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**KENDALL COUNTY  
HISTORIC PRESERVATION COMMISSION**  
109 West Ridge Street • East Wing Conference Room  
• Yorkville, IL • 60560  
(630) 553-4141 Fax (630) 553-4179

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**AGENDA**

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September 21, 2020 – 6:30 p.m.

CALL TO ORDER

ROLL CALL: Eric Bernacki (Secretary), Elizabeth Flowers (Vice-Chair), Kristine Heiman, Jeff Wehrli (Chair), and One Vacancy

APPROVAL OF AGENDA:

APPROVAL OF MINUTES: Approval of Minutes of August 17, 2020 Meeting (Pages 3-5)

CHAIRMAN’S REPORT:

PUBLIC COMMENT:

NEW BUSINESS:

1. Discussion of Historic Preservation Plan (Pages 6-28)

OLD BUSINESS:

1. Discussion of Recognizing Joseph Platt Brown and Ashby Farm
2. Discussion of Meeting with Historic Preservation Organizations
3. Discussion of Certified Local Government Application Status
4. Discussion of Cemeteries (Pages 29-123)

CORRESPONDENCE:

PUBLIC COMMENT:

ADJOURNMENT:

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If special accommodations or arrangements are needed to attend this County meeting, please contact the Administration Office at 630-553-4171, a minimum of 24-hours prior to the meeting time.

# Kendall County Historic Preservation Commission

## 9-21-2020 Remote Meeting Attendance



In accordance with the Governor's Executive Order 2020-07, Kendall County Board Chairman Scott Gryder is encouraging social distancing by allowing remote attendance to the Kendall County Historic Preservation Commission Meeting scheduled for Monday, September 21<sup>st</sup>, 2020, at 6:30 p.m. Instructions for joining the meeting are listed below.

For your safety and others, please attend the meeting by phone or computer, if possible. The East Wing Conference Room located at the Kendall County Historic Courthouse, 109 W. Ridge St, in Yorkville, will have limited seating available. Masks are required when social distancing is not possible. If you plan to attend in person, please follow all social distancing requirements.

If anyone from the public would like to make a comment during the meeting, there will be an allotted time on the agenda for public comment, and all of the county board rules of order still apply. We will also accept public comment by emailing: [masselmeier@co.kendall.il.us](mailto:masselmeier@co.kendall.il.us). Members of the public may contact Kendall County PBZ Department prior to the meeting for assistance making public comment at 630-553-4139; email correspondence is preferred.

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Kendall County Historic Preservation Commission Meeting Information:

<https://www.co.kendall.il.us/transparency/agendas-packets-and-meetings-schedules/planning-building-and-zoning/historic-preservation-commission>

For information about how to join a Microsoft Teams meeting, please see the following link.

<https://support.office.com/en-us/article/join-a-meeting-in-teams-1613bb53-f3fa-431e-85a9-d6a91e3468c9>

**KENDALL COUNTY**  
**Historic Preservation Commission**  
***Kendall County Office Building***  
***Rooms 209 & 210***  
***111 W. Fox Street, Yorkville, Illinois***  
**6:30 p.m.**  
**August 17, 2020-Unofficial Until Approved**

**CALL TO ORDER**

Chairman Jeff Wehrli called the meeting to order at 6:34 p.m.

**ROLL CALL**

Present: Eric Bernacki, Elizabeth Flowers (Secretary) (Attended Remotely), and Jeff Wehrli (Chairman)

Absent: Kristine Heiman

Also present: Matt Asselmeier, Senior Planner

**APPROVAL OF AGENDA**

Member Flowers made a motion, seconded by Member Bernacki, to approve the agenda as presented. The votes were as follows:

Yeas (3): Bernacki, Flowers, and Wehrli

Nays (0): None

Absent (1): Heiman

Abstain (0): None

The motion carried.

**APPROVAL OF MINUTES**

Member Bernacki made a motion, seconded by Member Flowers, to approve the minutes from the July 20, 2020, meeting. The votes were as follows:

Yeas (3): Bernacki, Flowers, and Wehrli

Nays (0): None

Absent (1): Heiman

Abstain (0): None

The motion carried.

**CHAIRMAN'S REPORT**

***Cemeteries***

Chairman Wehrli reported that a lady approached him regarding cemetery maintenance and identification. He noted that several cemeteries have the remains of civil war era people and older.

Mr. Asselmeier noted that a cemeteries layer is on the GIS. Mr. Asselmeier will request a cemetery map from GIS. Mr. Asselmeier also explained cemetery zoning regulations.

The Commission will discuss this matter at a future meeting.

**PUBLIC COMMENT**

None

## **NEW BUSINESS**

### ***Approval of Elizabeth Flowers as Vice-Chairman of the Kendall County Historic Preservation Commission***

Member Bernacki made a motion, seconded by Chairman Wehrli, to approve the appointment of Elizabeth Flowers as Vice-Chairman of the Kendall County Historic Preservation Commission.

The votes were as follows:

Yeas (3): Bernacki, Flowers, and Wehrli  
Nays (0): None  
Absent (1): Heiman  
Abstain (0): None

The motion carried.

### ***Approval of Eric Bernacki as Secretary of the Kendall County Historic Preservation Commission***

Member Flowers made a motion, seconded by Chairman Wehrli, to approve the appointment of Eric Bernacki as Secretary of the Kendall County Historic Preservation Commission.

The votes were as follows:

Yeas (3): Bernacki, Flowers, and Wehrli  
Nays (0): None  
Absent (1): Heiman  
Abstain (0): None

The motion carried.

## **OLD BUSINESS**

### ***Discussion of Recognizing Joseph Platt Brown and Ashby Farms***

Member Bernacki said that the homeowners' association will meet on August 18<sup>th</sup>. The consensus of the neighbors is that they are in favor of partnering with the County. The neighbors need to discuss the specifics of the recognition. Member Bernacki plans to stop at the Na-Au-Say Township board meeting and ask for the Township's participation.

Discussion occurred about the budget available for the project. Mr. Asselmeier noted that the Commission had a Five Hundred Dollar (\$500) total budget for the current fiscal. The budget for the next fiscal year is unknown. Chairman Wehrli was interested in the level of financial commitment by the homeowners' association; the homeowners' association's involvement will dictate the type of memorial.

Member Bernacki will provide updated information at the next Commission meeting.

### ***Discussion of Meeting with Historic Preservation Organizations***

Mr. Asselmeier noted that only a few groups provided responses.

Chairman Wehrli wanted Certified Local Government Status before having the next group meeting in order to have someone like Jon Pressley speak on the new tools available to the County as a Certified Local Government. Jon Pressley was suggested as a possible speaker.

### ***Discussion of Materials Required for Submittal of an Application for Certified Local Government Status; Commission Could Issue Recommendation on Application***

Commissioners reviewed the application materials. Mr. Asselmeier noted that the only outstanding items were the resumes of Members Flowers and Heiman.



Chairman Wehrli asked about the maintenance of a survey system. Mr. Asselmeier responded that the County could pursue a Certified Local Government Grant to conduct a formal survey of the County for historic properties; this could occur on a township-by-township basis. The State has approved forms for property surveys with specific information about the properties. The survey system would probably be electronic.

Discussion occurred regarding the proposed historic preservation plan.

Discussion occurred regarding the cost for future projects. If the County becomes a Certified Local Government, at least one (1) Commissioner will be required to receive training. Discussion occurred about possible contingency funds, if the County obtains Certified Local Government Status.

Mr. Asselmeier will resend the resume form.

Member Bernacki asked about the status of the existing local landmark. Mr. Asselmeier responded that the existing landmark was designated using provisions of the Historic Preservation Ordinance that have not changed with the recent amendments. Mr. Asselmeier was unsure if the existing local landmark was receiving any tax breaks.

Member Flowers made a motion, seconded by Member Bernacki, to recommend approval of the application with the addition of the resumes of Members Heiman and Flowers.

The votes were as follows:

Yeas (3): Bernacki, Flowers, and Wehrli

Nays (0): None

Absent (1): Heiman

Abstain (0): None

The motion carried. The proposal goes to the Planning, Building and Zoning Committee on September 3, 2020.

### **CORRESPONDENCE**

None

### **PUBLIC COMMENT**

None

### **ADJOURNMENT**

Member Flowers made a motion, seconded by Member Bernacki, to adjourn.

The votes were as follows:

Yeas (3): Bernacki, Flowers, and Wehrli

Nays (0): None

Absent (1): Heiman

Abstain (0): None

The motion carried. The Historic Preservation Commission adjourned at 7:05 p.m.

Respectfully Submitted,  
Matthew H. Asselmeier, AICP, CFM  
Senior Planner

# 2013

Kendall County Historic  
Preservation Commission

Whitney

## [PRESERVATION PLAN]

Aligning and Prioritizing the actions of the Kendall County Historic Preservation Commission to help achieve the goals of the Kendall County Board and designating action items to preserve the historic resources of Kendall County

Introduction.....	2
Mission of the Kendall County Historic Preservation Commission (HPC).....	4
Kendall County’s Land Resource Management Plan (LRMP).....	5
Historic Preservation Commission’s Support of the LRMP .....	6
<b>LRMP - SECTION THREE - Planning Goals and Objectives</b> .....	6
<b>LRMP - SECTION FOUR - Management Goals and Objectives</b> .....	9
<b>LRMP - SECTION FIVE – Land Resource and Management Area Policies</b> .....	12
Historic Preservation Commission Projects.....	15

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# PRESERVATION PLAN

## INTRODUCTION

*Historic properties have a way of disappearing. They quietly fall prey to demolition, neglect, or renovations that alter them beyond recognition. Building by building, site by site, the evidence of a community's heritage can gradually be lost through private and public action and inaction, taking with it much of the community's character, individuality, and vitality.*

*Like any limited resource, historic properties need careful planning and management to ensure their survival for current and future generations. They are subject to the complex pressures and issues of modern society, and often their preservation appears to be at odds with the immediate needs for affordable housing, economic revitalization, employment, education, and so on.*

*Remarkably, though, the preservation of our heritage is not a mere luxury. It actually helps combat the very problems that plague our communities by stabilizing neighborhoods, providing affordable housing, lowering crime, stimulating private investment, bringing people and businesses back downtown, attracting tourists, and strengthening community pride.*

*There are numerous ways a community can work to preserve its historic properties. A few include: a historic preservation ordinance or resolution, zoning, demolition moratoria, downtown revitalization programs, local economic incentives, promoting the federal rehabilitation tax credit (especially in combination with the low-income housing tax credit), and public education programs. The best approach is to use a combination of tools, specially chosen and integrated to suit local needs.*

*A historic preservation plan is a statement of the community's goals for its historic properties and the actions it will take to reach those goals. It is most effective when it is a component of a community's master plan and is coordinated with other policies for housing, economic development, transportation, agriculture, tourism and natural resources and archeology.*

*The plan at its best, however, is more than a written document. It should be a continuous process that brings together citizens and interest groups and helps them identify where their diverse goals complement historic preservation and how they can work together to preserve their local heritage.*

OR

### **Why Historic Preservation?**

*The history of a community contributes to its personality. Preserving the history of a place through its historic properties gives a community its unique character. Historic preservation provides a link to the roots of the community and its people. It provides economic development opportunities in tourism and construction related jobs for repair and rehabilitation. Overall, historic preservation adds to the quality of life making for a more livable community.*

*Historic preservation is beneficial to the community in the following ways:*

- *Culturally a community is richer for having the tangible presence of past eras and historic styles.*
- *Economically a community benefits from increased property values and tax revenues when historic buildings are protected and made the focal point of revitalization and when the community is attractive to visitors seeking heritage tourism opportunities.*
- *Socially a community benefits when citizens take pride in its history and mutual concern for the protection of the historic building fabric.*
- *Developmentally a community benefits from having a concerted and well defined planning approach for the protection of historic buildings while accommodating healthy growth.*
- *Environmentally a community benefits when historic buildings are recycled (restored, rehabilitated) rather than demolished and disposed of in the community landfill.*
- *Educationally a community benefits through teaching local heritage and the understanding of the past and the resultant cultural respect by its citizens.*

