be limited to, the means of notice, the number of people in attendance, the number of people who spoke as proponents or opponents of the waiver, a brief description of their comments, and whether there were any written statements submitted. The State Board shall review the applications and requests for completeness and shall compile the requests in reports to be filed with the General Assembly. The State Board shall file reports outlining the waivers requested by eligible applicants and appeals by eligible applicants of requests disapproved by the State Board with the Senate and the House of Representatives before each March 1 and October 1. The General Assembly may disapprove the report of the State Board in whole or in part within 60 calendar days after each house of the General Assembly next convenes after the report is filed by adoption of a resolution by a record vote of the majority of members elected in each house. If the General Assembly fails to disapprove any waiver request or appealed request within such 60 day period, the waiver or modification shall be deemed granted. Any resolution adopted by the General Assembly disapproving a report of the State Board in whole or in part shall be binding on the State Board.

(e) An approved waiver or modification (except a waiver from or modification to a physical education mandate) may remain in effect for a period not to exceed 5 school years and may be renewed upon application by the eligible applicant. However, such waiver or modification may be changed within that 5-year period by a board or regional superintendent of schools applying on behalf of schools or programs operated by the regional office of education following the procedure as set forth in this Section for the initial waiver or modification request. If neither the State Board of Education nor the General Assembly disapproves, the change is deemed granted.

An approved waiver from or modification to a physical education mandate may remain in effect for a period not to exceed 2 school years and may be renewed no more than 2 times upon application by the eligible applicant. An approved waiver from or modification to a physical education mandate may be changed within the 2-year period by the board or regional superintendent of schools, whichever is applicable, following the procedure set forth in this Section for the initial waiver or modification request. If neither the State Board of Education nor the General Assembly disapproves, the change is deemed granted.

(f) On or before February 1, 1998, and each year thereafter, the State Board of Education shall submit a cumulative report summarizing all types of waivers of mandates and modifications of mandates granted by the State Board or the General Assembly. The report shall identify the topic of the waiver along with the number and percentage of eligible applicants for which the waiver has been granted. The report shall also include any recommendations from the State Board regarding the repeal or modification of waived mandates.

(Source: P.A. 94-198, eff. 1-1-06; 94-432, eff. 8-2-05; 94-875, eff. 7-1-06; 95-223, eff. 1-1-08.)

(105 ILCS 5/24A-2.5 new)

Sec. 24A-2.5. Definitions. In this Article:

"Evaluator" means:

(1) an administrator qualified under Section 24A-3; or

(2) other individuals qualified under Section 24A-3, provided that, if such other individuals are in the bargaining unit of a district's teachers, the district and the exclusive bargaining representative of that unit must agree to those individuals evaluating other bargaining unit members.

Notwithstanding anything to the contrary in item (2) of this definition, a school district operating under Article 34 of this Code may require department chairs qualified under Section 24A-3 to evaluate teachers in their department or departments, provided that the school district shall bargain with the bargaining representative of its teachers over the impact and effects on department chairs of such a requirement.

"Implementation date" means, unless otherwise specified and provided that the requirements set forth in subsection (d) of Section 24A-20 have been met:

(1) For school districts having 500,000 or more inhabitants, in at least 300 schools by September 1,

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2012 and in the remaining schools by September 1, 2013.

(2) For school districts having less than 500,000 inhabitants and receiving a Race to the Top Grant or School Improvement Grant after the effective date of this amendatory Act of the 96th General Assembly, the date specified in those grants for implementing an evaluation system for teachers and principals incorporating student growth as a significant factor.

(3) For the lowest performing 20% percent of remaining school districts having less than 500,000 inhabitants (with the measure of and school year or years used for school district performance to be determined by the State Superintendent of Education at a time determined by the State Superintendent), September 1, 2015.

(4) For all other school districts having less than 500,000 inhabitants, September 1, 2016.

"Race to the Top Grant" means a grant made by the Secretary of the U.S. Department of Education pursuant to paragraph (2) of Section 14006(a) of the American Recovery and Reinvestment Act of 2009.

"School Improvement Grant" means a grant made by the Secretary of the U.S. Department of Education pursuant to Section 1003(g) of the Elementary and Secondary Education Act.

(105 ILCS 5/24A-3) (from Ch. 122, par. 24A-3)

Sec. 24A-3. Evaluation training and pre-qualification.

(a) School Beginning January 1, 1986, school boards shall require evaluators those administrators, or — in school districts having a population exceeding 500,000 — assistant principals, who evaluate other certified personnel to participate at least once every 2 years in an inservice training workshop on either school improvement or the evaluation of certified personnel provided or approved by the State Board of Education prior to undertaking any evaluation and at least once during each certificate renewal cycle. Training provided or approved by the State Board of Education shall include the evaluator training program developed pursuant to Section 24A-20 of this Code.

(b) Any evaluator undertaking an evaluation after September 1, 2012 must first successfully complete a pre-qualification program provided or approved by the State Board of Education. The program must involve rigorous training and an independent observer's determination that the evaluator's ratings properly align to the requirements established by the State Board pursuant to this Article.

(Source: P.A. 86-1477; 87-1076.)

(105 ILCS 5/24A-4) (from Ch. 122, par. 24A-4)

Sec. 24A-4. Development and submission of evaluation plan.

(a) As used in this and the succeeding Sections, "teacher" means any and all school district employees regularly required to be certified under laws relating to the certification of teachers. Each school district shall develop, in cooperation with its teachers or, where applicable, the exclusive bargaining representatives of its teachers, an evaluation plan for all teachers.

(b) By no later than the applicable implementation date, each school district shall, in good faith cooperation with its teachers or, where applicable, the exclusive bargaining representatives of its teachers, incorporate the use of data and indicators on student growth as a significant factor in rating teaching performance, into its evaluation plan for all teachers, both those teachers in contractual continued service and those teachers not in contractual continued service. The plan shall at least meet the standards and requirements for student growth and teacher evaluation established under Section 24A-7, and specifically describe how student growth data and indicators will be used as part of the evaluation process, how this information will relate to evaluation standards, the assessments or other indicators of student performance that will be used in measuring student growth and the weight that each will have, the methodology that will be used to measure student growth, and the criteria other than student growth that will be used in evaluating the teacher and the weight that each will have.

To incorporate the use of data and indicators of student growth as a significant factor in rating teacher performance into the evaluation plan, the district shall use a joint committee composed of equal representation selected by the district and its teachers or, where applicable, the exclusive bargaining representative of its teachers. If, within 180 calendar days of the committee's first meeting, the committee does not reach agreement on the plan, then the district shall implement the model evaluation plan established under Section 24A-7 with respect to the use of data and indicators on student growth as a significant factor in rating teacher performance.

Nothing in in this subsection (a) shall make decisions on the use of data and indicators on student growth as a significant factor in rating teaching performance mandatory subjects of bargaining under the Illinois Educational Labor Relations Act that are not currently mandatory subjects of bargaining under the Act.

(c) Notwithstanding anything to the contrary in subsection (b) of this subsection, if the joint committee referred to in that subsection does not reach agreement on the plan within 90 calendar days after the committee's first meeting, a school district having 500,000 or more inhabitants shall not be

required to implement any aspect of the model evaluation plan and may implement its last best proposal in contractual continued service. The district shall, no later than October 1, 1986, submit a copy of its evaluation plan to the State Board of Education, which shall review the plan and make public its comments thereon, and the district shall at the same time provide a copy to the exclusive bargaining representatives. Whenever any substantive change is made in a district's evaluation plan, the new plan shall be submitted to the State Board of Education for review and comment, and the district shall at the same time provide a copy of any such new plan to the exclusive bargaining representatives. The board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers shall submit a certified copy of an agreement entered into under Section 34-85c of this Code to the State Board of Education, and that agreement shall constitute the teacher evaluation plan for teachers assigned to schools identified in that agreement. Whenever any substantive change is made in an agreement entered into under Section 34-85c of this Code by the board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers, the new agreement shall be submitted to the State Board of Education.

(Source: P.A. 95-510, eff. 8-28-07.)

(105 ILCS 5/24A-5) (from Ch. 122, par. 24A-5)

Sec. 24A-5. Content of evaluation plans. This Section does not apply to teachers assigned to schools identified in an agreement entered into between the board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers in accordance with Section 34-85c of this Code.

Each school district to which this Article applies shall establish a teacher evaluation plan which ensures that each teacher in contractual continued service is evaluated at least once in the course of every 2 school years; ~~beginning with the 1986-87 school year.~~

By no later than the September 1, 2012, each school district shall establish a teacher evaluation plan that ensures that:

(1) each teacher not in contractual continued service is evaluated at least once every school year; and

(2) each teacher in contractual continued service is evaluated at least once in the course of every 2 school years. However, any teacher in contractual continued service whose performance is rated as either "needs improvement" or "unsatisfactory" must be evaluated at least once in the school year following the receipt of such rating.

Notwithstanding anything to the contrary in this Section or any other Section of the School Code, a principal shall not be prohibited from evaluating any teachers within a school during his or her first year as principal of such school.

The evaluation plan shall comply with the requirements of this Section and of any rules adopted by the State Board of Education pursuant to this Section.

The plan shall include a description of each teacher's duties and responsibilities and of the standards to which that teacher is expected to conform. ~~The plan may provide for evaluation of personnel whose positions require administrative certification by independent evaluators not employed by or affiliated with the school district. The results of the school district administrators' evaluations shall be reported to the employing school board, together with such recommendations for remediation as the evaluator or evaluators may deem appropriate. Evaluation of teachers whose positions do not require administrative certification shall be conducted by an administrator qualified under Section 24A-3, or in school districts having a population exceeding 500,000 by either an administrator qualified under Section 24A-3 or an assistant principal under the supervision of an administrator qualified under Section 24A-3, and shall include at least the following components:~~

(a) personal observation of the teacher in the classroom by the evaluator (on at least 2 different school days in school districts having a population exceeding 500,000) by a district administrator qualified under Section 24A-3, or in school districts having a population exceeding 500,000 by either an administrator qualified under Section 24A-3 or an assistant principal under the supervision of an administrator qualified under Section 24A-3, unless the teacher has no classroom duties.

(b) consideration of the teacher's attendance, planning, ~~and~~ instructional methods, classroom management, where relevant, and competency in the subject matter taught, ~~where relevant.~~

(c) by no later than the applicable implementation date, consideration of student growth as a significant factor in the rating of the teacher's performance.