### **Why Preservation Planning?**

*Historic preservation efforts can be influenced by local, state, and national social, political, economic, legal and other factors. These influences can come from private enterprises or public agencies. Successful preservation planning recognizes these influences and utilizes a process for resolving conflicts from various interest groups and reaching consensus within the community.*

*Historic preservation planning is important for the following reasons:*

- A. *To clearly state goals of preservation in the community.*

- B. To let residents know in advance how the community wants to grow and what the community wants to protect.*
- C. To assure consistency between various government policies that affect the community's historic resources.*
- D. To educate and inform citizens about their heritage and its value to the community.*
- E. To create an agenda for preservation activities and to create a way to measure progress in protecting historic resources.*
- F. To comprehensively address issues relating to tourism, zoning, traffic patterns, development patterns, and design that affect historic preservation.*
- G. To encourage economic development through the preservation of historic resources.*
- H. To strengthen the political understanding of and support for historic preservation policies.*

**A. How to use this document**

**B. Participants in authoring this document**

A. Add Commission members names here

## MISSION OF THE KENDALL COUNTY HISTORIC PRESERVATION COMMISSION (HPC)

To identify, designate, protect, preserve and encourage the restoration, rehabilitation and adaptation for continued use of those properties and structures which represent or reflect their historic, cultural, artistic, social, economic, ethnic or political heritage of the USA, State and County or which represent an architectural or engineering type inherently valuable for the study, style, period, craftsmanship, method of construction or use of indigenous materials.

*There should be a paragraph which clearly summarizes the KCHPC overall service as providing expertise and resources in an advisory capacity to the county board, to conduct hearings and make recommendations to those in the position to grant or deny approvals and to act on behalf of the stated objectives of the board to assist them in the goals of the LRMP.*

## KENDALL COUNTY'S LAND RESOURCE MANAGEMENT PLAN (LRMP)

The following excerpt is extracted from SECTION ONE of Kendall County's 2011 Land Resource Management Plan.

*A comprehensive plan is a vision of the future; it is essentially an end-state toward which the municipality or county works. The plan builds the rationale for and illustrates the most appropriate use of land within the jurisdiction, and depicts the facilities and services necessary to support the development of those land uses. Comprehensive plans anticipate that the county and municipalities will adopt the appropriate decisions, fund the appropriate programs, and install the appropriate facilities that will implement the plan. Most plans do not propose how to take appropriate actions, who should take them, or when they should be taken.*

*The County wishes to adopt a plan that can be implemented. It has chosen to prepare a Land Resource Management Plan (LRMP) with a structure that leads to successful implementation. The Illinois Local Land Resource Management Planning Act, P. A. 84-865 is the enabling act that allows the County this method of planning. The LRMP has a comprehensive planning process as an essential element. In addition, the LRMP also has a parallel framework for the physical and functional characteristics of the county, while instituting strategic decision making. It is important to note that local incorporated municipalities have jurisdiction over land use and zoning decisions within their corporate boundaries (WF – including historic preservation). Kendall County only has zoning authority over unincorporated areas. However, one of the clear goals of the LRMP process is to promote coordinated planning. (WF and one of the goals of the KCHPC is to offer its resources to those municipalities that do not currently have a preservation authority through the implementation of Intergovernmental agreements)*

*The strategic side or management side of the process is intended to be parallel to the planning process. In planning, goals and objectives guide the comprehensive plan. In management, goals and objectives guide the strategic plan. These two paths are not independent. There must be substantial agreement and overlap between the plan and reasonable actions to implement that plan.*

*Essentially, the planning process delineates "where we should go" over the ten year time-frame of the Plan, while the management process proposes "how we can get there." The goals and objectives prepared for the Kendall County LRMP show how the planning goals are oriented toward a physical end state in the relationship between land-uses and the supporting public support systems. The management goals were prepared to give direction to fundamental government and private actions that will build that physical end-state relationship.*

## HISTORIC PRESERVATION COMMISSION’S SUPPORT OF THE LRMP

Kendall County’s LRMP is divided into TEN SECTIONS. The KCHPC examined Sections THREE, FOUR and FIVE to focus on assisting the County Board in meeting its stated goals. The relevant preservation topics from each of these sections are reiterated below followed by the KCHPC activity that aligns with each relevant objective.

### LRMP - SECTION THREE - PLANNING GOALS AND OBJECTIVES

#### A) Natural Resources – (3) Energy Conservation

GOAL: An Energy wise and energy efficient county

OBJECTIVE D - Encourage energy efficiency in site planning and building design

Preservation is naturally aligned with meeting the objective of energy efficiency. Historic districts are viable, environmentally-friendly communities. Most are pedestrian oriented neighborhoods with an abundance of green space and a building density that efficiently uses land and resources. Historic structures are inherently “green.” Many older buildings were constructed with locally available materials and used energy efficient design and construction techniques. The traditional design of older buildings often includes such features as passive heating and cooling as well as siting and building orientation sensitive to environmental and topographical factors.

Through the preservation of existing materials of historic structures, the “embodied energy” – that energy which was used to construct them – is conserved. By maintaining existing materials and adapting them with low impact energy technologies, historic structures and neighborhoods can stand as models of environmental stewardship through their dramatic reduction of energy use, material resources, and waste associated with new construction.

#### B) Archeological, Cultural and Historic Places

GOAL: The preservation of the County's cultural heritage and scenic character.

OBJECTIVE A: Identify and conserve historically significant structures, areas, and open spaces.



The Historic Preservation Commission will continue to conduct a survey and assemble a database connected to the county GIS to identify buildings, structures, areas, sites and landscapes that are of historic, archeological, architectural or scenic significance and therefore, potential landmarks or historic districts. (See details of survey process in next section)

OBJECTIVE B: Carefully control urban development and countryside conditions so as not to conflict with the scale and character of nearby historic homes, landmarks and sites.

In an effort to assist in the county's preservation goals, the HPC will periodically review any Kendall County Comprehensive plan (LRMP) or its amendments and assist in the development of a preservation component for that plan. KCHPC will advise the Regional Plan Commission, the Planning, Building and Zoning Committee and the County Board.

???The KCHPC will create a "Historic Landmark and District Preservation Plan." The Plan shall be presented to the KC PBZ Department for consideration and recommendation to the County Board for inclusion in the LRMP.

KCHPC will then hold public hearings and recommend to the KCB the designation of landmarks and historic districts as appropriate. The recommendation will be done in accordance with the prescribed direction documented in Ordinance #xx

OBJECTIVE C: Increase awareness of the history and culture upon which Kendall County is built.

The HPC will inform and educate the citizens of Kendall County concerning the historic, archeological, architectural or scenic heritage of the County by publishing appropriate maps, newsletters, brochure and pamphlets and by holding public hearings, programs and seminars.

OBJECTIVE D: Preserve the importance and function of existing central business districts

The HPC will advise and assist owners of landmarks and properties within potential or designated historic districts on physical and financial aspects of preservation, renovation, rehabilitation and reuse and on procedures for inclusion on any local, state or federal register of historic places. The HPC will advise and assist communities and areas in creating historic districts that seek to improve their unique identity and preserve its historic character.

**C) Economy of the Area**

GOAL: A strong base of agriculture, commerce and industry that provide a broad range of job opportunities, a healthy tax base and improved quality of services to county residents.

OBJECTIVE E: Promote the revitalization of existing retail and commercial areas

*Add our response to meeting this objective*

**D) Urban Development**

GOAL: A pattern of compact contiguous urban development, countryside residential and agricultural environments in a natural equilibrium that enhances the quality of personal and community life.

OBJECTIVE B: Establish a pattern of development that supports a sense of community.

*Add our response to meeting this objective*

OBJECTIVE C: Promote a revitalized central business district as the central focus of each community.

*Add our response to meeting this objective*

**F) Housing**

GOAL: Management of the quantity, quality, location and rate of housing development to insure the efficient use and conservation of the County's natural and public resources

OBJECTIVE B: Continue to improve deteriorating residential areas, and assure safe, healthy, and attractive communities through preventive maintenance and appropriate reinvestment that can include the County's weatherization program.

*Add our response to meeting this objective*

## **LRMP - SECTION FOUR - MANAGEMENT GOALS AND OBJECTIVES**

**A) Planning**

GOAL: A system of county wide, comprehensive, functional and target area planning in support of municipal, township and other agency planning efforts, which supports decision making for county wide land resource management and the management of change

OBJECTIVE 1: Anticipate change and provide decision-makers with insight on alternatives and consequences.

*Add our response to meeting this objective*

**B) Regulatory Techniques**

GOAL: Regulation and enforcement techniques necessary to protect the public health property, the natural environment and the aesthetic value of the county including zoning, subdivision, storm water management, signage, building and other development standards

OBJECTIVE 5: Incorporate environmental design criteria and performance standards in development controls to protect natural, scenic, historic, and environmental areas and minimize adverse impacts. The proposed County-Wide Storm water Authority and plan/ordinance will incorporate many such standards.

OBJECTIVE 6: Require that all development preserve significant natural features such as vegetation, wildlife, waterways, floodplains, wetlands, woodlands, and scenic vistas.

The HPC will periodically review the Kendall County comprehensive plan or its amendment to assist in the development of a preservation component for that comprehensive plan. The HPC will support the preservation component to the Regional Plan Commission, the Planning Building and Zoning Committee and the County Board.

**F) Governmental Cooperation**

GOAL: A mutually supportive, non-adversarial team of municipal, township, school, park, county and other governments working toward the benefit of everyone in Kendall County(Intergov agreements)

OBJECTIVE ?? Need to pick the one that best aligns with our goal of intergovernmental agreements and representation or offer of services to the preservation interests of a community within Kendall County

Discuss intergovernmental agreements

**H) Education and Involvement**

GOAL: An informed population actively participating in public decision regarding the use of land and the future of Kendall County

OBJECTIVE 1: Educate the Public and municipal agencies of threats to environmental conditions within Kendall County and potential impacts through a coordinated effort between the County Planning, Building and Zoning Department, Health Department, Forest Preserve District and other county agencies.  
(Should we ask that the Preservation Commission be added to this list?)

*Add our response to meeting this objective*

OBJECTIVE 4: Maintain a strong public hearing process for county, township and local review of development proposals with notice to residents and surrounding government agencies that provide adequate and timely information about proposed development and potential impacts during the decision making process.

*Add our response to meeting this objective*

OBJECTIVE 6: Continue to promote recycling to reduce waste and reduce the need for additional landfill capacity.

*Add our response to meeting this objective*

#### **I) Information**

GOAL: Data collected, maintained and managed as a central data base regarding property conditions and the environment of the county accessible by county and municipal agencies and private individuals.

OBJECTIVE 1: Maintain up-to-date and easily accessible records of information regarding land use conditions, environmental conditions, jurisdictional boundaries, public facility capacities and local and regional land use plans. Such information is currently available to the public on the internet at <http://gis.co.kendall.il.us>.

*Add survey info*

## LRMP - SECTION FIVE – LAND RESOURCE AND MANAGEMENT AREA POLICIES

OVERLAY Areas – should we suggest the addition of defined historic districts and eventually scenic highways as potential overlay areas in this section?

The LRMP is based on the following Planning Policies for **Urbanized Communities**:

11. Encourage the preservation and enhancement of historic and cultural sites and structures within urbanized communities

The HPC will continue to survey, evaluate and document Kendall County's historic and cultural resources. The HPC will advise and assist communities in the development of historic districts that will improve the the unique identity of historic urbanized areas.

The LRMP is based on the following Planning Policies for **Rural Settlements**:

5. Preserve and enhance places of cultural or historic significance in preservation districts or sites, whether within municipal boundaries or in unincorporated lands.

The HPC will periodically review the Kendall County comprehensive plan or its amendment to assist in the development of a preservation component for that comprehensive plan. The HPC will support the preservation component to the Regional Plan Commission, the Planning Building and Zoning Committee and the County Board.

The LRMP is based on the following Management Policies for **Rural Settlements**:

- d. The County and rural communities may enter into intergovernmental agreements, with the County providing planning, building, and zoning support to the rural community with appropriate reimbursement.

The HPC will engage communities within the county and offer to develop intergovernmental agreements that will allow the community, the commission and the County Board to act in concert to landmark and protect the historic components within those communities.

The LRMP is based on the following Planning Policies for Agriculture:

5. Preserve and enhance places of cultural or historic significance to the rural landscape.

The County will assist in the preservation of the agricultural economy in Kendall County through the Farmland Preservation Committee.

Does this actually exist?

The LRMP is based on the following Planning Policies for the entire County:

7. Encourage the growth of the tourism industry by reinforcing the viability of the county's historic, open space, and recreation resources, especially along the Fox River and within state and county parks and forest preserves.

The HPC believes that civic pride and community character are directly affected by its historic resources. The Commission will strive to protect the unique amenities the county has to offer and will lend its expertise to all tourism interests, working with the AACVB, FPD, Conservation Foundation and private individuals and businesses which offer tourism related services to visitors.

8. Encourage preservation of Kendall County history for public education and enjoyment.

The HPC will inform and educate the citizens of Kendall County concerning historic, archeological, architectural or scenic heritage of the county through its public outreach programming which will include enhancing county maps to reflect locations of historic resources, creating and distributing newsletters, brochures and pamphlets and by holding public hearings and public programs.

9. Discourage non-essential changes to scenic and historic roads that traverse scenic or historic areas.

The HPC will assist the county in recognizing threats to areas of scenic beauty and potential risks to historic properties brought about by development or neglect.

The LRMP is based on the following Management Policies for the entire County:

o. The County has established an historic preservation commission to protect and enhance historic buildings and sites within incorporated and unincorporated sections of the County. The commission has established and will maintain a registry of buildings, sites, districts and places on the National Register of Historic places, and those properties that may be of local historic significance but not yet on the Register. The Commission will work closely with state and municipal agencies to promote and coordinate historic preservation in Kendall County.

The HPC will advise and assist the owners of historically significant property within potential or designated historic districts, potential or designated landmarks, and potential or designated National Register candidates. The HPC will educate the citizens of the county on physical and financial aspects of preservation, renovation, rehabilitation and reuse, the procedures for inclusion on any federal, state or local historic registry and the value and process for establishing historic districts.



p. The County's Historic Preservation Commission will research the historic significance of each property proposed for its local historic registry. Once approved, it may install permanent historic notes in an appropriate and visible location. The County will work with school districts, the Kendall County Historical Society and recreation agencies to encourage an increase in the historic literacy of Kendall County.

**The HPC will recommend and review applications for landmark status within the county and any municipality with whom there is an intergovernmental agreement. The Commission will hold public hearings in accordance with the procedures outlined in the Historic Preservation Ordinance and will, upon conclusion, make a recommendation to the county board for their consideration and vote.**

q. The County and municipalities must pay special attention to the siting and development of new uses in proximity to historical or cultural sites to increase the attractiveness of that area for recreation and tourism.

**The HPC will assemble recommendations to establish historic districts, identify scenic areas and confirm archeologically or culturally significant sites and will compile this data for inclusion on the County's GIS mapping system.**

## HISTORIC PRESERVATION COMMISSION PROJECTS

Ordinance 2006-067 outlines the 24 powers and authorities of the HPC. Over the past seven years, several projects were started, some completed. This list aligns those projects with the power/authority under which they fall. An estimate of completion date is provided as well.

Our defined highest priority goals for 2013:

1. Develop a five year Historic Preservation Plan

2. Continue to perform a reconnaissance survey and link preliminary data to the County's GIS and identify structures with highest potential significance for possible landmark nomination (2013 Goal to Complete Bristol Township)
  3. Nominate and secure County Board support for 2 landmark designations
  4. Apply for Certified Local Government status for Kendall County to provide an opportunity for sub grants for owners of historic properties and potential tax benefits for owners of commercial landmarks.
  5. Continually enhance the commission's understanding of historic preservation and educate the public and private county citizens about the economic advantage, quality of life and community character enrichments offered through preservation by participating in a minimum of two countywide events in 2013.
  6. Develop and be prepared to execute an intergovernmental agreement with a community that contains potentially significant historic properties or districts which does not currently have an historic preservation commission or methodology for recognizing their significant structures
- C) Aligning our ordinance to our activities**
- a. Describe projects completed to date
  - b. Outline ongoing projects and the timeline for their completion, aligned with our powers and authorities (See excel spreadsheet currently being discussed as 5 yr temp)

From Pages 7 -9 of the Preservation Ordinance

A

## B

## C

		Completed	2013	2014	2015	2016	2017	2018	
D	Maps								
	Historic Preservation GIS Database								
	Acquire, compile and make available historic maps of Kendall County								
E	Maintain Register								
	(LRMP 5-17) Establish and maintain a registry of buildings sites and districts on the NRHP								
	(LRMP 5-17) Establish and maintain a registry of buildings, sites and districts qualified for the NRHP								
F	Distribute Plaques, Certificates and Markers								
	AS NEEDED								
G	Nominate landmarks								
	Landmark press release								
	Plaque Program example								
H	Assist Owners regarding historic registers								
	Kendall County Register of Historic Places								
I	Inform and Educate Citizens								
	Preservation Month in May								
	Proclamation approved for May to be Preservation Month								
	Joint HPC meeting held October 3 <sup>rd</sup>								
	Brochures								
	Review of Kendall County Fair								
	Education								
	(LRMP) Publish brochures, pamphlets, maps, newsletters								
	(LRMP) Host programs and hold seminars								
	Create a County Wide Tourism map of historic buildings, sites and districts								

		Completed	2013	2014	2015	2016	2017	2018	
J	Hearings for COA								
	AS NEEDED								
K	Consider Economic Harship								
	AS NEEDED								
L	Develop Criteria and guidelines								
	Historic Preservation Commission Study Report	2006							
	Historic Preservation Ordinance 2006-67	2006							
	Landmark Nomination Application	2009							
	Historic Preservation Guidelines	2010							
	Preservation Plan/Land Resource Management Plan								
	COA Process and Application								
	Develop, review, approve template intergovernmental agreement	2013							
	Guidelines for preservation, restoration, rehabilitation and maintenance								
	COA Guidelines and Review Standards								
	Design Guide Outline								
	Style Guide to Kendall County Residential Architecture	2010							
	Quick Style Guidelines								
	Cemetery Preservation and Standards								
	Certificate of Economic Hardship								
	1 year HPC Plan								
	5 year HPC Plan								
	(LRMP) Preservation Plan								
	Design Guidelines for Agriculture, Commercial, signage and demolition								
	Develop Archeological criteria								
M	Review changes to landmarks or districts								
	AS NEEDED								

		Completed	2013	2014	2015	2016	2017	2018	
N	Administer interest in real property???? <u>Cemeteries</u>								
O	Accept and administer gifts and grants								
P	Administer transfers of development rights								
Q	Compile technical advisors								
R	Retain specialists, consultants or appoint citizens								
S	Testify regarding landmarks <u>AS NEEDED</u>								
T	Review LRMP and develop preservation component <u>Review Land Resource Management Plan</u> <u>Compile changes to Land Resource Management Plan</u>								
U	Review and recommend preservation friendly code adjustments <u>Amendment to Kendall County Historic Preservation Ordinance</u> <u>Review and suggest alterations to the County's Comprehensive Plan</u>								
V	Act to implement the ordinance <u>?</u>								
W	Recommend intergovernmental agreements <u>Review intergovernmental agreements</u>								
X	Monitor Designated landmarks <u>?</u>								

Admin	ADMINISTRATIVE	Completed	2013	2014	2015	2016	2017	2018	
	Continuous Presentations to the County Board		X	X	X	X	X	X	
	Set Goals								
	Mission Statement								
	Website changes								
	Economic Development Discussion								
	Financial Incentives								
	Rules & Procedures								
	Budget								
	5 year Plan								
	Training								

- c. Describe more detail about the projects to be completed in 2014 (?)

**D) Recommendations (Changes to the process?)**

- a. The KCHP commission would like to be notified when changes are proposed to the following county documents/processes so the Commission might lend their expertise in the form of recommendations.
  - i. The LRMP /Comprehensive Plan for the county
  - ii. Historic Preservation related building codes
- b. Proposed changes to Ordinance
- c. Benefits of the CLG application

**E) Conclusion**

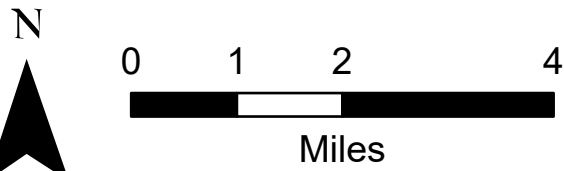
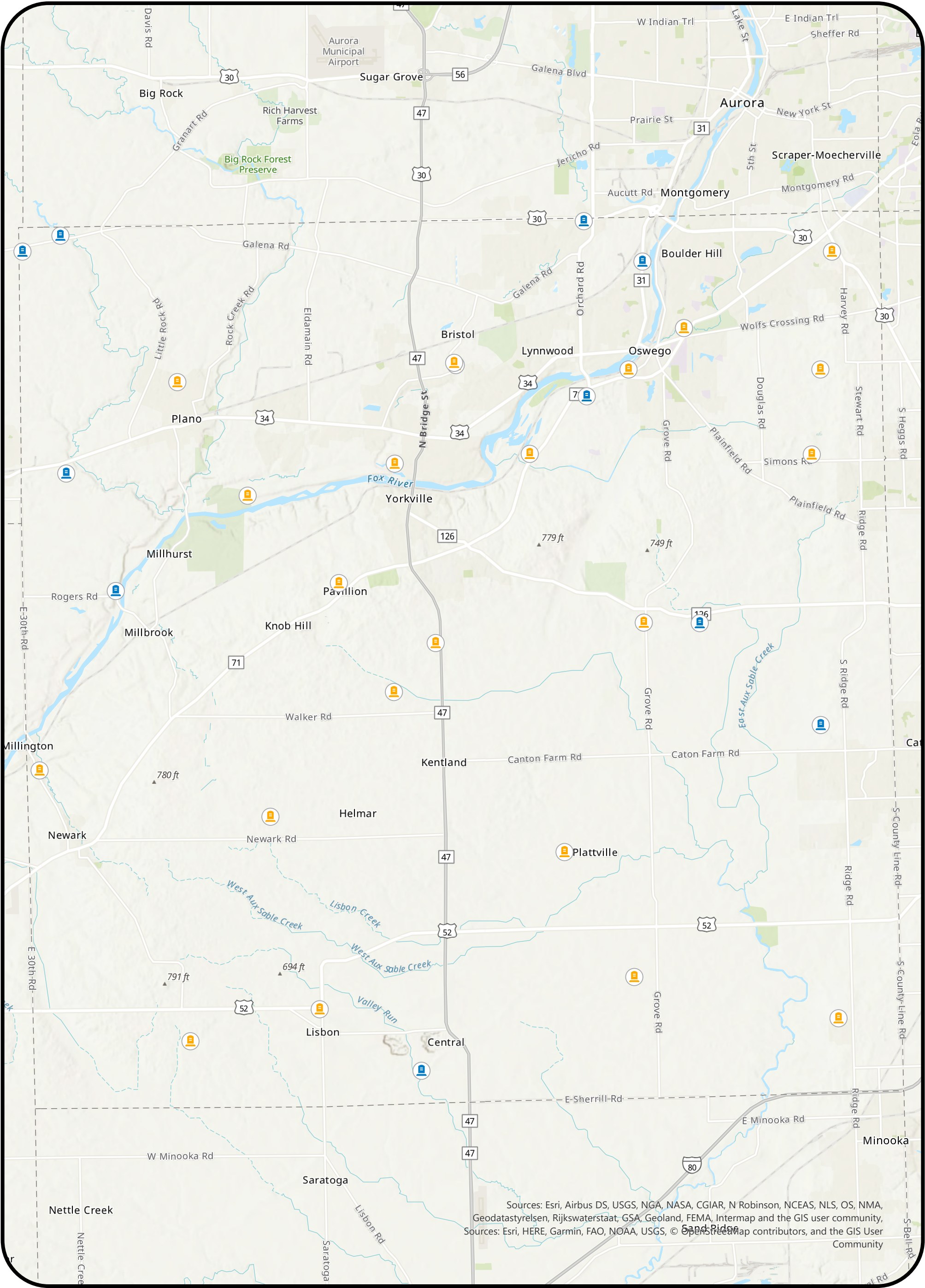
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DRAFT