(d) prior to September 1, 2012, (e) rating of the teacher's performance of teachers in contractual continued service as either:

(i) "excellent", "satisfactory" or "unsatisfactory"; or -

(ii) "excellent", "proficient", "needs improvement" or "unsatisfactory".

(e) on and after September 1, 2012, rating of the performance of teachers in contractual continued service as "excellent", "proficient", "needs improvement" or "unsatisfactory".

(f) ~~(f)~~ specification as to the teacher's strengths and weaknesses, with supporting reasons for the comments made.

(g) ~~(g)~~ inclusion of a copy of the evaluation in the teacher's personnel file and provision of a copy to the teacher.

(h) within 30 school days after the completion of an evaluation rating a teacher in contractual continued service as "needs improvement", development by the evaluator, in consultation with the teacher, and taking into account the teacher's on-going professional responsibilities including his or her regular teaching assignments, of a professional development plan directed to the areas that need improvement and any supports that the district will provide to address the areas identified as needing improvement.

(i) ~~(i)~~ within 30 days after completion of an evaluation rating a teacher in contractual continued service as

"unsatisfactory", development and commencement by the district, ~~or by an administrator qualified under Section 24A-3 or an assistant principal under the supervision of an administrator qualified under Section 24A-3 in school districts having a population exceeding 500,000,~~ of a remediation plan designed to correct deficiencies cited, provided the deficiencies are deemed remediable. In all school districts the remediation plan for unsatisfactory, tenured teachers shall provide for 90 school days of remediation within the classroom, ~~unless an applicable collective bargaining agreement provides for a shorter duration.~~ In all school districts evaluations issued pursuant to this Section shall be issued within 10 days after the conclusion of the respective remediation plan. However, the school board or other governing authority of the district shall not lose jurisdiction to discharge a teacher in the event the evaluation is not issued within 10 days after the conclusion of the respective remediation plan.

(j) ~~(j)~~ participation in the remediation plan by the teacher in contractual continued service rated "unsatisfactory", ~~an evaluator and a district administrator qualified under Section 24A-3 (or in a school district having a population exceeding 500,000 an administrator qualified under Section 24A-3 or an assistant principal under the supervision of an administrator qualified under Section 24A-3), and a consulting teacher, selected by the evaluator by the participating administrator or by the principal, or in school districts having a population exceeding 500,000 by an administrator qualified under Section 24A-3 or by an assistant principal under the supervision of an administrator qualified under Section 24A-3,~~ of the teacher who was rated "unsatisfactory", which consulting teacher is an educational employee as defined in the Educational Labor Relations Act, has at least 5 years' teaching experience, and a reasonable familiarity with the assignment of the teacher being evaluated, and who received an "excellent" rating on his or her most recent evaluation. Where no teachers who meet these criteria are available within the district, the district shall request and the State Board of Education shall supply, to participate in the remediation process, an individual who meets these criteria.

In a district having a population of less than 500,000 with an exclusive bargaining agent, the bargaining agent may, if it so chooses, supply a roster of qualified teachers from whom the consulting teacher is to be selected. That roster shall, however, contain the names of at least 5 teachers, each of whom meets the criteria for consulting teacher with regard to the teacher being evaluated, or the names of all teachers so qualified if that number is less than 5. In the event of a dispute as to qualification, the State Board shall determine qualification.

(k) a mid-point and final evaluation by an evaluator during and at the end of the remediation period, immediately following receipt of a remediation plan provided for under subsections (i) and (j) of this Section. Each evaluation shall assess the teacher's performance during the time period since the prior evaluation; provided that the last evaluation shall also include an overall evaluation of the teacher's performance during the remediation period. A written copy of the evaluations and ratings, in which any deficiencies in performance and recommendations for correction are identified, shall be provided to and discussed with the teacher within 10 school days after the date of the evaluation, unless an applicable collective bargaining agreement provides to the contrary. ~~(h) evaluations and ratings once every 30 school days for the 90-school-day remediation period immediately following receipt of a remediation plan provided for under subsections (f) and (g) of this Section; provided that in school districts having a population exceeding 500,000 there shall be monthly evaluations and ratings for the first 6 months and quarterly evaluations and ratings for the next 6 months immediately following completion of the remediation program of a teacher for whom a remediation plan has been developed. These subsequent evaluations shall be conducted by an evaluator the participating administrator, or in school districts having a population exceeding 500,000 by either the principal or by an assistant principal under the~~

supervision of an administrator qualified under Section 24A-3. The consulting teacher shall provide advice to the teacher rated "unsatisfactory" on how to improve teaching skills and to successfully complete the remediation plan. The consulting teacher shall participate in developing the remediation plan, but the final decision as to the evaluation shall be done solely by the evaluator administrator, or ~~in school districts having a population exceeding 500,000 by either the principal or by an assistant principal under the supervision of an administrator qualified under Section 24A-3,~~ unless an applicable collective bargaining agreement provides to the contrary. ~~Teachers in the remediation process in a school district having a population exceeding 500,000 are not subject to the annual evaluations described in paragraphs (a) through (e) of this Section.~~ Evaluations at the conclusion of the remediation process shall be separate and distinct from the required annual evaluations of teachers and shall not be subject to the guidelines and procedures relating to those annual evaluations. The evaluator may but is not required to use the forms provided for the annual evaluation of teachers in the district's evaluation plan.

~~(l) (i) in school districts having a population of less than 500,000, reinstatement to the evaluation schedule set forth in the district's evaluation plan a schedule of biennial evaluation for any teacher in contractual continued service who achieves a rating equal to or better than "satisfactory" or "proficient" in the school year following a rating of "needs improvement" or "unsatisfactory", completes the 90 school day remediation plan with a "satisfactory" or better rating, unless the district's plan regularly requires more frequent evaluations; and in school districts having a population exceeding 500,000, reinstatement to a schedule of biennial evaluation for any teacher who completes the 90 school day remediation plan with a "satisfactory" or better rating and the one year intensive review schedule as provided in paragraph (h) of this Section with a "satisfactory" or better rating, unless such district's plan regularly requires more frequent evaluations.~~

~~(m) (j) dismissal in accordance with Section 24-12 or 34-85 of the School Code of any teacher who fails to complete any applicable remediation plan with a rating equal to or better than a "satisfactory" or "proficient" better rating. Districts and teachers subject to dismissal hearings are precluded from compelling the testimony of consulting teachers at such hearings under Section 24-12 or 34-85, either as to the rating process or for opinions of performances by teachers under remediation.~~

~~In a district subject to a collective bargaining agreement as of the effective date of this amendatory Act of 1997, any changes made by this amendatory Act to the provisions of this Section that are contrary to the express terms and provisions of that agreement shall go into effect in that district only upon expiration of that agreement. Thereafter, collectively bargained evaluation plans shall at a minimum meet the standards of this Article. If such a district has an evaluation plan, however, whether pursuant to the collective bargaining agreement or otherwise, a copy of that plan shall be submitted to the State Board of Education for review and comment, in accordance with Section 24A-4.~~

Nothing in this Section or Section 24A-4 shall be construed as preventing immediate dismissal of a teacher for deficiencies which are deemed irremediable or for actions which are injurious to or endanger the health or person of students in the classroom or school, or preventing the dismissal or non-renewal of teachers not in contractual continued service for any reason not prohibited by applicable employment, labor, and civil rights laws. Failure to strictly comply with the time requirements contained in Section 24A-5 shall not invalidate the results of the remediation plan.

(Source: P.A. 95-510, eff. 8-28-07.)

(105 ILCS 5/24A-7) (from Ch. 122, par. 24A-7)

Sec. 24A-7. Rules. The State Board of Education is authorized to adopt such rules as are deemed necessary to implement and accomplish the purposes and provisions of this Article, including, but not limited to, rules (i) relating to the methods for measuring student growth (including, but not limited to, limitations on the age of useable data; the amount of data needed to reliably and validly measure growth for the purpose of teacher and principal evaluations; and whether and at what time annual State assessments may be used as one of multiple measures of student growth), (ii) defining the term "significant factor" for purposes of including consideration of student growth in performance ratings, (iii) controlling for such factors as student characteristics (including, but not limited to, students receiving special education and English Language Learner services), student attendance, and student mobility so as to best measure the impact that a teacher, principal, school and school district has on students' academic achievement, (iv) establishing minimum requirements for district teacher and principal evaluation instruments and procedures, and (v) establishing a model evaluation plan for use by school districts in which student growth shall comprise 50% of the performance rating. Notwithstanding any provision in this Section, rules shall not preclude a school district having 500,000 or more inhabitants from using an annual State assessment as the sole measure of student growth for purposes of

teacher or principal evaluations.

The rules shall be developed through a process involving collaboration with a Performance Evaluation Advisory Council, which shall be convened and staffed by the State Board of Education. Members of the Council shall be selected by the State Superintendent and include, without limitation, representatives of teacher unions and school district management, persons with expertise in performance evaluation processes and systems, as well as other stakeholders. The Performance Evaluation Advisory Council shall meet at least quarterly following the effective date of this amendatory Act of the 96th General Assembly until June 30, 2017.

Prior to the applicable implementation date, except that these rules shall not apply to teachers assigned to schools identified in an agreement entered into between the board of a school district operating under Article 34 of this Code and the exclusive representative of the district's teachers in accordance with Section 34-85c of this Code.

(Source: P.A. 95-510, eff. 8-28-07.)

(105 ILCS 5/24A-7.1 new)

Sec. 24A-7.1. Teacher and principal performance evaluations. Except as otherwise provided under this Act, disclosure of public school teacher and principal performance evaluations is prohibited.

(105 ILCS 5/24A-8) (from Ch. 122, par. 24A-8)

Sec. 24A-8. Evaluation of teachers not in contractual continued service. Each Beginning with the 1987-88 school year each teacher not in contractual continued service shall be evaluated at least once each school year.

(Source: P.A. 84-1419.)

(105 ILCS 5/24A-15)

Sec. 24A-15. Development and submission of evaluation plan for principals.

(a) Each Beginning with the 2006-2007 school year and each school year thereafter, each school district, except for a school district organized under Article 34 of this Code, shall establish a principal evaluation plan in accordance with this Section. The plan must ensure that each principal is evaluated as follows:

(1) For a principal on a single-year contract, the evaluation must take place by March February 1 of each year.

(2) For a principal on a multi-year contract under Section 10-23.8a of this Code, the evaluation must take place by March 1 February 1 of the final year of the contract.