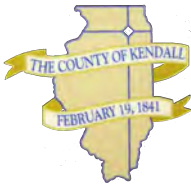


pin	name	location	twp	gisacreage	status	active
02-26-300-006	Cowdrey Cemetery	SE SW Sec 26	Oswego	1.606574	Re-Activated	Y
02-24-401-003	Doud Cemetery	NW SE Sec 24	Oswego	0.57849	Intact, Inactive	N
03-23-201-001	Evergreen Cemetery	NW NE Sec 23	Oswego	1.158172	Active	Y
03-01-351-001,03-02-400-005	Lincoln Memorial Cemetery	NE SE Sec 2 & NW SW Sec 1	Oswego	73.26184	Active since 1929	Y
03-19-226-001	Oswego Cemetery	NW NE Sec 19	Oswego	6.754333	Active	Y
03-17-229-022	Pearce Cemetery		Oswego	2.204814	Active	Y
03-05-353-005	Wormley Cemetery	SW SW Sec 5	Oswego	0.748905	Intact, Inactive	N
02-29-451-008	Elmwood Cemetery	SE SE Sec 29	Bristol	22.27539	Active since 1866	Y
02-01-200-001	Keck Memorial Cemetery: 1841-1936	NW NE Sec 1	Bristol	1.130485	Burials from 1841-1936	N
02-16-476-003	Oak grove Cemetery	SE SE Sec 16	Bristol	4.759289	Active	Y
02-16-476-005	St Patricks Cemetery	SE SE Sec 16	Bristol	2.284546	Active, Roman Catholic	Y
01-30-476-008	Hart Cemetery	SE SE Sec 30	Little Rock	0.11199	Intact, Inactive	N
01-06-100-003	Hubbell Cemetery	SW NW Sec 6	Little rock	13.26781	Despoiled	N
01-06-200-002	Ovitt Cemetery	NE NE Sec 6	Little Rock	11.43527	Despoiled	N
01-15-300-003,01-15-300-004,01-15-300-006,01-22-126-001,01-22-126-008	Plano Township Cemetery	SW SW Sec 15 & N1/2 NW Sec 22	Little Rock	16.35304	Active	Y
06-18-200-003	Aux Sable Grove Cemetery	SE NE Sec 18	Na-Au-Say	4.549135	Active	Y
06-26-200-001	Bronk Cemetery	SE NW Sec 26	Na-Au-Say	1.500064	Abandoned	N
06-16-100-003	Sullivan Cemetery	W1/2 NE Sec 16	Na-Au-Say	45.28785	Despoiled	N
05-16-300-009	Cross Lutheran Cemetery	NE SW Sec 16	Kendall	16.38426	Active	Y
05-20-400-001	Immanuel Lutheran Cemetery	NW SE Sec 20	Kendall	2.250013	Active	Y
05-07-176-010	Pavillion Cemetery	NE NW Sec 7	Kendall	2.249179	Active	Y
04-30-355-013,04-31-126-001,04-31-126-002	Millington-Newark Cemetery	NE NW Sec 31	Fox	14.05342	Active	Y
04-08-200-008	Sacred Bluff Cemetery AKA Darnell Cemetery	SE NE Sec 8	Fox	1.472322	Abandoned	N
09-19-400-001	Plattville Lutheran Cemetery	NW SE Sec 19	Seward	3.329719	Active	Y
09-26-200-002	Seward Mound	SW NE Sec 26	Seward	3.370175	Active	Y
08-32-200-002	Munger Cemetery	E1/2 NW Sec 32	Lisbon	0.099989	Abandoned	N
08-02-476-001	Plattville Cemetery	SE SE Sec 2	Lisbon	5.108456	Active	Y
07-01-100-003,07-02-200-004	Helmar Lutheran Cemetery	NW NW Sec 1 & NE NE Sec 2	Big Grove	2.93222	Active	Y
07-27-300-002,07-27-300-004	West Lisbon Cemetery	NE SW Sec 27	Big Grove	6.167617	Active	Y
07-24-400-005,07-24-400-018,07-25-226-001	Lisbon Cemetery	SE SE Sec 24 & NE NE Sec 25	Big Grove	3.864084	Active	Y
03-26-300-003	Risen Lord Cemetery	SW Sec 26	Oswego	80.2907	Active	Y
01-35-252-001	Griswold Cemetery	SW NE Sec 35	Little Rock	1.09	Active	Y

# Kendall County Cemeteries



ACTIVE STATUS  
NO  
YES 30

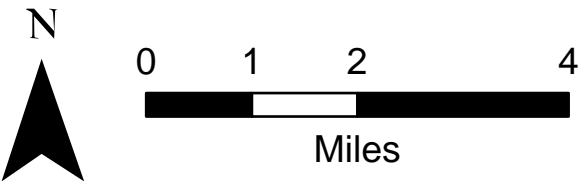
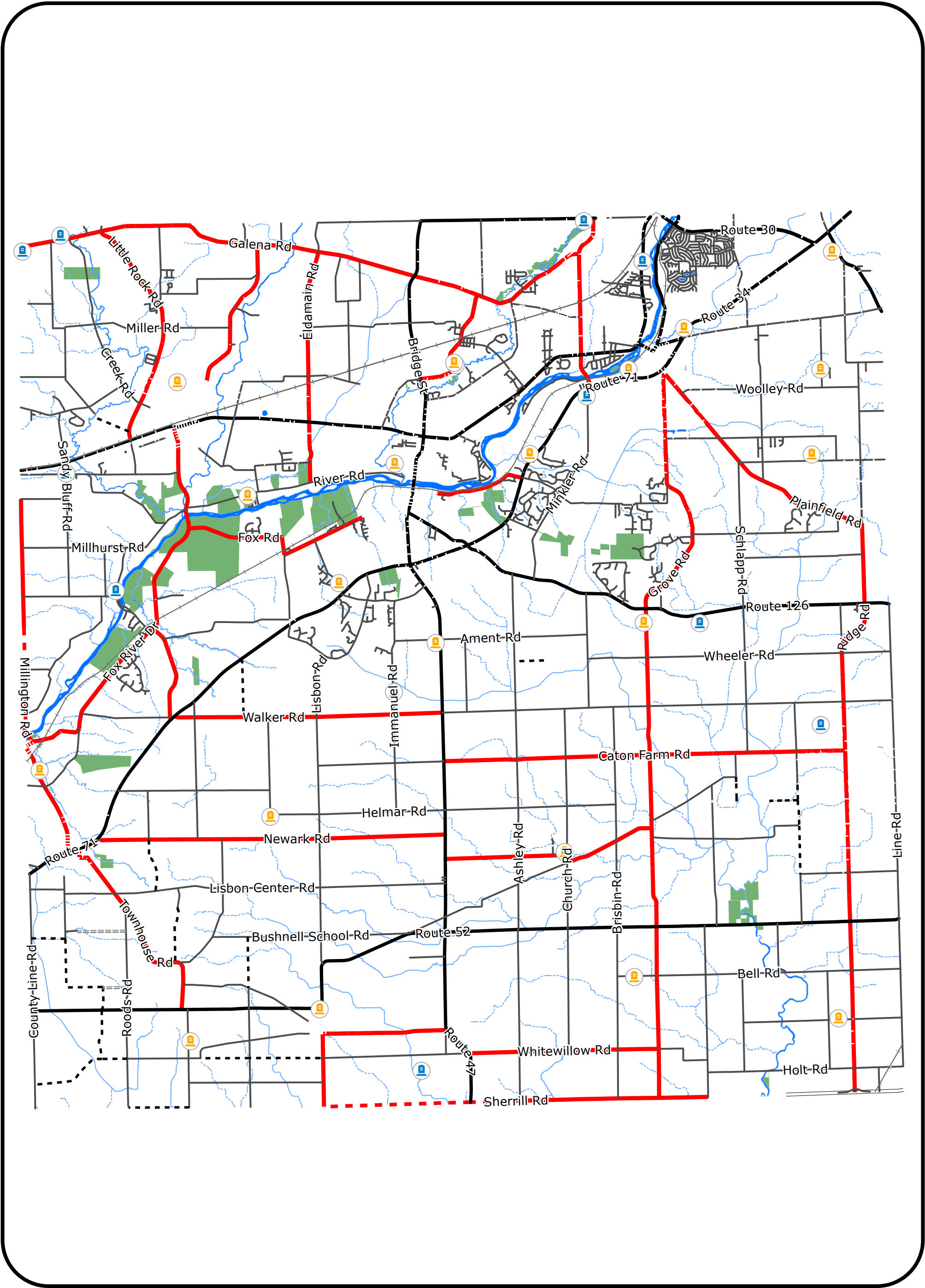