On and after September 1, 2012, the plan must:

(i) rate the principal's performance as "excellent", "proficient", "needs improvement" or "unsatisfactory"; and

(ii) ensure that each principal is evaluated at least once every school year.

Nothing in this Section prohibits a school district from conducting additional evaluations of principals.

(b) The evaluation shall include a description of the principal's duties and responsibilities and the standards to which the principal is expected to conform.

(c) The evaluation must be performed by the district superintendent, the superintendent's designee, or, in the absence of the superintendent or his or her designee, an individual appointed by the school board who holds a registered Type 75 State administrative certificate.

Prior to September 1, 2012, the ~~the~~ evaluation must be in writing and must at least do all of the following:

(1) Consider the principal's specific duties, responsibilities, management, and competence as a principal.

(2) Specify the principal's strengths and weaknesses, with supporting reasons.

(3) Align with ~~the Illinois Professional Standards for School Leaders or~~ research-based standards established by administrative rule district standards.

On and after September 1, 2012, the evaluation must, in addition to the requirements in items (1), (2), and (3) of this subsection (c), provide for the use of data and indicators on student growth as a significant factor in rating performance.

(d) One copy of the evaluation must be included in the principal's personnel file and one copy of the evaluation must be provided to the principal.

(e) Failure by a district to evaluate a principal and to provide the principal with a copy of the evaluation at least once during the term of the principal's contract, in accordance with this Section, is evidence that the principal is performing duties and responsibilities in at least a satisfactory manner and shall serve to automatically extend the principal's contract for a period of one year after the contract would otherwise expire, under the same terms and conditions as the prior year's contract. The requirements in this Section are in addition to the right of a school board to reclassify a principal

pursuant to Section 10-23.8b of this Code.

(f) Nothing in this Section prohibits a school board from ordering lateral transfers of principals to positions of similar rank and salary.

(Source: P.A. 94-1039, eff. 7-20-06.)

(105 ILCS 5/24A-20 new)

Sec. 24A-20. State Board of Education data collection and evaluation assessment and support systems.

(a) On or before the date established in subsection (b) of this Section, the State Board of Education shall, through a process involving collaboration with the Performance Evaluation Advisory Council, develop or contract for the development of and implement all of the following data collection and evaluation assessment and support systems:

(1) A system to annually collect and publish data by district and school on teacher and administrator performance evaluation outcomes. The system must ensure that no teacher or administrator can be personally identified by publicly reported data.

(2) Both a teacher and principal model evaluation template. The model templates must incorporate the requirements of this Article and any other requirements established by the State Board by administrative rule, but allow customization by districts in a manner that does not conflict with such requirements.

(3) An evaluator pre-qualification program based on the model teacher evaluation template.

(4) An evaluator training program based on the model teacher evaluation template. The training program shall provide multiple training options that account for the prior training and experience of the evaluator.

(5) A superintendent training program based on the model principal evaluation template.

(6) One or more instruments to provide feedback to principals on the instructional environment within a school.

(7) A State Board-provided or approved technical assistance system that supports districts with the development and implementation of teacher and principal evaluation systems.

(8) Web-based systems and tools supporting implementation of the model templates and the evaluator pre-qualification and training programs.

(9) A process for measuring and reporting correlations between local principal and teacher evaluations and (A) student growth in tested grades and subjects and (B) retention rates of teachers.

(10) A process for assessing whether school district evaluation systems developed pursuant to this Act and that consider student growth as a significant factor in the rating of a teacher's and principal's performance are valid and reliable, contribute to the development of staff, and improve student achievement outcomes. By no later than September 1, 2014, a research-based study shall be issued assessing such systems for validity and reliability, contribution to the development of staff, and improvement of student performance and recommending, based on the results of this study, changes, if any, that need to be incorporated into teacher and principal evaluation systems that consider student growth as a significant factor in the rating performance for remaining school districts to be required to implement such systems.

(b) If the State of Illinois receives a Race to the Top Grant, the data collection and support systems described in subsection (a) must be developed on or before September 30, 2011. If the State of Illinois does not receive a Race to the Top Grant, the data collection and support systems described in subsection (a) must be developed on or before September 30, 2012; provided, however, that the data collection and support systems set forth in items (3) and (4) of subsection (a) of this Section must be developed September 30, 2011 regardless of whether the State of Illinois receives a Race to the Top Grant. By no later than September 1, 2011, if the State of Illinois receives a Race to the Top Grant, or September 1, 2012, if the State of Illinois does not receive a Race to the Top Grant, the State Board of Education must execute or contract for the execution of the assessment referenced in item (10) of subsection (a) of this Section to determine whether the school district evaluation systems developed pursuant to this Act have been valid and reliable, contributed to the development of staff, and improved student performance.

(c) Districts shall submit data and information to the State Board on teacher and principal performance evaluations and evaluation plans in accordance with procedures and requirements for submissions established by the State Board. Such data shall include, without limitation, (i) data on the performance rating given to all teachers in contractual continued service, (ii) data on district recommendations to renew or not renew teachers not in contractual continued service, and (iii) data on the performance rating given to all principals.

(d) If the State Board of Education does not timely fulfill any of the requirements set forth in Sections 24A-7 and 24A-20, and adequate and sustainable federal, State, or other funds are not provided to the State Board of Education and school districts to meet their responsibilities under this Article, the

applicable implementation date shall be postponed by the number of calendar days equal to those needed by the State Board of Education to fulfill such requirements and for the adequate and sustainable funds to be provided to the State Board of Education and school districts. The determination as to whether the State Board of Education has fulfilled any or all requirements set forth in Sections 24A-7 and 24A-20 and whether adequate and sustainable funds have been provided to the State Board of Education and school districts shall be made by the State Board of Education in consultation with the P-20 Council.

(105 ILCS 5/34-8) (from Ch. 122, par. 34-8)

Sec. 34-8. Powers and duties of general superintendent. The general superintendent of schools shall prescribe and control, subject to the approval of the board and to other provisions of this Article, the courses of study mandated by State law, textbooks, educational apparatus and equipment, discipline in and conduct of the schools, and shall perform such other duties as the board may by rule prescribe. The superintendent shall also notify the State Board of Education, the board and the chief administrative official, other than the alleged perpetrator himself, in the school where the alleged perpetrator serves, that any person who is employed in a school or otherwise comes into frequent contact with children in the school has been named as a perpetrator in an indicated report filed pursuant to the Abused and Neglected Child Reporting Act, approved June 26, 1975, as amended.

The general superintendent may be granted the authority by the board to hire a specific number of employees to assist in meeting immediate responsibilities. Conditions of employment for such personnel shall not be subject to the provisions of Section 34-85.

The general superintendent may, pursuant to a delegation of authority by the board and Section 34-18, approve contracts and expenditures.

Pursuant to other provisions of this Article, sites shall be selected, schoolhouses located thereon and plans therefor approved, and textbooks and educational apparatus and equipment shall be adopted and purchased by the board only upon the recommendation of the general superintendent of schools or by a majority vote of the full membership of the board and, in the case of textbooks, subject to Article 28 of this Act. The board may furnish free textbooks to pupils and may publish its own textbooks and manufacture its own apparatus, equipment and supplies.

In addition, in January of each year, the general superintendent of schools shall report to the State Board of Education the number of high school students in the district who are enrolled in accredited courses (for which high school credit will be awarded upon successful completion of the courses) at any community college, together with the name and number of the course or courses which each such student is taking.

The general superintendent shall also have the authority to monitor the performance of attendance centers, to identify and place an attendance center on remediation and probation, and to recommend to the board that the attendance center be placed on intervention and be reconstituted, subject to the provisions of Sections 34-8.3 and 8.4.

The general superintendent, or his or her designee, shall conduct an annual evaluation of each principal in the district pursuant to guidelines promulgated by the Board and the Board approved principal evaluation form. The evaluation shall be based on factors, including the following: (i) student academic improvement, as defined by the school improvement plan; (ii) student absenteeism rates at the school; (iii) instructional leadership; (iv) effective implementation of programs, policies, or strategies to improve student academic achievement; (v) school management; and (vi) other factors, including, without limitation, the principal's communication skills and ability to create and maintain a student-centered learning environment, to develop opportunities for professional development, and to encourage parental involvement and community partnerships to achieve school improvement.

Effective no later than September 1, 2012, the general superintendent or his or her designee shall develop a written principal evaluation plan. The evaluation plan must be in writing and shall supersede the evaluation requirements set forth in this Section. The evaluation plan must do at least all of the following:

(1) Provide for annual evaluation of all principals employed under a performance contract by the general superintendent or his or her designee, no later than July 1st of each year.

(2) Consider the principal's specific duties, responsibilities, management, and competence as a principal.

(3) Specify the principal's strengths and weaknesses, with supporting reasons.

(4) Align with research-based standards.

(5) Use data and indicators on student growth as a significant factor in rating principal performance.

(Source: P.A. 95-496, eff. 8-28-07.)

(105 ILCS 5/34-85c)

Sec. 34-85c. Alternative procedures for teacher evaluation, remediation, and removal for cause after

remediation.

(a) Notwithstanding any law to the contrary, the board and the exclusive representative of the district's teachers are hereby authorized to enter into an agreement to establish alternative procedures for teacher evaluation, remediation, and removal for cause after remediation, including an alternative system for peer evaluation and recommendations; provided, however, that no later than September 1, 2012: (i) any alternative procedures must include provisions whereby student performance data is a significant factor in teacher evaluation and (ii) teachers are rated as "excellent", "proficient", "needs improvement" or "unsatisfactory". Pursuant exclusively to that agreement, teachers assigned to schools identified in that agreement shall be subject to an alternative performance evaluation plan and remediation procedures in lieu of the plan and procedures set forth in Article 24A of this Code and alternative removal for cause standards and procedures in lieu of the removal standards and procedures set forth in Sections 34-85 and 34-85b of this Code. To the extent that the agreement provides a teacher with an opportunity for a hearing on removal for cause before an independent hearing officer in accordance with Sections 34-85 and 34-85b or otherwise, the hearing officer shall be governed by the alternative performance evaluation plan, remediation procedures, and removal standards and procedures set forth in the agreement in making findings of fact and a recommendation.

(b) The board and the exclusive representative of the district's teachers shall submit a certified copy of an agreement as provided under subsection (a) of this Section to the State Board of Education.

(Source: P.A. 95-510, eff. 8-28-07.)

(105 ILCS 5/24A-6 rep.)

Section 20. The School Code is amended by repealing Section 24A-6.

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

AMENDMENT NO. 2 TO SENATE BILL 315

AMENDMENT NO. 2. Amend Senate Bill 315, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 13, by replacing "in in" with "in"; and

on page 26, line 2, by replacing "Teacher and principal" with "Teacher, principal, and superintendent"; and

on page 26, line 4, by replacing "teacher and principal" with "teacher, principal, and superintendent".

Under the rules, the foregoing **Senate Bill No. 315**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 328

A bill for AN ACT concerning business.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 328

Passed the House, as amended, January 12, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 328

AMENDMENT NO. 1. Amend Senate Bill 328, by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 9-222.1 as follows:
(220 ILCS 5/9-222.1) (from Ch. 111 2/3, par. 9-222.1)

Sec. 9-222.1. A business enterprise which is located within an area designated by a county or municipality as an enterprise zone pursuant to the Illinois Enterprise Zone Act or located in a federally designated Foreign Trade Zone or Sub-Zone shall be exempt from the additional charges added to the

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business enterprise's utility bills as a pass-on of municipal and State utility taxes under Sections 9-221 and 9-222 of this Act, to the extent such charges are exempted by ordinance adopted in accordance with paragraph (e) of Section 8-11-2 of the Illinois Municipal Code in the case of municipal utility taxes, and to the extent such charges are exempted by the percentage specified by the Department of Commerce and Economic Opportunity in the case of State utility taxes, provided such business enterprise meets the following criteria:

(1) it (i) makes investments which cause the creation of a minimum of 200 full-time equivalent jobs in Illinois; (ii) makes investments of at least \$175,000,000 which cause the creation of a minimum of 150 full-time equivalent jobs in Illinois; (iii) makes investments that cause the retention of a minimum of 300 full-time equivalent jobs in the manufacturing sector, as defined by the North American Industry Classification System, in an area in Illinois in which the unemployment rate is above 9% and makes an application to the Department within 3 months after the effective date of this amendatory Act of the 96th General Assembly and certifies relocation of the 300 full-time equivalent jobs within 36 months after the application; ~~or~~ (iv) makes investments which cause the retention of a minimum of 1,000 full-time jobs in Illinois; or (v) makes an application to the Department within 2 months after the effective date of this amendatory Act of the 96th General Assembly and makes investments that cause the retention of a minimum of 500 full-time equivalent jobs in 2009 and 2010, 675 full-time jobs in 2011, 850 full-time jobs in 2012, and 1,000 full-time jobs in 2013, in the manufacturing sector as defined by the North American Industry Classification System; and

(2) it is either (i) located in an Enterprise Zone established pursuant to the Illinois Enterprise Zone Act or (ii) ~~it is~~ located in a federally designated Foreign Trade Zone or Sub-Zone and is designated a High Impact Business by the Department of Commerce and Economic Opportunity; and

(3) it is certified by the Department of Commerce and Economic Opportunity as complying with the requirements specified in clauses (1) and (2) of this Section.

The Department of Commerce and Economic Opportunity shall determine the period during which such exemption from the charges imposed under Section 9-222 is in effect which shall not exceed 30 years or the certified term of the enterprise zone, whichever period is shorter, except that the exemption period for a business enterprise qualifying under item (iii) of clause (1) of this Section shall not exceed 30 years.

The Department of Commerce and Economic Opportunity shall have the power to promulgate rules and regulations to carry out the provisions of this Section including procedures for complying with the requirements specified in clauses (1) and (2) of this Section and procedures for applying for the exemptions authorized under this Section; to define the amounts and types of eligible investments which business enterprises must make in order to receive State utility tax exemptions pursuant to Sections 9-222 and 9-222.1 of this Act; to approve such utility tax exemptions for business enterprises whose investments are not yet placed in service; and to require that business enterprises granted tax exemptions repay the exempted tax should the business enterprise fail to comply with the terms and conditions of the certification. However, no business enterprise shall be required, as a condition for certification under clause (3) of this Section, to attest that its decision to invest under clause (1) of this Section and to locate under clause (2) of this Section is predicated upon the availability of the exemptions authorized by this Section.

A business enterprise shall be exempt, in whole or in part, from the pass-on charges of municipal utility taxes imposed under Section 9-221, only if it meets the criteria specified in clauses (1) through (3) of this Section and the municipality has adopted an ordinance authorizing the exemption under paragraph (e) of Section 8-11-2 of the Illinois Municipal Code. Upon certification of the business enterprises by the Department of Commerce and Economic Opportunity, the Department of Commerce and Economic Opportunity shall notify the Department of Revenue of such certification. The Department of Revenue shall notify the public utilities of the exemption status of business enterprises from the pass-on charges of State and municipal utility taxes. Such exemption status shall be effective within 3 months after certification of the business enterprise.

(Source: P.A. 96-716, eff. 8-25-09; revised 11-3-09.)

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

Under the rules, the foregoing **Senate Bill No. 328**, with House Amendment No. 1, was referred to the Secretary's Desk.

[January 12, 2010]

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 616

A bill for AN ACT concerning education.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 616

Passed the House, as amended, January 12, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 616

AMENDMENT NO. 1. Amend Senate Bill 616 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 21-5a, 21-5b, 21-5c, 21-5d, and 21-5e as follows:

(105 ILCS 5/21-5a) (from Ch. 122, par. 21-5a)

Sec. 21-5a. Alternative math-science certification. The State Board of Education, in consultation with the State Teacher Certification Board, ~~may shall~~ establish and implement an alternative certification program under which persons who qualify for admission to, and who successfully complete the program and meet the additional requirements established by this Section shall be issued an initial teaching certificate for teaching mathematics, science or mathematics and science in grades 9 through 12 of the common schools. In establishing an alternative certification program under this Section, the State Board of Education shall designate an appropriate area within the State where the program shall be offered and made available to persons qualified for admission to the program. In addition, the State Board of Education, in cooperation with one or more recognized institutions of higher learning, one or more non-profit entities, or a combination thereof, shall develop a comprehensive course of study that persons admitted to the program must successfully complete in order to satisfy one criterion for issuance of an initial certificate under this Section. The comprehensive course of study so developed shall include one semester of practice teaching.

An initial teaching certificate, valid for 4 years for teaching mathematics, science or mathematics and science in grades 9 through 12 of the common schools and renewable as provided in Section 21-14, shall be issued under this Section 21-5a to persons who qualify for admission to the alternative certification program and who at the time of applying for an initial teaching certificate under this Section:

- (1) have graduated with a master's degree in mathematics or any science discipline from an institution of higher learning whose scholarship standards are approved by the State Board of Education for purposes of the alternative certification program;
- (2) have been employed for at least 10 years in an area requiring knowledge and practical application of their academic background in mathematics or a science discipline;
- (3) have successfully completed the alternative certification program and the course of comprehensive study, including one semester of practice teaching, developed as part of the program as provided in this Section and approved by the State Board of Education; and
- (4) have passed the examinations required by Section 21-1a.

The alternative certification program shall be implemented at the commencement of the 1992-1993 academic year.

The State Board of Education shall establish criteria for admission to the alternative certification program and shall adopt rules and regulations that are consistent with this Section and that the State Board of Education deems necessary to establish and implement the program.

Alternative certification programs under Sections 21-5a through 21-5e may be provided by various types of qualified providers, including both institutions of higher education and other providers operating independently from institutions of higher education; provided however, that any and all programs must be approved by the State Board of Education in accordance with rules and regulations.

(Source: P.A. 90-548, eff. 1-1-98.)

(105 ILCS 5/21-5b)

Sec. 21-5b. Alternative certification. The State Board of Education, in consultation with the State Teacher Certification Board, shall establish and implement an alternative certification program under

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which persons who meet the requirements of and successfully complete the program established by this Section shall be issued an alternative teaching certificate for teaching in the schools. The program shall be limited to not more than 260 new participants during each year that the program is in effect. The State Board of Education, in cooperation with one or more not-for-profit organizations in the State that support excellence in teaching, which may be in a partnership formed with a university that offers 4-year baccalaureate and masters degree programs and that is a recognized institution as defined in Section 21-21 ~~, may and one or more not for profit organizations in the State which support excellence in teaching, shall~~ within 30 days after submission by the program sponsor partnership approve a course of study developed by the program sponsor partnership that persons in the program must successfully complete in order to satisfy one criterion for issuance of an alternative certificate under this Section. The Alternative Teacher Certification program course of study must include ~~the current~~ content and skills ~~contained in the university's current courses for State certification~~ which have been approved by the State Board of Education, in consultation with the State Teacher Certification Board, as meeting the requirement for State teacher certification.

The alternative certification program established under this Section shall be known as the Alternative Teacher Certification program. The Alternative Teacher Certification Program shall be offered by the submitting partnership, and such partnership may be offered by in conjunction with one or more not-for-profit organizations in the State which support excellence in teaching. The program shall be comprised of the following 3 phases: (a) the first phase is the course of study offered on an intensive basis in education theory, instructional methods, and practice teaching; (b) the second phase is the person's assignment to a full-time teaching position for one school year; and (c) the third phase is a comprehensive assessment of the person's teaching performance by school officials and the partnership participants and a recommendation by the program sponsor partner institution of higher education to the State Board of Education that the person be issued a standard alternative teaching certificate. Successful completion of the Alternative Teacher Certification program shall be deemed to satisfy any other practice or student teaching and subject matter requirements established by law.

A provisional alternative teaching certificate, valid for one year of teaching in the common schools and not renewable, shall be issued under this Section 21-5b to persons who at the time of applying for the provisional alternative teaching certificate under this Section:

- (1) have graduated from an accredited college or university with a bachelor's degree;
- (2) have successfully completed the first phase of the Alternative Teacher Certification program as provided in this Section;
- (3) have passed the tests of basic skills and subject matter knowledge required by Section 21-1a; and
- (4) (i) have been employed for a period of at least 5 years in an area requiring application of the individual's education or (ii) have attained at least a cumulative grade average of a "B" if the individual is assigned either to a school district that has not met the annual measurable objective for highly qualified teachers required by the Illinois Revised Highly Qualified Teachers (HQT) Plan or to a school district whose data filed with the State Board of Education indicates that the district's poor and minority students are taught by teachers who are not highly qualified at a higher rate than other students; however, this item (4) does not apply with respect to a provisional alternative teaching certificate for teaching in schools situated in a school district that is located in a city having a population in excess of 500,000 inhabitants. Assignment may be made under clause (ii) of this item (4) only if the district superintendent and the exclusive bargaining representative of the district's teachers, if any, jointly agree to permit the assignment.