**Kendall County GIS**  
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630.553.4212

Created: 8/28/2020



# Kendall County Cemeteries



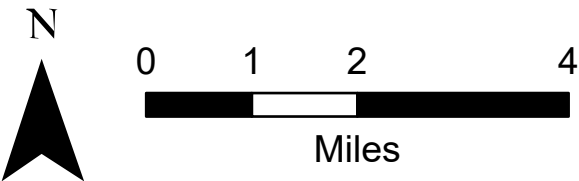
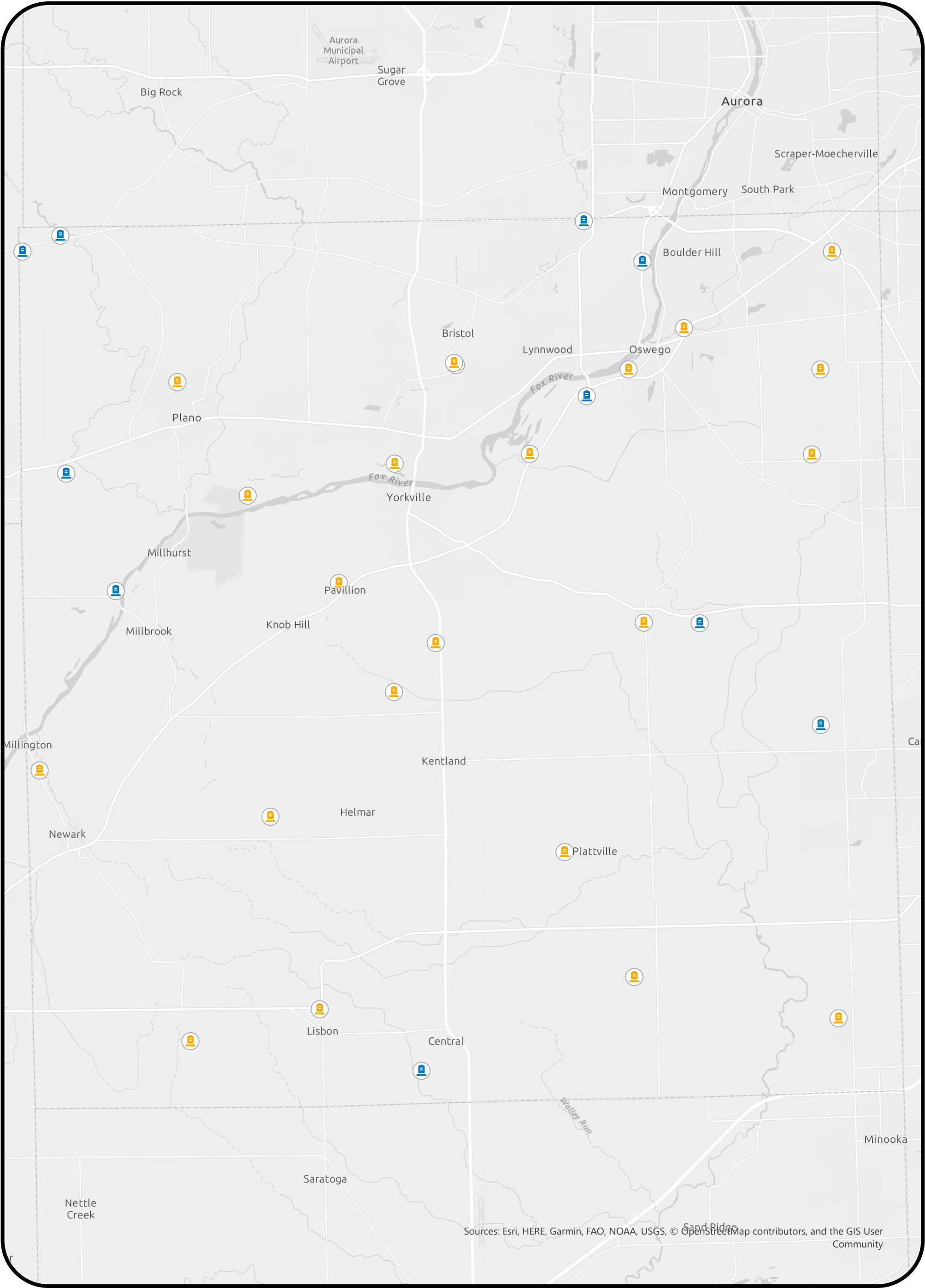
ACTIVE STATUS  
NO  
YES 31



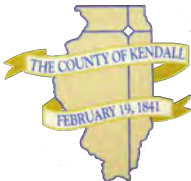
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630.553.4212

Created: 8/28/2020

# Kendall County Cemeteries



ACTIVE STATUS  
 NO  
 YES 32



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## **LOCAL GOVERNMENT**

### **(50 ILCS 610/) Public Graveyards Act.**

(50 ILCS 610/0.01) (from Ch. 21, par. 12.9)

Sec. 0.01. Short title. This Act may be cited as the Public Graveyards Act.

(Source: P.A. 86-1324.)

(50 ILCS 610/1) (from Ch. 21, par. 13)

Sec. 1. (a) Public graveyards in this State, not under the control of any corporation sole, organization or society, and located within the limits of townships or counties not under township organization, shall and may be controlled or vacated by the corporate authorities of such township or county in such manner as such authorities may deem proper, and in the case of townships, such control may be vested in 3 trustees. If a township board has vested control of a public graveyard in 3 trustees in accordance with this Section, it may, by resolution, divest the trustees of control of the public graveyard and assume control of the public graveyard.

(b) Vacancies created by the expiration occurring at any time after the effective date of the amendatory Act of the Seventy-eighth General Assembly and after this amendatory Act of the 83rd General Assembly of the terms of cemetery trustees of a township (except a township coterminous with a municipality) or of a county not under township organization elected under this Act shall be filled only by appointment. Such appointment shall be made by the county board of any county not under township organization or by the Township Board of Trustees in counties under township organization, as the case may be, for a term of 6 years. Until the effective date of this amendatory Act of 1983, in a township coterminous with a municipality, cemetery trustees shall continue to be elected by ballot, with one trustee elected in each odd-numbered year, in accordance with the provisions of the general election law, for a term of 6 years and until their respective successors are elected and qualified. After the effective date of this amendatory Act of 1983, in a township coterminous with a municipality, cemetery trustees shall be appointed by the governing authority of the municipality with one trustee appointed in each odd-numbered year for a term of 6 years and until his or her respective successors are appointed and qualified.

Such trustees may be paid such compensation, not to exceed \$1,000 per year, as may be fixed by the Township Board of Trustees.

(c) Not more than one of the trustees shall be from any one city or village or incorporated town or section of land



within such township unless such city, village, incorporated town or section of land shall have more than 50% of the population of the township according to the last preceding Federal census in which are included 2 or more cities, villages, incorporated towns or sections of land.

(Source: P.A. 94-24, eff. 6-14-05; 95-981, eff. 9-22-08.)

(50 ILCS 610/1a) (from Ch. 21, par. 14)

Sec. 1a. The county board of any county not under township organization, or the voters of any town at an annual town meeting may accept a conveyance from any person, corporation, association or society of any property within the limits of the township or county not under township organization which has been or is used as a public graveyard or burial ground. After the acceptance of any such conveyance the property conveyed shall be under the control, management, maintenance and ownership of the township or county not under township organization.

(Source: Laws 1961, p. 572.)

(50 ILCS 610/1c) (from Ch. 21, par. 14b)

Sec. 1c. When 50 legal voters of any township having a population of not exceeding 100,000 in any county present a petition to the town clerk of the township asking that an annual tax be levied for the control and maintenance of and the purchase of land and construction of necessary buildings for the cemeteries controlled, managed, and owned by the township, the township clerk shall certify the proposition to the proper election officials, who shall submit the proposition to the voters at an election in accordance with the general election law. The form of the proposition shall be substantially as follows: "For the levy of a tax not to exceed ....% to control, maintain and purchase land and construction of necessary buildings for cemeteries", or "Against the levy of a tax not to exceed ....% to control, maintain and purchase land and construction of necessary buildings for cemeteries". If a majority of all the votes cast upon the proposition shall be for a levy of such tax, the cemetery trustees of such township, shall thereafter annually levy a tax of not to exceed .20% of value, as equalized or assessed by the Department of Revenue. However, townships authorized to levy this tax at a rate less than .20% on the effective date of this Amendatory Act of 1989, may provide for the electors to vote to increase the rate for such purposes to not to exceed .20% in the manner provided for establishing the tax in the first instance. The foregoing limitations upon tax rates may be increased or decreased under the referendum provisions of the General Revenue Law of Illinois. This tax shall be collected in like manner with other general taxes in such township, held by the township supervisor for payment at the direction of the cemetery trustees, and shall be known as "The Township Cemetery Fund". Such tax shall be in addition to all other taxes which the township now is or hereafter may be authorized to levy and collect and nothing herein contained shall in any manner limit or prevent the electors present at the Annual Town Meeting from directing the raising of money by taxation for any of the purposes set forth in Section 235-5 of the Township Code.

(Source: P.A. 87-747; 87-1208; 88-670, eff. 12-2-94.)

(50 ILCS 610/2c) (from Ch. 21, par. 14c)

Sec. 2c. Use of township funds.

(a) The board of trustees of any township may appropriate funds from the township treasury to be used for the purpose of putting any old, neglected graves and cemeteries controlled, managed, and owned by the township in a cleaner and more respectable condition.

(b) The board of trustees of any township may appropriate funds from the township treasury to be used for the maintenance of a cemetery owned by the State or another unit of local government. The board of trustees of any township may appropriate funds from the township treasury to be used for the maintenance of non-profit cemeteries, but not for religious or sectarian purposes.

(c) If a township supervisor issues a payout from the township treasury for any purpose described in this Act, the township clerk shall attest to all moneys paid out.

(Source: P.A. 100-983, eff. 1-1-19.)

(50 ILCS 610/2d) (from Ch. 21, par. 14d)

Sec. 2d. Purchases made pursuant to this Act shall be made in compliance with the Local Government Prompt Payment Act.

(Source: P.A. 86-1475.)

(60 ILCS 1/30-60)

Sec. 30-60. Public graveyards. The electors may authorize the township board to appropriate monies, in excess of the sum provided in the Public Graveyards Act, for the purpose of putting any old, neglected graves and cemeteries in the township in a cleaner and more respectable condition.  
(Source: P.A. 84-1264; 88-62.)



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**COUNTIES****(55 ILCS 70/) Grave and Cemetery Restoration Act.**

(55 ILCS 70/0.01) (from Ch. 21, par. 60.9)

Sec. 0.01. Short title. This Act may be cited as the Grave and Cemetery Restoration Act.

(Source: P.A. 86-1324.)

(55 ILCS 70/1) (from Ch. 21, par. 61)

Sec. 1. Care by county.

(a) The county board of any county may appropriate funds from the county treasury to be used for the purpose of putting any old, neglected graves and cemeteries in the county in a cleaner and more respectable condition.

(b) A county that has within its territory an abandoned cemetery may enter the cemetery grounds and cause the grounds to be cleared and made orderly. Provided, in no event shall a county enter an abandoned cemetery under this subsection if the owner of the property or the legally responsible cemetery authority provides written notification to the county, prior to the county's entry (1) demonstrating the ownership or authority to control or manage the cemetery and (2) declining the county authorization to enter the property. In making a cemetery orderly under this Section, the county may take necessary measures to correct dangerous conditions that exist in regard to markers, memorials, or other cemetery artifacts but may not permanently remove those items from their location on the cemetery grounds. If an abandoned cemetery is dedicated as an Illinois nature preserve under the Illinois Natural Areas Preservation Act, any actions to cause the grounds to be cleared and kept orderly shall be consistent with the rules and master plan governing the dedicated nature preserve.

(c) For the purposes of this Section:

"Abandoned cemetery" means an area of land containing more than 6 places of interment for which, after diligent search, no owner of the land or currently functioning cemetery authority objects to entry sought pursuant to this Section, and (1) at which no interments have taken place in at least 3 years; or (2) for which there has been inadequate maintenance for at least 6 months.

"Diligent search" includes, but is not limited to, publication of a notice in a newspaper of local circulation not more than 45 but at least 30 days prior to a county's entry and cleanup of cemetery grounds. The notice shall provide (1) notice of the county's intended entry and cleanup of the cemetery; (2) the name, if known, and geographic location of the cemetery; (3) the right of the cemetery authority or owner of the property to deny entry to the county

upon written notice to the county; and (4) the date or dates of the intended cleanup.

"Inadequate maintenance" includes, but is not limited to, the failure to cut the lawn throughout a cemetery to prevent an overgrowth of grass and weeds; the failure to trim shrubs to prevent excessive overgrowth; the failure to trim trees so as to remove dead limbs; the failure to keep in repair the drains, water lines, roads, buildings, fences, and other structures of the cemetery premises; or the failure to keep the cemetery premises free of trash and debris.

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

(55 ILCS 70/2) (from Ch. 21, par. 62)

Sec. 2. The presiding officer of the county board, with the advice and consent of the county board may appoint some suitable person to have charge of such work of restoration, who shall report his activities to the county board from time to time as it may direct, and shall receive no compensation for his services.

(Source: P.A. 78-1128.)