A person possessing a provisional alternative certificate under this Section shall be treated as a regularly certified teacher for purposes of compensation, benefits, and other terms and conditions of employment afforded teachers in the school who are members of a bargaining unit represented by an exclusive bargaining representative, if any.

Until February 15, 2000, a standard alternative teaching certificate, valid for 4 years for teaching in the schools and renewable as provided in Section 21-14, shall be issued under this Section 21-5b to persons who first complete the requirements for the provisional alternative teaching certificate and who at the time of applying for a standard alternative teaching certificate under this Section have successfully completed the second and third phases of the Alternative Teacher Certification program as provided in this Section. Alternatively, beginning February 15, 2000, at the end of the 4-year validity period, persons who were issued a standard alternative teaching certificate shall be eligible, on the same basis as holders of an Initial Teaching Certificate issued under subsection (b) of Section 21-2 of this Code, to apply for a Standard Teaching Certificate, provided they meet the requirements of subsection (c) of Section 21-2 of this Code and further provided that a person who does not apply for and receive a Standard Teaching

Certificate shall be able to teach only in schools situated in a school district that is located in a city having a population in excess of 500,000 inhabitants.

Beginning February 15, 2000, persons who have completed the requirements for a standard alternative teaching certificate under this Section shall be issued an Initial Alternative Teaching Certificate valid for 4 years of teaching and not renewable. At the end of the 4-year validity period, these persons shall be eligible, on the same basis as holders of an Initial Teaching Certificate issued under subsection (b) of Section 21-2 of this Code, to apply for a Standard Teaching Certificate, provided they meet the requirements of subsection (c) of Section 21-2.

~~Such~~ ~~This~~ alternative certification program shall be implemented so that the first provisional alternative teaching certificates issued under this Section are effective upon the commencement of the 1997-1998 academic year and the first standard alternative teaching certificates issued under this Section are effective upon the commencement of the 1998-1999 academic year.

The State Board of Education, in cooperation with the partnership or partnerships establishing ~~such~~ ~~the~~ Alternative Teacher Certification programs ~~program~~, shall adopt rules and regulations that are consistent with this Section and that the State Board of Education deems necessary to establish and implement the program.

(Source: P.A. 95-270, eff. 8-17-07.)

(105 ILCS 5/21-5c)

Sec. 21-5c. Alternative route to teacher certification. The State Board of Education, in consultation with the State Teacher Certification Board, shall establish and implement one or more ~~an~~ alternative route to teacher certification programs ~~program~~ under which persons who meet the requirements of and successfully complete the programs ~~program~~ established by this Section shall be issued an initial teaching certificate for teaching in schools in this State. The State Board of Education may ~~shall~~ approve a course of study that persons in such programs ~~the program~~ must successfully complete in order to satisfy one criterion for issuance of a certificate under this Section. The Alternative Route to Teacher Certification programs ~~program~~ course of study must include ~~the current~~ content and skills ~~contained in a university's current courses for State certification~~ which have been approved by the State Board of Education, in consultation with the State Teacher Certification Board, as meeting the requirement for State teacher certification.

Programs ~~The program~~ established under this Section shall be known as ~~the~~ Alternative Route to Teacher Certification programs ~~program~~. The programs ~~program~~ may be offered by a university that offers 4-year baccalaureate and masters degree programs and that is a recognized institution as defined in Section 21-21, by in conjunction with one or more not-for-profit organizations in the State , or a combination thereof. ~~The programs~~ ~~program~~ shall be comprised of the following 3 phases: (a) a course of study offered on an intensive basis in education theory, instructional methods, and practice teaching; (b) the person's assignment to a full-time teaching position for one school year, including the designation of a mentor teacher to advise and assist the person with that teaching assignment; and (c) a comprehensive assessment of the person's teaching performance by school officials and program participants and a recommendation by the program sponsor ~~institution of higher education~~ to the State Board of Education that the person be issued an initial teaching certificate. Successful completion of ~~the~~ Alternative Route to Teacher Certification programs ~~program~~ shall be deemed to satisfy any other practice or student teaching and subject matter requirements established by law.

A provisional alternative teaching certificate, valid for one year of teaching in the common schools and not renewable, shall be issued under this Section 21-5c to persons who at the time of applying for the provisional alternative teaching certificate under this Section:

- (1) have graduated from an accredited college or university with a bachelor's degree;
- (2) have been employed for a period of at least 5 years in an area requiring application of the individual's education;
- (3) have successfully completed the first phase of the Alternative Teacher Certification program as provided in this Section; and
- (4) have passed the tests of basic skills and subject matter knowledge required by Section 21-1a.

An initial teaching certificate, valid for teaching in the common schools, shall be issued under Section 21-3 or 21-5 to persons who first complete the requirements for the provisional alternative teaching certificate and who at the time of applying for an initial teaching certificate have successfully completed the second and third phases of the Alternative Route to Teacher Certification program as provided in this Section.

A person possessing a provisional alternative certificate or an initial teaching certificate earned under this Section shall be treated as a regularly certified teacher for purposes of compensation, benefits, and

other terms and conditions of employment afforded teachers in the school who are members of a bargaining unit represented by an exclusive bargaining representative, if any.

The State Board of Education may adopt rules and regulations that are consistent with this Section and that the State Board deems necessary to establish and implement the program.

(Source: P.A. 90-548, eff. 1-1-98.)

(105 ILCS 5/21-5d)

Sec. 21-5d. Alternative route to administrative certification. The State Board of Education, in consultation with the State Teacher Certification Board and an advisory panel consisting of no less than 7 administrators appointed by the State Superintendent of Education, shall establish and implement one or more ~~an~~ alternative route to administrative certification program under which persons who meet the requirements of and successfully complete the program established by this Section shall be issued a standard administrative certificate for serving as an administrator in schools in this State. For the purposes of this Section only, "administrator" means a person holding any administrative position for which a standard administrative certificate with a general administrative endorsement, chief school business official endorsement, or superintendent endorsement is required, except a principal or an assistant principal. The State Board of Education may ~~shall~~ approve a course of study that persons in the program must successfully complete in order to satisfy one criterion for issuance of a certificate under this Section. The Alternative Route to Administrative Certification program course of study must include ~~the current~~ content and skills ~~contained in a university's current courses for State certification~~ which have been approved by the State Board of Education, in consultation with the State Teacher Certification Board, as meeting the requirement for administrative certification.

~~Programs~~ ~~The program~~ established under this Section shall be known as the Alternative Route to Administrative Certification ~~programs~~ ~~program~~. ~~The programs~~ ~~The program~~ shall be comprised of the following 3 phases: (a) a course of study offered on an intensive basis in education management, governance, organization, and planning; (b) the person's assignment to a full-time position for one school year as an administrator; and (c) a comprehensive assessment of the person's performance by school officials and a recommendation to the State Board of Education that the person be issued a standard administrative certificate. Successful completion of an ~~the~~ Alternative Route to Administrative Certification program shall be deemed to satisfy any other supervisory, administrative, or management experience requirements established by law.

A provisional alternative administrative certificate, valid for one year of serving as an administrator in the common schools and not renewable, shall be issued under this Section 21-5d to persons who at the time of applying for the provisional alternative administrative certificate under this Section:

- (1) have graduated from an accredited college or university with a master's degree in a management field or with a bachelor's degree and the life experience equivalent of a master's degree in a management field as determined by the State Board of Education;
- (2) have been employed for a period of at least 5 years in a management level position;
- (3) have successfully completed the first phase of the Alternative Route to Administrative Certification program as provided in this Section; and
- (4) have passed any examination required by the State Board of Education.

A standard administrative certificate with a general administrative endorsement, chief school business official endorsement, or superintendent endorsement, renewable as provided in Section 21-14, shall be issued under Section 21-7.1 to persons who first complete the requirements for the provisional alternative administrative certificate and who at the time of applying for a standard administrative certificate have successfully completed the second and third phases of an ~~the~~ Alternative Route to Administrative Certification program as provided in this Section.

The State Board of Education may adopt rules and regulations that are consistent with this Section and that the State Board deems necessary to establish and implement those programs ~~the program~~.

(Source: P.A. 90-548, eff. 1-1-98.)

(105 ILCS 5/21-5e)

Sec. 21-5e. Alternative Route to Administrative Certification for National Board Certified Teachers.

(a) It shall be the policy of the State of Illinois to improve the recruitment and preparation of instructional leaders.

(b) On or before July 1, 2007, the State Board of Education, in consultation with the State Teacher Certification Board, may ~~shall~~ establish and implement one or more ~~an~~ alternative route to administrative certification for teacher leaders, to be known as the Alternative Route to an Administrative Certificate for National Board Certified Teachers. "Teacher leader" means a certified teacher who has already received National Board certification through the National Board for Professional Teaching Standards and who has a teacher leader endorsement under Section 21-7.5 of this

Code. Persons who meet the requirements of and successfully complete ~~a the~~ program established by this Section shall be issued a standard administrative certificate for serving in schools in this State. The State Board ~~may shall~~ approve a course of study that persons must successfully complete in order to satisfy one criterion for issuance of the administrative certificate under this Section. The Alternative Route to an Administrative Certificate for National Board Certified Teachers must include ~~the current~~ content and skills contained in ~~a college's or university's courses and the Illinois Professional School Leader Standards for State certification, with the exception of content and skills courses that contain the competency areas and the Illinois Professional School Leader Standards~~ that a candidate has already ~~demonstrated meeting met~~ through National Board certification or through a teacher leadership master's degree program.

(c) The Alternative Route to an Administrative Certificate for National Board Certified Teachers shall be comprised of the following 4 phases:

(1) National Board certification and an endorsement in teacher leadership in accordance with Section 21-7.5 of this Code;

(2) a master's degree in a teacher leader program;

(3) 15 hours of coursework in which the candidate must show evidence of meeting competencies for organizational management and development, finance, supervision and evaluation, policy and legal issues, and leadership, as stated in the Illinois Professional School Leader Standards for principals; and

(4) a passing score on the Illinois Administrator Assessment.

(d) Successful completion of the Alternative Route to an Administrative Certificate for National Board Certified Teachers shall be deemed to satisfy all requirements to receive an administrative certificate established by law. The State Board shall adopt rules that are consistent with this Section and that the State Board deems necessary for the establishment and implementation of the program.

(Source: P.A. 94-1039, eff. 7-20-06.)

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

Under the rules, the foregoing **Senate Bill No. 616**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1013

A bill for AN ACT concerning criminal law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1013

Passed the House, as amended, January 12, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1013

AMENDMENT NO. 1. Amend Senate Bill 1013 by replacing everything after the enacting clause with the following:

"Section 5. The Unified Code of Corrections is amended by changing Section 3-6-3 as follows:
(730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

Sec. 3-6-3. Rules and Regulations for Early Release.

(a) (1) The Department of Corrections shall prescribe rules and regulations for the early release on account of good conduct of persons committed to the Department which shall be subject to review by the Prisoner Review Board.

(2) The rules and regulations on early release shall provide, with respect to offenses listed in clause (i), (ii), or (iii) of this paragraph (2) committed on or after June 19, 1998 or with respect to the offense listed in clause (iv) of this paragraph (2) committed on or after June 23, 2005

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(the effective date of Public Act 94-71) or with respect to offense listed in clause (vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625) or with respect to the offense of being an armed habitual criminal committed on or after August 2, 2005 (the effective date of Public Act 94-398) or with respect to the offenses listed in clause (v) of this paragraph (2) committed on or after August 13, 2007 (the effective date of Public Act 95-134), the following:

(i) that a prisoner who is serving a term of imprisonment for first degree murder or for the offense of terrorism shall receive no good conduct credit and shall serve the entire sentence imposed by the court;

(ii) that a prisoner serving a sentence for attempt to commit first degree murder, solicitation of murder, solicitation of murder for hire, intentional homicide of an unborn child, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated kidnapping, aggravated battery with a firearm, heinous battery, being an armed habitual criminal, aggravated battery of a senior citizen, or aggravated battery of a child shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment;

(iii) that a prisoner serving a sentence for home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon, when the court has made and entered a finding, pursuant to subsection (c-1) of Section 5-4-1 of this Code, that the conduct leading to conviction for the enumerated offense resulted in great bodily harm to a victim, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment;

(iv) that a prisoner serving a sentence for aggravated discharge of a firearm, whether or not the conduct leading to conviction for the offense resulted in great bodily harm to the victim, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment;

(v) that a person serving a sentence for gunrunning, narcotics racketeering, controlled substance trafficking, methamphetamine trafficking, drug-induced homicide, aggravated methamphetamine-related child endangerment, money laundering pursuant to clause (c) (4) or (5) of Section 29B-1 of the Criminal Code of 1961, or a Class X felony conviction for delivery of a controlled substance, possession of a controlled substance with intent to manufacture or deliver, calculated criminal drug conspiracy, criminal drug conspiracy, street gang criminal drug conspiracy, participation in methamphetamine manufacturing, aggravated participation in methamphetamine manufacturing, delivery of methamphetamine, possession with intent to deliver methamphetamine, aggravated delivery of methamphetamine, aggravated possession with intent to deliver methamphetamine, methamphetamine conspiracy when the substance containing the controlled substance or methamphetamine is 100 grams or more shall receive no more than 7.5 days good conduct credit for each month of his or her sentence of imprisonment; and

(vi) that a prisoner serving a sentence for a second or subsequent offense of luring a minor shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.1) For all offenses, other than those enumerated in subdivision (a)(2)(i), (ii), or (iii) committed on or after June 19, 1998 or subdivision (a)(2)(iv) committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) committed on or after August 13, 2007 (the effective date of Public Act 95-134) or subdivision (a)(2)(vi) committed on or after June 1, 2008 (the effective date of Public Act 95-625), and other than the offense of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, the rules and regulations shall provide that a prisoner who is serving a term of imprisonment shall receive one day of good conduct credit for each day of his or her sentence of imprisonment or commitment under Section 3-3-9. Each day of good conduct credit shall reduce by one day the prisoner's period of imprisonment or commitment under Section 3-3-9.

(2.2) A prisoner serving a term of natural life imprisonment or a prisoner who has been sentenced to death shall receive no good conduct credit.

(2.3) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as

defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.4) The rules and regulations on early release shall provide with respect to the offenses of aggravated battery with a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm or aggravated discharge of a machine gun or a firearm equipped with any device or attachment designed or used for silencing the report of a firearm, committed on or after July 15, 1999 (the effective date of Public Act 91-121), that a prisoner serving a sentence for any of these offenses shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(2.5) The rules and regulations on early release shall provide that a prisoner who is serving a sentence for aggravated arson committed on or after July 27, 2001 (the effective date of Public Act 92-176) shall receive no more than 4.5 days of good conduct credit for each month of his or her sentence of imprisonment.

(3) The rules and regulations shall also provide that the Director may award up to 180 days additional good conduct credit for meritorious service in specific instances as the Director deems proper; except that no more than 90 days of good conduct credit for meritorious service shall be awarded to any prisoner who is serving a sentence for conviction of first degree murder, reckless homicide while under the influence of alcohol or any other drug, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, aggravated kidnapping, kidnapping, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, deviate sexual assault, aggravated criminal sexual abuse, aggravated indecent liberties with a child, indecent liberties with a child, child pornography, heinous battery, aggravated battery of a spouse, aggravated battery of a spouse with a firearm, stalking, aggravated stalking, aggravated battery of a child, endangering the life or health of a child, or cruelty to a child. Notwithstanding the foregoing, good conduct credit for meritorious service shall not be awarded on a sentence of imprisonment imposed for conviction of: (i) one of the offenses enumerated in subdivision (a)(2)(i), (ii), or (iii) when the offense is committed on or after June 19, 1998 or subdivision (a)(2)(iv) when the offense is committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) when the offense is committed on or after August 13, 2007 (the effective date of Public Act 95-134) or subdivision (a)(2)(vi) when the offense is committed on or after June 1, 2008 (the effective date of Public Act 95-625), (ii) reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 when the offense is committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, (iii) one of the offenses enumerated in subdivision (a)(2.4) when the offense is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or (iv) aggravated arson when the offense is committed on or after July 27, 2001 (the effective date of Public Act 92-176).

The Director shall not award good conduct credit for meritorious service under this paragraph (3) to an inmate unless the inmate has served a minimum of 60 days of the sentence; except nothing in this paragraph shall be construed to permit the Director to extend an inmate's sentence beyond that which was imposed by the court. Prior to awarding credit under this paragraph (3), the Director shall make a written determination that the inmate:

(A) is eligible for good conduct credit for meritorious service;

(B) has served a minimum of 60 days, or as close to 60 days as the sentence will allow; and

(C) has met the eligibility criteria established by rule.

The Director shall determine the form and content of the written determination required in this subsection.

(4) The rules and regulations shall also provide that the good conduct credit accumulated and retained under paragraph (2.1) of subsection (a) of this Section by any inmate during specific periods of time in which such inmate is engaged full-time in substance abuse programs, correctional industry assignments, or educational programs provided by the Department under this paragraph (4) and satisfactorily completes the assigned program as determined by the standards of the Department, shall be multiplied by a factor of 1.25 for program participation before August 11, 1993 and 1.50 for program participation on or after that date. However, no inmate shall be eligible for the additional good conduct credit under this paragraph (4) or (4.1) of this subsection (a) while assigned to a boot camp or electronic detention, or if convicted of an offense enumerated in subdivision

(a)(2)(i), (ii), or (iii) of this Section that is committed on or after June 19, 1998 or subdivision (a)(2)(iv) of this Section that is committed on or after June 23, 2005 (the effective date of Public Act 94-71) or subdivision (a)(2)(v) of this Section that is committed on or after August 13, 2007 (the effective date of Public Act 95-134) or subdivision (a)(2)(vi) when the offense is committed on or after June 1, 2008 (the effective date of Public Act 95-625), or if convicted of reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense is committed on or after January 1, 1999, or aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, or if convicted of an offense enumerated in paragraph (a)(2.4) of this Section that is committed on or after July 15, 1999 (the effective date of Public Act 91-121), or first degree murder, a Class X felony, criminal sexual assault, felony criminal sexual abuse, aggravated criminal sexual abuse, aggravated battery with a firearm, or any predecessor or successor offenses with the same or substantially the same elements, or any inchoate offenses relating to the foregoing offenses. No inmate shall be eligible for the additional good conduct credit under this paragraph (4) who (i) has previously received increased good conduct credit under this paragraph (4) and has subsequently been convicted of a felony, or (ii) has previously served more than one prior sentence of imprisonment for a felony in an adult correctional facility.

Educational, vocational, substance abuse and correctional industry programs under which good conduct credit may be increased under this paragraph (4) and paragraph (4.1) of this subsection (a) shall be evaluated by the Department on the basis of documented standards. The Department shall report the results of these evaluations to the Governor and the General Assembly by September 30th of each year. The reports shall include data relating to the recidivism rate among program participants.

Availability of these programs shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. Eligible inmates who are denied immediate admission shall be placed on a waiting list under criteria established by the Department. The inability of any inmate to become engaged in any such programs by reason of insufficient program resources or for any other reason established under the rules and regulations of the Department shall not be deemed a cause of action under which the Department or any employee or agent of the Department shall be liable for damages to the inmate.

(4.1) The rules and regulations shall also provide that an additional 60 days of good conduct credit shall be awarded to any prisoner who passes the high school level Test of General Educational Development (GED) while the prisoner is incarcerated. The good conduct credit awarded under this paragraph (4.1) shall be in addition to, and shall not affect, the award of good conduct under any other paragraph of this Section, but shall also be pursuant to the guidelines and restrictions set forth in paragraph (4) of subsection (a) of this Section. The good conduct credit provided for in this paragraph shall be available only to those prisoners who have not previously earned a high school diploma or a GED. If, after an award of the GED good conduct credit has been made and the Department determines that the prisoner was not eligible, then the award shall be revoked.

(4.5) The rules and regulations on early release shall also provide that when the court's sentencing order recommends a prisoner for substance abuse treatment and the crime was committed on or after September 1, 2003 (the effective date of Public Act 93-354), the prisoner shall receive no good conduct credit awarded under clause (3) of this subsection (a) unless he or she participates in and completes a substance abuse treatment program. The Director may waive the requirement to participate in or complete a substance abuse treatment program and award the good conduct credit in specific instances if the prisoner is not a good candidate for a substance abuse treatment program for medical, programming, or operational reasons. Availability of substance abuse treatment shall be subject to the limits of fiscal resources appropriated by the General Assembly for these purposes. If treatment is not available and the requirement to participate and complete the treatment has not been waived by the Director, the prisoner shall be placed on a waiting list under criteria established by the Department. The Director may allow a prisoner placed on a waiting list to participate in and complete a substance abuse education class or attend substance abuse self-help meetings in lieu of a substance abuse treatment program. A prisoner on a waiting list who is not placed in a substance abuse program prior to release may be eligible for a waiver and receive good conduct credit under clause (3) of this subsection (a) at the discretion of the Director.