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**PROPERTY**  
**(765 ILCS 835/) Cemetery Protection Act.**

(765 ILCS 835/0.001) (from Ch. 21, par. 14.001)

Sec. 0.001. Short title. This Act may be cited as the Cemetery Protection Act.  
 (Source: P.A. 86-1324.)

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

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

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

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

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

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

Sec. 1. (a) Any person who acts without proper legal authority and who willfully and knowingly destroys or damages the remains of a deceased human being or who desecrates human remains is guilty of a Class 3 felony.

(a-5) Any person who acts without proper legal authority and who willfully and knowingly removes any portion of the remains of a deceased human being from a burial ground where skeletal remains are buried or from a grave, crypt, vault, mausoleum, or other repository of human remains is guilty of a Class 4 felony.

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

(1) obliterates, vandalizes, or desecrates a burial ground where skeletal remains are buried or a grave, crypt, vault, mausoleum, or other repository of human remains;

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

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

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

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

(b-5) Any person who acts without proper legal authority and who willfully and knowingly defaces, vandalizes, injures, or removes a gravestone or other memorial, monument, or marker commemorating a deceased person or group of persons, whether located within or outside of a recognized cemetery, memorial park, or battlefield is guilty of a Class 4 felony for damaging at least one but no more than 4 gravestones, a Class 3 felony for damaging at least 5 but no more than 10 gravestones, or a Class 2 felony for damaging more than 10 gravestones and shall provide restitution to the cemetery authority or property owner for the amount of any damage caused.

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

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

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

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

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

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

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

(4) any unauthorized person who removes, destroys, or disturbs any cemetery devices or property placed for safety of visitors and cemetery employees;

is guilty of a Class A misdemeanor for the first offense and of a Class 4 felony for a second or subsequent offense.

(e) Any person who shall hunt, shoot or discharge any gun, pistol or other missile, within the limits of any cemetery, or shall cause any shot or missile to be discharged into or over any portion thereof, or shall violate any of the rules made



and established by the board of directors of such cemetery, for the protection or government thereof, is guilty of a Class C misdemeanor.

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

(g) All fines when recovered, shall be paid over by the court or officer receiving the same to the cemetery authority and be applied, as far as possible in repairing the injury, if any, caused by such offense. Provided, nothing contained in this Act shall deprive such cemetery authority or the owner of any interment, entombment, or inurnment 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. 95-331, eff. 8-21-07; 96-863, eff. 3-1-10.)

(765 ILCS 835/2) (from Ch. 21, par. 16)

Sec. 2. The cemetery authority is hereby authorized to make by-laws or rules and regulations for the government thereof, and to make rules regarding the driving of cars, motorcycles, carriages, processions, teams, and the speed thereof, the use of avenues, lots, walks, ponds, water courses, vaults, buildings, or other places within such cemetery, the operations and good management in such cemetery, the protection of visitors, the protection of employees, and for the maintenance of good order and quiet in such cemetery, all such rules to be subject to the rights of interment, entombment, or inurnment right owners, or others, owning any interest in such cemetery; and all persons found guilty of a violation of such rules shall be guilty of a petty offense and shall be punished by a fine of not less than \$100, nor more than \$500 for each offense. No judge shall be disqualified from hearing any cause that may be brought before him under the provisions of this Act, nor shall any person be disqualified from acting as a juror in such cause, by reason of any interest or ownership they or either of them may have in the interment, entombment, or inurnment rights of such cemetery.

(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/3) (from Ch. 21, par. 17)

Sec. 3. The cemetery authority may appoint policemen to protect such cemetery and preserve order therein, and such policemen shall have the same power in respect to any offenses committed in such cemetery, or any violation of this act, that city marshals or policemen in cities have in respect to maintaining order in such cities or arresting for offenses committed therein.

(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/4) (from Ch. 21, par. 18)

Sec. 4. The cemetery authority may set apart such portion as they see fit of the moneys received from the sale of the

interment, entombment, or inurnment rights, in such cemetery or graveyard, which sums shall be kept separate from all other assets as an especial trust fund, and they shall keep the same invested in safe interest or income paying securities, for the purpose of keeping said cemetery or graveyard, and the interment, entombment, or inurnment rights therein, permanently in good order and repair, and the interest or income derived from such trust fund shall be applied only to that purpose, and shall not be diverted from such use.  
(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/5) (from Ch. 21, par. 19)

Sec. 5. It shall be the duty of the cemetery authority of a public graveyard to receive by gift or bequest, real or personal property, or the income or avails of property which shall be conveyed in trust for the improvement, maintenance, repair, preservation and ornamentation of such interment, entombment, or inurnment rights or lots, vault or vaults, tomb or tombs, or other such structures in the cemetery or graveyard of which such board or trustees have control, as may be designated by the terms of such gift or bequest, and in accordance with such reasonable rules and regulations therefor, as shall be made by such board of directors or trustees, and such board of directors or trustees shall keep such trust funds invested in safe interest or income bearing securities, the income from which shall be used for the purpose aforesaid.

(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/5a) (from Ch. 21, par. 19a)

Sec. 5a. The cemetery authority may invest the funds received under Section 4 or 5 in notes secured by a first mortgage or trust deed upon improved or income producing real estate situated in this State and not exceeding one-half the value thereof at the time the investment is made by the directors. Whenever any cemetery society or cemetery authority acquires property as a result of the foreclosure of such mortgage, or in any other manner, the directors or managing officers of such society or authority have the power to sell and convey the land received.

(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/6) (from Ch. 21, par. 20)

Sec. 6. The trust fund mentioned in Sections 4 and 5 of this act, shall be vested in the board of directors and trustees, and the securities taken therefor shall be approved by circuit court for the county wherein such cemetery or graveyard is located; and the board of directors or trustees shall, once in every 2 years, make an itemized report to the court of all such trust funds in their hands, and the securities taken therefor.

(Source: Laws 1965, p. 595.)

(765 ILCS 835/7) (from Ch. 21, par. 21)

Sec. 7. The trust funds, gifts and bequests mentioned in sections four (4) and five (5) of this act, shall be exempt from taxation and from the operation of all laws of mortmain, and laws against perpetuities and accumulations.

(Source: Laws 1889, p. 63.)

(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. (Source: P.A. 96-863, eff. 3-1-10.)

(765 ILCS 835/9) (from Ch. 21, par. 21.2)

Sec. 9. When there is no memorial, monument, or marker installed on a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment rights in a community columbarium; no interment in a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium; no transfer or assignment of a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium on the cemetery authority records; no contact by an owner recorded in the cemetery authority records; publication has been made in a newspaper of general circulation in the county in which the interment, entombment, or inurnment rights are located and no response was received; and 50 years have passed since the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium was sold, there is a presumption that the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium has been abandoned, unless a specific agreement has been entered into designating said rights to be inviolate. Alternatively, where there is an obligation to pay a cemetery authority, annually or periodically, maintenance or care charges on a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium, or part thereof, and the owner of or claimant to a right or easement for burial in such cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium, or part thereof, has failed to pay the required annual or periodic maintenance or care charges for a period of 30 years or more, such continuous failure to do so creates and establishes a presumption that the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium, or part thereof, has been abandoned.

Upon a court's determination of abandonment, the ownership of a right or easement for burial in a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium, or part thereof, shall be subject to sale in the manner hereinafter provided.

(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/10) (from Ch. 21, par. 21.3)

Sec. 10. A cemetery authority may file in the office of the clerk of the circuit court of the county in which the cemetery is located a verified petition praying for the entry of an order adjudging a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium to have been abandoned. The petition shall describe the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium alleged to have been abandoned, shall allege ownership by the petitioner of the cemetery, and, if known, the name of the owner of the right or easement for burial in such cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium as is alleged to have been abandoned, or, if the owner thereof is known to the petitioner to be deceased, then the names, if known to petitioner, of such claimants thereto as are the heirs-at-law and next-of-kin or the specific legatees under the will of the owner of the right or easement for burial in such interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium and such other facts as the petitioner may have with respect to ownership of the right or easement for burial in such cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium.

The petition shall also allege the facts with respect to the abandonment of the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium or facts about the obligation of the owner to pay annual or periodic maintenance or care charges on such cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium, the amount of such charges as are due and unpaid, and shall also allege the continuous failure by the owner or claimant to pay such charges for a period of 30 consecutive years or more.

Irrespective of diversity of ownership of the right or easement for burial therein, a cemetery authority may include in one petition as many cemetery interment rights, entombment rights in a community mausoleum or lawn crypt section, or inurnment rights in a community columbarium as are alleged to have been abandoned.

(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/11) (from Ch. 21, par. 21.4)

Sec. 11. All persons so named in such petition, except the petitioner, shall be made parties defendant by name, and if the name or names of any owner or claimant are alleged in the petition to be unknown, such persons shall be made parties



defendant under the name and style of "Unknown Owners". All parties defendant shall be notified of the pendency of the proceeding in the same manner as is now or may hereafter be required in other civil cases.

(Source: Laws 1961, p. 2908.)

(765 ILCS 835/12) (from Ch. 21, par. 21.5)

Sec. 12. In the event the owner, the claimant, or the heirs-at-law and next-of-kin or the specific legatees under the will of either the owner or claimant submits proof of ownership to the court or appears and answers the petition, the presumption of abandonment shall no longer exist and the court shall set the matter for hearing upon the petition and such answers thereto as may be filed.

In the event the defendant or defendants fails to appear and answer the petition, or in the event that upon the hearing the court determines from the evidence presented that there has been an abandonment of the cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium for 50 years or a continuous failure to pay the annual or periodic maintenance or care charges on such interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium, or part thereof, for a period of 30 years or more preceding the filing of the petition, then, in either such event, an order shall be entered adjudicating such interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium, to have been abandoned and adjudging the right or easement for burial therein to be subject to sale by the cemetery authority at the expiration of one year from the date of the entry of such order. Upon entry of an order adjudicating abandonment of a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium, the court shall fix such sum as is deemed a reasonable fee for the services of petitioner's attorney.

(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/13) (from Ch. 21, par. 21.6)

Sec. 13. In the event that, at any time within one year after adjudication of abandonment, the owner or claimant of an interment right, entombment rights in a community mausoleum or lawn crypt section, or an inurnment right in a community columbarium which has been adjudged abandoned, shall contact the court or the cemetery authority and pay all maintenance or care charges that are due and unpaid, shall reimburse the cemetery authority for the costs of suit and necessary expenses incurred in the proceeding with respect to such interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium and shall contract for its future care and maintenance, then such lot, or part thereof, shall not be sold as herein provided and, upon petition of the owner or claimant, the order or judgment adjudging the same to have been abandoned shall be vacated as to such interment right, entombment rights in a community mausoleum or lawn crypt

section, or inurnment right in a community columbarium.  
(Source: P.A. 98-756, eff. 7-16-14.)

(765 ILCS 835/14) (from Ch. 21, par. 21.7)

Sec. 14. After the expiration of one year from the date of entry of an order adjudging an interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium to have been abandoned, a cemetery authority shall have the right to do so and may sell such interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium at public sale and grant an easement therein for burial purposes to the purchaser at such sale, subject to the interment of any human remains theretofore placed therein and the right to maintain memorials placed thereon. A cemetery authority may bid at and purchase such interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium at such sale.

Notice of the time and place of any sale held pursuant to an order adjudicating abandonment of a cemetery interment right, entombment rights in a community mausoleum or lawn crypt section, or inurnment right in a community columbarium shall be published once in a newspaper of general circulation in the county in which the cemetery is located, such publication to be not less than 30 days prior to the date of sale.

The proceeds derived from any sale shall be used to reimburse the petitioner for the costs of suit and necessary expenses, including attorney's fees, incurred by petitioner in the proceeding, and the balance, if any, shall be deposited into the cemetery authority's care fund or, if there is no care fund, used by the cemetery authority for the care of its cemetery and for no other purpose.

(Source: P.A. 98-756, eff. 7-16-14.)

(765 ILCS 835/14.5)

Sec. 14.5. Correction of encroachment on interment, entombment, or inurnment rights.

(a) Whenever a cemetery becomes aware that there is an encroachment on or in the lawful interment, inurnment, or entombment rights of another, and when the cemetery buried or placed or permitted the burial or placement of the encroaching item in or on these rights, the cemetery may correct the encroachment in accordance with this Section. This Section shall not apply to, or be utilized in connection with, any eminent domain, quick-take, or other condemnation proceeding that is designed to relocate a cemetery or portion thereof to another location.

(b) When the encroaching item is a marker, monument or memorial that should be placed on or in another interment, inurnment, or entombment right located within the cemetery, or when the item is the foundation or base for any of the foregoing, the cemetery may with reasonable promptness, and without being required to obtain any permit, relocate the item to its proper place. Notice of the corrective action shall be given no later than 30 days following the correction in accordance with subsection (d) of this Section.

(c) When the encroaching item is a vault, casket, urn, outer burial container, or human remains that should be placed

in or on another interment, inurnment, or entombment right located within the cemetery, the cemetery may with reasonable promptness, and without being required to obtain any permit, relocate the item to its proper place. Except as otherwise provided in this subsection, notice of the corrective action shall be given no later than 30 days prior to the correction in accordance with subsection (d) of this Section. When the involved encroachment would, if uncorrected within 30 days, interfere with a scheduled interment, inurnment, or entombment, then the notice shall be given in accordance with subsection (d) of this Section with as much advance notice as reasonably possible or, if advance notice is not reasonably possible, no later than 30 days following the correction. In the event the correction is to occur in a religious cemetery that, for religious reasons, maintains rules that preclude advance notice of corrections, the notice shall occur no later than 30 days following the correction.

(d) Notice under this Section shall be by certified mail or other delivery method that has a confirmation procedure, in 12-point type, to the owner of any affected interment, inurnment, or entombment right or, when the owner is deceased, to the surviving spouse of the deceased, or if none, any surviving children of the deceased, or if no surviving spouse or children, a parent, brother, or sister of the deceased, or, if failing all of the above, any other listed heir of the deceased in the cemetery records. In providing notice, the cemetery authority shall exercise due diligence to engage in a reasonable search of available funeral home of record or cemetery records to obtain the current address of the party to be notified. The notice shall provide a clear statement of the correction taken or to be taken, together with the reasons for the correction, and shall outline a simple process for the notified person to obtain additional information regarding the correction from the cemetery. When advance notice is required, the notice shall inform the notified party of his or her right to be present for any reinterment, reinurnment, or reentombment, as well as his or her option to object by obtaining an injunction enjoining the contemplated correction. The cemetery shall maintain for no less than 5 years a record of any notice provided under this Section.

(e) Nothing in this Section shall make a cemetery financially responsible for the correction of encroachments that are directly or indirectly caused by the owner of an interment, inurnment, or entombment right or by his or her heirs or by an act of God, war, or vandalism. The cemetery shall be financially responsible for the correction of all other encroachments covered by this Section.

(f) Nothing in this Section shall be construed to limit the liability of any party.

(Source: P.A. 93-772, eff. 1-1-05.)

(765 ILCS 835/15) (from Ch. 21, par. 21.8)

Sec. 15. Purchases made pursuant to this Act shall be made in compliance with the "Local Government Prompt Payment Act", approved by the Eighty-fourth General Assembly.

(Source: P.A. 84-731.)

(765 ILCS 835/16)

Sec. 16. When a multiple interment right owner becomes deceased, the ownership of any unused rights of interment

The following is the form of the standard affidavit:

AFFIDAVIT FOR CEMETERY INTERMENT RIGHTS USE

Name ..... Address .....  
City ..... Telephone .....

6. At the time of death, the decedent (had no) (had a) surviving spouse. The name of the surviving spouse, if any,



is ....., and he or she (has) (has not) remarried.

7. The following is a list of the cemetery interment rights that may be used by the heirs if the owner is deceased:

.....

8. The following persons have an ownership interest in and the right to use the cemetery interment rights in the order of their death:

..... Address .....

..... Address .....

..... Address .....

..... Address .....

..... Address .....

..... Address .....

..... Address .....

9. This affidavit is made for the purpose of obtaining the consent of the undersigned to transfer the right of interment at the above mentioned cemetery property to the listed heirs. Affiants agree that they will save, hold harmless, and indemnify Cemetery, its heirs, successors, employees, and assigns, from all claims, loss, or damage whatsoever that may result from relying on this affidavit to record said transfer in its records and allow interments on the basis of the information contained in this affidavit.

WHEREFORE affiant requests Cemetery to recognize the above named heirs-at-law as those rightfully entitled to the ownership of and use of said interment (spaces) (space).

THE FOREGOING STATEMENT IS MADE UNDER THE PENALTIES OF PERJURY. (A FRAUDULENT STATEMENT MADE UNDER THE PENALTIES OF PERJURY IS PERJURY AS DEFINED IN THE CRIMINAL CODE OF 2012.)

Dated this ..... day of ....., .....

..... (Seal) (To be signed by the owner or the individual who completes items 2 through 6 above.)

Subscribed and sworn to before me, a Notary Public in and for the County and State of ..... aforesaid this ..... day of ....., .....

..... Notary Public.  
(Source: P.A. 97-1150, eff. 1-25-13.)

**Information maintained by the Legislative Reference Bureau**

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Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

## **TRUSTS AND FIDUCIARIES** **(760 ILCS 100/) Cemetery Care Act.**

(760 ILCS 100/1) (from Ch. 21, par. 64.1)

Sec. 1. Short title. This Act may be cited as the Cemetery Care Act.

(Source: P.A. 90-47, eff. 1-1-98.)

(760 ILCS 100/2) (from Ch. 21, par. 64.2)

Sec. 2. Definitions. The following words, terms and phrases used in this Act, for the purpose of this Act, have the following meanings:

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

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

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

"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; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of employees, payment of insurance premiums, and reasonable payments for employees pension and other benefits plans; and (v) to the extent surplus income from the care fund is available, the payment of overhead 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 owning, operating, controlling or managing a privately operated cemetery, or by any trustee or licensee, agent or custodian for the same, under Section 3 of this Act, and the amounts set aside under Section 4 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 of human remains.

"Cemetery authority" means any person, firm, corporation, trustee, partnership, association or municipality owning,

operating, controlling or managing a cemetery or holding lands for burial grounds or burial purposes in this State.

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

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

"Fraternal cemetery" means a cemetery owned, operated, controlled, or managed by any fraternal organization or auxiliary organizations thereof, in which the sale of lots, graves, crypts or niches is restricted principally to its members.

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

"Investment Company Act of 1940" means Title 15, of the United States Code, Sections 80a-1 to 80a-51, inclusive, as amended.

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

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

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

"Privately operated cemetery" means any entity that offers interment rights, entombment rights, or inurnment rights, other than a fraternal, municipal, State, federal or religious cemetery or a family burying ground.

"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.

"State or federal cemetery" means a cemetery owned, operated, controlled, or managed by any State or the federal government or any political subdivision or instrumentality thereof.

"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 the consumer for use as a final resting place.

"Interment right" means the right to place individual human remains or cremated human remains in a specific underground location selected by the 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.

"Lawn crypt" means a permanent underground crypt usually

constructed of reinforced concrete or similar material installed in multiple units for the entombment of human remains.

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

(Source: P.A. 92-651, eff. 7-11-02.)

(760 ILCS 100/2a) (from Ch. 21, par. 64.2a)

Sec. 2a. Powers and duties of cemetery authorities; cemetery property maintained by cemetery care funds.

(a) With respect to cemetery property maintained by cemetery care funds, a cemetery authority shall be responsible for the performance of:

(1) the care and maintenance of the cemetery property it owns; and

(2) the opening and closing of all graves, crypts, or niches for human remains in any cemetery property it owns.

(b) A cemetery authority owning, operating, controlling or managing a privately operated cemetery shall make available for inspection, and upon reasonable request provide a copy of, its rules and regulations and its current prices of interment, inurnment, or entombment rights.

(c) A cemetery authority owning, operating, controlling or managing a privately operated cemetery may, from time to time as land in its cemetery may be required for burial purposes, survey and subdivide those lands and make and file in its office a map thereof delineating the lots or plots, avenues, paths, alleys, and walks and their respective designations. The cemetery authority shall open the map to public inspection. The cemetery authority may make available a copy of the overall map upon written request and 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 such map. Nothing contained in this subsection, however, shall prevent the cemetery authority from enlarging an interment right by selling to the owner thereof the excess space next to such interment right and permitting interments therein, provided reasonable access to such interment right and to adjoining interment rights is not thereby eliminated. The Comptroller may waive any or all of the requirements of this subsection (c) for good cause shown.

(d) A cemetery authority owning, operating, controlling, or managing a privately operated cemetery shall keep a record of every interment, entombment, and inurnment in the cemetery. The record shall include the deceased's name, age, and date of burial, when these particulars can be conveniently obtained, and the lot, plot, or section where the human remains are interred, entombed, or inurned. The record 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.

(e) A cemetery authority owning, operating, controlling, or managing a privately operated cemetery shall provide access to the cemetery under the cemetery authority's reasonable rules and regulations.

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



(760 ILCS 100/3) (from Ch. 21, par. 64.3)

Sec. 3. Gifts and contributions - Trust funds. Any 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.

The cemetery authority shall act as trustee of all amounts received for care until they have been deposited into the trust fund established under this Section. The cemetery authority may continue to be the trustee of up to \$500,000 of care funds that have been deposited into the trust fund, but the cemetery authority must retain an independent trustee for any amount of care funds held in trust in excess of that \$500,000. A cemetery authority holding care funds in excess of \$500,000 on the effective date of this amendatory Act of 1996 shall have 36 months to retain an independent trustee for the excess amounts held in trust; any other cemetery authority must retain an independent trustee for its care funds in excess of \$500,000 as soon as may be practical.

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, the cemetery authority accepting it is authorized and empowered to sell such property and to invest the funds obtained in accordance with the provisions of the next succeeding paragraph.

The care funds authorized by this Section and provided for in Section 4 of this Act 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 exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. 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 heretofore or hereafter 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.

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

(760 ILCS 100/3a) (from Ch. 21, par. 64.3a)

Sec. 3a. Loans to private cemeteries. Except upon written approval of the Comptroller, no loan or investment of any care funds by any cemetery authority owning, operating, controlling or managing a privately operated cemetery, or by any trustee or licensee under this Act shall be made:

(1) To any officer, director, trustee, or party owning 10% or more of such cemetery authority, or to any firm, corporation, association or partnership in which any officer, director, trustee, or party owning 10% or more of such cemetery authority or licensee has a controlling interest.

(2) On or in any real estate, or in any note, bond, mortgage or deed of trust in which any officer, director trustee, or party owning 10% or more of such cemetery authority or licensee has any financial interest.

(3) On or in any unproductive real estate or real estate outside of this state or in permanent improvements of the cemetery or any of its facilities, unless specifically authorized by the instrument whereby the principal fund was created. And 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, trustee or licensee.

Before a loan or investment request is submitted to the Comptroller for approval, the loan or investment request must be duly approved by resolution of the board of directors of the cemetery authority and by the trustee of the care fund.

(Source: P.A. 88-477; 89-615, eff. 8-9-96.)