(4.6) The rules and regulations on early release shall also provide that a prisoner who has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act shall receive no good conduct credit unless he or she either has successfully completed or is participating in sex offender treatment as defined by the Sex Offender Management Board. However, prisoners who are waiting to receive such treatment, but who are unable to do so due solely to the lack of resources

on the part of the Department, may, at the Director's sole discretion, be awarded good conduct credit at such rate as the Director shall determine.

(5) Whenever the Department is to release any inmate earlier than it otherwise would because of a grant of good conduct credit for meritorious service given at any time during the term, the Department shall give reasonable ~~advance~~ notice of the impending release not less than 14 days prior to the date of the release to the State's Attorney of the county where the prosecution of the inmate took place, and if applicable, the State's Attorney of the County into which the inmate will be released.

(b) Whenever a person is or has been committed under several convictions, with separate sentences, the sentences shall be construed under Section 5-8-4 in granting and forfeiting of good time.

(c) The Department shall prescribe rules and regulations for revoking good conduct credit, or suspending or reducing the rate of accumulation of good conduct credit for specific rule violations, during imprisonment. These rules and regulations shall provide that no inmate may be penalized more than one year of good conduct credit for any one infraction.

When the Department seeks to revoke, suspend or reduce the rate of accumulation of any good conduct credits for an alleged infraction of its rules, it shall bring charges therefor against the prisoner sought to be so deprived of good conduct credits before the Prisoner Review Board as provided in subparagraph (a)(4) of Section 3-3-2 of this Code, if the amount of credit at issue exceeds 30 days or when during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled release. In those cases, the Department of Corrections may revoke up to 30 days of good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct credit in excess of 30 days. However, the Board shall not be empowered to review the Department's decision with respect to the loss of 30 days of good conduct credit within any calendar year for any prisoner or to increase any penalty beyond the length requested by the Department.

The Director of the Department of Corrections, in appropriate cases, may restore up to 30 days good conduct credits which have been revoked, suspended or reduced. Any restoration of good conduct credits in excess of 30 days shall be subject to review by the Prisoner Review Board. However, the Board may not restore good conduct credit in excess of the amount requested by the Director.

Nothing contained in this Section shall prohibit the Prisoner Review Board from ordering, pursuant to Section 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the sentence imposed by the court that was not served due to the accumulation of good conduct credit.

(d) If a lawsuit is filed by a prisoner in an Illinois or federal court against the State, the Department of Corrections, or the Prisoner Review Board, or against any of their officers or employees, and the court makes a specific finding that a pleading, motion, or other paper filed by the prisoner is frivolous, the Department of Corrections shall conduct a hearing to revoke up to 180 days of good conduct credit by bringing charges against the prisoner sought to be deprived of the good conduct credits before the Prisoner Review Board as provided in subparagraph (a)(8) of Section 3-3-2 of this Code. If the prisoner has not accumulated 180 days of good conduct credit at the time of the finding, then the Prisoner Review Board may revoke all good conduct credit accumulated by the prisoner.

For purposes of this subsection (d):

(1) "Frivolous" means that a pleading, motion, or other filing which purports to be a legal document filed by a prisoner in his or her lawsuit meets any or all of the following criteria:

- (A) it lacks an arguable basis either in law or in fact;
- (B) it is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (C) the claims, defenses, and other legal contentions therein are not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (D) the allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; or
- (E) the denials of factual contentions are not warranted on the evidence, or if specifically so identified, are not reasonably based on a lack of information or belief.

(2) "Lawsuit" means a motion pursuant to Section 116-3 of the Code of Criminal

Procedure of 1963, a habeas corpus action under Article X of the Code of Civil Procedure or under federal law (28 U.S.C. 2254), a petition for claim under the Court of Claims Act, an action under the federal Civil Rights Act (42 U.S.C. 1983), or a second or subsequent petition for post-conviction relief under Article 122 of the Code of Criminal Procedure of 1963 whether filed with or without leave of

court or a second or subsequent petition for relief from judgment under Section 2-1401 of the Code of Civil Procedure.

(e) Nothing in Public Act 90-592 or 90-593 affects the validity of Public Act 89-404.

(f) Whenever the Department is to release any inmate who has been convicted of a violation of an order of protection under Section 12-30 of the Criminal Code of 1961, earlier than it otherwise would because of a grant of good conduct credit, the Department, as a condition of such early release, shall require that the person, upon release, be placed under electronic surveillance as provided in Section 5-8A-7 of this Code.

(Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625, eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876, eff. 8-21-08.)

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

Under the rules, the foregoing **Senate Bill No. 1013**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1425

A bill for AN ACT concerning State government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1425

House Amendment No. 2 to SENATE BILL NO. 1425

Passed the House, as amended, January 12, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1425

AMENDMENT NO. 1. Amend Senate Bill 1425 by replacing everything after the enacting clause with the following:

"Section 5. The State Budget Law of the Civil Administrative Code of Illinois is amended by changing Section 50-5 as follows:

(15 ILCS 20/50-5)

Sec. 50-5. Governor to submit State budget. The Governor shall, as soon as possible and not later than the ~~fourth~~ ~~third~~ Wednesday in March in ~~2010~~ ~~2009~~ (March ~~24, 2010~~ ~~18, 2009~~) and the third Wednesday in February of each year beginning in ~~2011~~ ~~2010~~, except as otherwise provided in this Section, submit a State budget, embracing therein the amounts recommended by the Governor to be appropriated to the respective departments, offices, and institutions, and for all other public purposes, the estimated revenues from taxation, the estimated revenues from sources other than taxation, and an estimate of the amount required to be raised by taxation. The amounts recommended by the Governor for appropriation to the respective departments, offices and institutions shall be formulated according to the various functions and activities for which the respective department, office or institution of the State government (including the elective officers in the executive department and including the University of Illinois and the judicial department) is responsible. The amounts relating to particular functions and activities shall be further formulated in accordance with the object classification specified in Section 13 of the State Finance Act.

The Governor shall not propose expenditures and the General Assembly shall not enact appropriations that exceed the resources estimated to be available, as provided in this Section.

For the purposes of Article VIII, Section 2 of the 1970 Illinois Constitution, the State budget for the following funds shall be prepared on the basis of revenue and expenditure measurement concepts that are in concert with generally accepted accounting principles for governments:

- (1) General Revenue Fund.
- (2) Common School Fund.

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- (3) Educational Assistance Fund.
- (4) Road Fund.
- (5) Motor Fuel Tax Fund.
- (6) Agricultural Premium Fund.

These funds shall be known as the "budgeted funds". The revenue estimates used in the State budget for the budgeted funds shall include the estimated beginning fund balance, plus revenues estimated to be received during the budgeted year, plus the estimated receipts due the State as of June 30 of the budgeted year that are expected to be collected during the lapse period following the budgeted year, minus the receipts collected during the first 2 months of the budgeted year that became due to the State in the year before the budgeted year. Revenues shall also include estimated federal reimbursements associated with the recognition of Section 25 of the State Finance Act liabilities. For any budgeted fund for which current year revenues are anticipated to exceed expenditures, the surplus shall be considered to be a resource available for expenditure in the budgeted fiscal year.

Expenditure estimates for the budgeted funds included in the State budget shall include the costs to be incurred by the State for the budgeted year, to be paid in the next fiscal year, excluding costs paid in the budgeted year which were carried over from the prior year, where the payment is authorized by Section 25 of the State Finance Act. For any budgeted fund for which expenditures are expected to exceed revenues in the current fiscal year, the deficit shall be considered as a use of funds in the budgeted fiscal year.

Revenues and expenditures shall also include transfers between funds that are based on revenues received or costs incurred during the budget year.

Appropriations for expenditures shall also include all anticipated statutory continuing appropriation obligations that are expected to be incurred during the budgeted fiscal year.

By March 15 of each year, the Commission on Government Forecasting and Accountability shall prepare revenue and fund transfer estimates in accordance with the requirements of this Section and report those estimates to the General Assembly and the Governor.

For all funds other than the budgeted funds, the proposed expenditures shall not exceed funds estimated to be available for the fiscal year as shown in the budget. Appropriation for a fiscal year shall not exceed funds estimated by the General Assembly to be available during that year.

(Source: P.A. 96-1, eff. 2-17-09; 96-320, eff. 1-1-10; revised 9-4-09.)

Section 99. Effective date. This Act takes effect January 1, 2010."

AMENDMENT NO. 2 TO SENATE BILL 1425

AMENDMENT NO. 2. Amend Senate Bill 1425, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The General Obligation Bond Act is amended by changing Section 2 and by adding Section 7.3 as follows:

(30 ILCS 330/2) (from Ch. 127, par. 652)

Sec. 2. Authorization for Bonds. The State of Illinois is authorized to issue, sell and provide for the retirement of General Obligation Bonds of the State of Illinois for the categories and specific purposes expressed in Sections 2 through 8 of this Act, in the total amount of \$37,217,777,443 ~~\$33,501,777,443~~ ~~\$34,159,149,369~~.

The bonds authorized in this Section 2 and in Section 16 of this Act are herein called "Bonds".

Of the total amount of Bonds authorized in this Act, up to \$2,200,000,000 in aggregate original principal amount may be issued and sold in accordance with the Baccalaureate Savings Act in the form of General Obligation College Savings Bonds.

Of the total amount of Bonds authorized in this Act, up to \$300,000,000 in aggregate original principal amount may be issued and sold in accordance with the Retirement Savings Act in the form of General Obligation Retirement Savings Bonds.

Of the total amount of Bonds authorized in this Act, the additional \$10,000,000,000 authorized by Public Act 93-2 and the \$3,466,000,000 authorized by Public Act 96-43 ~~this amendatory Act of the 96th General Assembly~~ shall be used solely as provided in Section 7.2.

The issuance and sale of Bonds pursuant to the General Obligation Bond Act is an economical and efficient method of financing the long-term capital needs of the State. This Act will permit the issuance of a multi-purpose General Obligation Bond with uniform terms and features. This will not only lower the cost of registration but also reduce the overall cost of issuing debt by improving the marketability of Illinois General Obligation Bonds.

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(Source: P.A. 95-1026, eff. 1-12-09; 96-5, eff. 4-3-09; 96-36, eff. 7-13-09; 96-43, eff. 7-15-09; revised 8-20-09.)

(30 ILCS 330/7.3 new)

Sec. 7.3. Medicaid enhancement funding. The amount of \$250,000,000 is authorized to be issued only during fiscal year 2010 for the making of deposits into the Healthcare Provider Relief Fund for the exclusive purpose of funding Medicaid services subject to the enhanced federal participation due to expire on December 31, 2010. Notwithstanding this Act or any other law to the contrary, bonds issued under this Section must be payable within one year after their date of issuance.

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

Under the rules, the foregoing **Senate Bill No. 1425**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1868

A bill for AN ACT concerning local government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1868

Passed the House, as amended, January 12, 2010.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1868

AMENDMENT NO. 1. Amend Senate Bill 1868 by replacing everything after the enacting clause with the following:

"Section 5. The Metropolitan Pier and Exposition Authority Act is amended by changing Sections 14, 15, and 16 as follows:

(70 ILCS 210/14) (from Ch. 85, par. 1234)

Sec. 14. Board; compensation. The governing and administrative body of the Authority shall be a board known as the Metropolitan Pier and Exposition Board. The members of the board shall be individuals of generally recognized ability and integrity. No member of the Board may be an officer or employee of, or a member of a board, commission or authority of, the State, any unit of local government or any school district.

They shall serve without compensation, but shall be reimbursed for actual expenses incurred by them in the performance of their duties. However, any member of the board who is appointed to the office of secretary-treasurer may receive compensation for his or her services as such officer. All members of the Board and employees of the Authority are subject to the Illinois Governmental Ethics Act, in accordance with its terms.

Thirty days after the effective date of this amendatory Act of the 96th General Assembly, the Board shall consist of 7 interim members. On and after June 30, 1987, and prior to the effective date of this amendatory Act of 1989, the Board shall consist of 12 members. On and after the effective date of this amendatory Act of 1989, the Board shall consist of 13 members. The Board shall be fully constituted when a quorum has been appointed.

(Source: P.A. 86-17; 87-1089.)

(70 ILCS 210/15) (from Ch. 85, par. 1235)

Sec. 15. Interim board members. Notwithstanding any provision of this Section to the contrary, the term of office of each member of the Board ends 30 days after the effective date of this amendatory Act of the 96th General Assembly, and those members shall no longer hold office. Within 30 days after the effective date of this amendatory Act of the 96th General Assembly, the Governor shall appoint 3 interim members to the Board. At least one of the members appointed by the Governor must have academic credentials in labor law or human resources. Within 30 days after the effective date of this amendatory Act of the 96th General Assembly, the Mayor of the City of Chicago shall (i) appoint 3

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interim members to the Board and (ii) appoint, subject to the approval of the Governor, a chairperson of the interim board. The appointment of the chairperson shall be deemed to be approved unless the Governor disapproves the appointment in writing within 15 days after notice thereof. The interim board members shall serve until a new Board is created by the General Assembly by law.

On the effective date of this amendatory Act of 1989, the term of each of the members of the Board serving prior to such date shall immediately expire.

On the effective date of this amendatory Act of 1989, the Governor (by and with the advice and consent of the Senate) shall appoint six members of the Board for initial terms expiring June 1 of the years 1990, 1991, 1992, 1993, 1994, and 1995 respectively; the Mayor of the City of Chicago shall appoint six members of the Board for initial terms expiring June 1 of the years 1990, 1991, 1992, 1993, 1994, and 1995 respectively; the Mayor of the City of Chicago shall appoint, subject to the approval of the Governor, one member who shall serve as chairman for an initial term expiring June 1, 1992. An appointment shall be deemed to be approved unless the Governor disapproves the appointment in writing within 15 days after notice thereof. At the expiration of the term of any member appointed by the Governor, his successor shall be appointed by the Governor in like manner, and at the expiration of the term of any member appointed by the Mayor of the City of Chicago, his successor shall be appointed by the Mayor of the City of Chicago in like manner, and at the expiration of the term of any Mayoral appointee requiring approval by the Governor, the successor shall be appointed in like manner, as appointments for the initial terms. All successors shall hold office for a term of five years from the first day of June of the year in which they are appointed, except in case of an appointment to fill a vacancy. In case of vacancy in the office when the Senate is not in session, the Governor may make a temporary appointment until the next meeting of the Senate when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the Senate, shall hold his office during the remainder of the term and until his successor shall be appointed and qualified. If the Senate is not in session on the effective date of this amendatory Act of 1989, the Governor shall make temporary appointments as in case of vacancies.

The ~~When the appointments have become final,~~ the Governor and the Mayor of the City of Chicago shall certify their respective appointees to the Secretary of State. Within ~~30~~ thirty days after certification of his or her appointment, and before entering upon the duties of his or her office, each member of the Board shall take and subscribe the constitutional oath of office and file it in the office of the Secretary of State.

(Source: P.A. 86-17.)

(70 ILCS 210/16) (from Ch. 85, par. 1236)

Sec. 16. Vacancies. Members of the board shall hold office until their respective successors have been appointed and qualified. Any member may resign from his or her office, to take effect when his or her successor has been appointed and has qualified. The Governor and the Mayor of the City of Chicago, respectively, may remove any member of the Board appointed by him or her in case of incompetency, neglect of duty, or malfeasance in office, after service on him or her of a copy of the written charges against him or her and an opportunity to be publicly heard in person or by counsel in his or her own defense upon not less than ten days' notice. In case of failure to qualify within the time required, or of abandonment of his or her office, or in case of death, conviction of a felony or removal from office, his or her office shall become vacant. Vacancies shall be filled in the same manner as original appointments. Each vacancy shall be filled for the unexpired term by appointment in like manner, as in case of expiration of the term of a member of the Board.

(Source: Laws 1955, p. 1125.)

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

Under the rules, the foregoing **Senate Bill No. 1868**, with House Amendment No. 1, was referred to the Secretary's Desk.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

- Motion to Concur with House Amendments 1 and 2 to Senate Bill 315
- Motion to Concur in House Amendment 1 to Senate Bill 328

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Motion to Concur in House Amendment 1 to Senate Bill 616
Motion to Concur in House Amendment 1 to Senate Bill 1013
Motion to Concur in House Amendments 1 and 2 to Senate Bill 1425
Motion to Concur in House Amendment 1 to Senate Bill 1868

LEGISLATIVE MEASURE FILED

The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 3 to House Bill 1188

At the hour of 4:03 o'clock p.m., the Chair announced that the Senate stand at ease.

AT EASE

At the hour of 4:16 o'clock p.m., the Senate resumed consideration of business.
Senator Hendon, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its January 12, 2010 meeting, reported that the following Legislative Measure has been approved for consideration:

Senate Amendment No. 3 to House Bill 1188

The foregoing floor amendment was placed on the Secretary's Desk.

HOUSE BILL RECALLED

On motion of Senator Trotter, **House Bill No. 1188** was recalled from the order of third reading to the order of second reading.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 1188

AMENDMENT NO. 2. Amend House Bill 1188, AS AMENDED, by replacing everything after the enacting clause with the following:

"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

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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 any individual, including an employee, 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 performs any work at the cemetery.

"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,

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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 under ground, 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 employed by 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 employment. 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 employment, 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) 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. 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 implement a Code of Professional Conduct and Ethics. 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.

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(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.

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(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 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.

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(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 provision 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, inurement, 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; (v) the terms or method of payment agreed upon; and (vi) 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 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.

[January 12, 2010]

(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.

[January 12, 2010]

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.

The information included under this exemption includes all ~~(i)-(h)~~ 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) (##) 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.

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(a) Information specifically prohibited from disclosure by federal or State law or rules

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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.

The information included under this exemption includes all (i) ~~and~~ 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) (##) 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) (##) 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, 80, and 100 and by adding Sections 7, 85, 87, 88, 89, 90, 91, 92, 93, 94, 95, 105, 115, 120, 125, 130, 140, 150, 160, and 170, and by repealing Section 12 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~~

[January 12, 2010]

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 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 ~~and~~ ~~of~~ 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 (1) ~~(4)~~ 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~~

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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.

[January 12, 2010]

(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.

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(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, 12-11, 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

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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."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senators Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 3 TO HOUSE BILL 1188

[January 12, 2010]

AMENDMENT NO. 3. Amend House Bill 1188, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 3, on page 5, by replacing lines 15 through 19 with the following:

"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."; and

on page 15, line 20, by replacing "employed by" with "working for"; and

on page 16, lines 5 and 9, by replacing "employment" each time it appears with "work"; and

on page 25, line 12, after the period, by inserting "A cemetery authority, however, shall not transmit copies of Worker's Statements until the cemetery authority receives a license under this Act."; and

on page 26, line 13, by replacing "implement" with "adopt"; and

on page 26, line 14, after "Ethics", by inserting "by rule"; and

on page 51, line 10, by replacing "cemetery manager" with "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"; and

on page 104, by replacing lines 20 and 21 with the following:

"(i) All trade secrets and commercial or financial"; and

on page 115, by replacing lines 5 and 6 with the following:

"(i) All trade secrets and commercial or financial".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

ANNOUNCEMENT ON ATTENDANCE

Senator Burzynski announced for the record that Senator Millner was absent due to a family emergency.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Trotter, **House Bill No. 1188**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 30; NAYS 24; Present 1.

The following voted in the affirmative:

Clayborne	Hendon	Lightford	Sandoval
Collins	Holmes	Link	Stears
Crotty	Hunter	Maloney	Trotter
DeLeo	Hutchinson	Martinez	Viverito
Delgado	Jacobs	Meeks	Wilhelmi
Garrett	Jones, E.	Muñoz	Mr. President

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Haine	Koehler	Noland
Harmon	Kotowski	Raoul

The following voted in the negative:

Althoff	Dahl	Lauzen	Risinger
Bivins	Demuzio	Luechtefeld	Sullivan
Bomke	Dillard	McCarter	Syverson
Bond	Duffy	Murphy	
Brady	Frerichs	Pankau	
Burzynski	Hultgren	Radogno	
Cronin	Jones, J.	Righter	

The following voted present:

Forby

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

COMMITTEE MEETING ANNOUNCEMENT

The Chair announced that the Committee on Assignments will meet tomorrow, January 13, 2010, at 9:00 o'clock a.m.

At the hour of 4:46 o'clock p.m., the Chair announced that the Senate stand adjourned until Wednesday, January 13, 2010, at 9:00 o'clock a.m.