(760 ILCS 100/4) (from Ch. 21, par. 64.4)

Sec. 4. Care funds; deposits; investments. Whenever a cemetery authority owning, operating, controlling or managing a privately operated cemetery 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 requires the establishment of a care fund or a deposit in an already existing care fund, then such cemetery authority shall

execute and deliver to the person from whom received an instrument in writing which shall specifically state: (a) the nature and extent of the care to be furnished, and (b) that such care shall be furnished only in so far as the 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), and (c) that not less than the following amounts will be set aside and deposited in trust:

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

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

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

4. For any transfer of interment rights, entombment rights, or inurnment rights recorded in the records of the cemetery authority, excepting only transfers between members of the immediate family of the transferor, a minimum of \$25 for each such right transferred. For the purposes of this paragraph "immediate family of the transferor" means the spouse, parents, grandparents, children, grandchildren, and siblings of the transferor.

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.

Such setting aside and deposit shall be made by such cemetery authority not 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 said written instrument. 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.

Any such 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.

In the event any sale that would require a deposit to such 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, 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, the cemetery authority may apply the amount deposited as a credit against future required deposits.

The trust authorized by this Section shall be a single purpose trust fund. In the event of the seller'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 Comptroller 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 Comptroller. The changes made by this amendatory Act of the 91st General Assembly are intended to clarify existing law regarding the inability of licensees to pledge the trust.

(Source: P.A. 91-7, eff. 6-1-99.)

(760 ILCS 100/5) (from Ch. 21, par. 64.5)

Sec. 5. No cemetery authority, nor any agent, servant, or employee of it, nor any other person, shall advertise, represent, guarantee, promise, or contract that perpetual care, permanent care, perpetual or permanent maintenance, care forever, continuous care, eternal care, everlasting care, or any similar or equivalent care, or care for any number of years of any cemetery or of any lot, grave, crypt or niche, or of any family mausoleum, memorial, marker, or monument, will be furnished: Provided, however, that any cemetery authority may advertise, represent, guarantee, promise or contract that care will be furnished from the net income only derived from funds held in trust as provided in Section 3 of this Act; and may advertise, represent, guarantee, promise or contract that care will be given any lot, grave, crypt, or niche, or any family mausoleum, memorial, marker, or monument for any definite number of years, such care to be furnished under a contract providing that the principal of the amount paid under the contract shall be used to furnish the care and further



providing specifically the care to be given and the number of years for which it is to be given.

(Source: Laws 1947, p. 338.)

(760 ILCS 100/6) (from Ch. 21, par. 64.6)

Sec. 6. The trust funds authorized by Section 3 of this Act, 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 Section 3 of this Act, and the income therefrom, are exempt from the operation of all laws of mortmain and the laws against perpetuities and accumulations.

(Source: Laws 1967, p. 1188.)

(760 ILCS 100/7) (from Ch. 21, par. 64.7)

Sec. 7. License to hold care funds. No cemetery authority owning, operating, controlling or managing a privately operated cemetery may accept the care funds authorized by the provisions of Section 3 of this Act without securing from the Comptroller a license to hold the funds. The license shall be secured by the cemetery authority whether the cemetery authority is serving as trustee of the care funds or whether the care funds are held by an independent trustee.

All licenses issued under the provisions of this Act by the Department of Financial Institutions prior to the time the administration of this Act was transferred to the Comptroller shall remain valid for all purposes unless such license is terminated, surrendered or revoked as provided in this Act.

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

(760 ILCS 100/8) (from Ch. 21, par. 64.8)

Sec. 8. Every cemetery authority shall register with the Comptroller upon forms furnished by him or her. Such registration statement shall state whether the cemetery authority claims that the cemetery owned, operated, controlled, or managed by it is a fraternal cemetery, municipal, State, or federal cemetery, or religious cemetery, or a family burying ground, as the case may be, as defined in Section 2 of this Act, and shall state the date of incorporation if a corporation and whether incorporated under general or private act of the legislature. Such registration statement shall be accompanied by a fee of \$5. Such fee shall be paid to the Comptroller and no registration statement shall be accepted by him without the payment of such fee. Every cemetery authority that is not required to file an annual report under this Act shall bear the responsibility of informing the Comptroller whenever a change takes place regarding status of cemetery, name of contact person, and that person's address and telephone number.

Upon receipt of a registration statement, if a claim is made that a cemetery is a fraternal cemetery, municipal cemetery, or religious cemetery, or a family burying ground, as the case may be, as defined in Section 2 of this Act, and the Comptroller shall determine that such cemetery is not a fraternal cemetery, a municipal cemetery, or a religious cemetery, or a family burying ground, as the case may be, as defined in Section 2 of this Act, the Comptroller shall notify the cemetery authority making the claim of such determination;

provided, however, that no such claim shall be denied until the cemetery authority making such claim has had at least 10 days' notice of a hearing thereon and an opportunity to be heard. When any such claim is denied, the Comptroller shall within 20 days thereafter prepare and keep on file in his office the transcript of the evidence taken and a written order or decision of denial of such claim and shall send by United States mail a copy of such order or decision of denial to the cemetery authority making such claim within 5 days after the filing in his office of such order, finding or decision. A review of any such order, finding or decision may be had as provided in the Administrative Review Law, as now or hereafter amended.

Where no claim is made that a cemetery is a fraternal cemetery, municipal cemetery or religious cemetery or family burying ground, as the case may be, as defined in Section 2 of this Act, the registration statement shall be accompanied by a fidelity bond in the amount required by Section 9 of this Act. Upon receipt of such application, statement and bond, the Comptroller shall issue a license to accept the care funds authorized by the provisions of Section 3 of this Act to each cemetery authority owning, operating, controlling or managing a privately operated cemetery. However, the Comptroller shall issue a license without the filing of a bond where the filing of a bond is excused by Section 18 of this Act.

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

(Source: P.A. 88-477.)

(760 ILCS 100/8.1) (from Ch. 21, par. 64.8a)

Sec. 8.1. Any cemetery authority operating a fraternal cemetery, municipal cemetery, State or federal cemetery, religious cemetery or family burying ground which has been licensed under the provisions of this Act may have such license terminated and may cease to be governed by the licensing provisions of this Act if such cemetery authority:

- (1) applies in writing to the Comptroller setting out facts to show the kind of cemetery operated;
- (2) sets out facts in such written application identifying the license under which such authority is operating;
- (3) requests that such license be relinquished and terminated by the Comptroller.

Upon receipt of such statement, the Comptroller shall determine whether to grant such request. If the Comptroller grants the request to terminate, the license shall be relinquished and such cemetery authority shall cease to be governed by the licensing provisions of this Act. The Comptroller shall not deny such request without first granting a hearing to the cemetery authority. The hearing and review provisions of Sections 8 and 20 of this Act shall apply to the hearing provided for in this Section.

(Source: P.A. 88-477.)

(760 ILCS 100/9) (from Ch. 21, par. 64.9)

Sec. 9. Application for license.

(a) Prior to the acceptance of care funds authorized by Section 3 of this Act or the sale or transfer of the

controlling interest of a licensed cemetery authority, a cemetery authority owning, operating, controlling, or managing a privately operated cemetery shall make application to the Comptroller for a license to hold the funds.

In the case of a sale or transfer of the controlling interest of the cemetery authority, the prior license shall remain in effect until the Comptroller issues a new license to the newly-controlled cemetery authority as provided in Section 15b. Upon issuance of the new license, the prior license shall be deemed surrendered if the licensee has agreed to the sale and transfer and has consented to the surrender of the license. A sale or transfer of the controlling interest of a cemetery authority to an immediate family member is not considered a transfer of the controlling interest for purposes of this Section.

(b) Applications for license shall be filed with the Comptroller. Applications shall be in writing under oath, signed by the applicant, and in the form furnished by the Comptroller. The form furnished by the Comptroller shall enable a cemetery authority to apply for license of multiple cemetery locations within a single license application. A check or money order in the amount of \$25 per license seeking to be issued under the application, payable to: Comptroller, State of Illinois, shall be included. Each application shall contain the following:

(1) the full name and address (both of residence and of place of business) of the applicant, if an individual; of every member, if the applicant is a partnership or association; of every officer or director, if the applicant is a corporation; and of any party owning 10% or more of the cemetery authority, and the full name and address of the parent company, if any;

(2) a detailed statement of the applicant's assets and liabilities;

(2.1) the name, address, and legal boundaries of each cemetery for which the care funds shall be entrusted and at which books, accounts, and records shall be available for examination by the Comptroller as required by Section 13 of this Act;

(3) as to the name of each individual person listed under (1) above, a detailed statement of each person's business experience for the 10 years immediately preceding the application; the present and previous connection, if any, of each person with any other cemetery or cemetery authority; whether each person has ever been convicted of any felony or has ever been convicted of any misdemeanor of which an essential element is fraud or has been involved in any civil litigation in which a judgment has been entered against him or her based on fraud; whether each person is currently a defendant in any lawsuit in which the complaint against the person is based upon fraud; whether such person has failed to satisfy any enforceable judgment entered by a court of competent jurisdiction in any civil proceedings against such individual;

(4) the total amount in trust and now available from sales of lots, graves, crypts or niches where part of the sale price has been placed in trust; the amount of money placed in the care funds of each applicant; the amount set aside in care funds from the sale of lots, graves, crypts

and niches for the general care of the cemetery and the amount available for that purpose; the amount received in trust by special agreement for special care and the amount available for that purpose; the amount of principal applicable to trust funds received by the applicant; and

(5) any other information that the Comptroller may reasonably require in order to determine the qualifications of the applicant to be licensed under this Act.

Such information shall be furnished whether the care funds are held by the applicant as trustee or by an independent trustee. If the funds are not held by the applicant, the name of the independent trustee holding them is also to be furnished by the applicant.

(c) Applications for license shall also be accompanied by a fidelity bond issued by a bonding company or insurance company authorized to do business in this State or by an irrevocable, unconditional letter of credit issued by a bank or trust company authorized to do business in the State of Illinois, as approved by the State Comptroller, where such care funds exceed the sum of \$15,000. Such bond or letter of credit shall run to the Comptroller and his or her successor for the benefit of the care funds held by such cemetery authority or by the trustee of the care funds of such cemetery authority. Such bonds or letters of credit shall be in an amount equal to 1/10 of such care funds. However, such bond or letter of credit shall not be in an amount less than \$1,000; the first \$15,000 of such care funds shall not be considered in computing the amount of such bond or letter of credit. No application shall be accepted by the Comptroller unless accompanied by such bond or letter of credit.

Applications for license by newly organized cemetery authorities after January 1, 1960 shall also be accompanied by evidence of a minimum care fund deposit in an amount to be determined as follows: if the number of inhabitants, either in the county in which the cemetery is to be located or in the area included within a 10 mile radius from the cemetery if the number of inhabitants therein is greater, is 25,000 or less the deposit shall be \$7,500; if the number of inhabitants is 25,001 to 50,000, the deposit shall be \$10,000; if the number of inhabitants is 50,001 to 125,000, the deposit shall be \$15,000; if the number of inhabitants is over 125,000, the deposit shall be \$25,000.

After an amount equal to and in addition to the required minimum care fund deposit has been deposited in trust, the cemetery authority may withhold 50% of all future care funds until it has recovered the amount of the minimum care fund deposit.

(d) (Blank).

(e) All bonds and bonding deposits made by any cemetery authority may be returned to the cemetery authority or cancelled as to care funds invested with an investment company.

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

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

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

(a) The applicant has made any misrepresentations or false



statements or has concealed any essential or material fact, or

(b) The applicant is insolvent; or

(c) The applicant is or has been using practices in the conducting of the cemetery business that work or tend to work a fraud; or

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

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

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

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

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

(i) The applicant has ever had a license involving cemeteries or funeral homes revoked, suspended, or refused to be issued in Illinois or elsewhere.

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

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

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

(760 ILCS 100/11) (from Ch. 21, par. 64.11)

Sec. 11. Issuance and display of license. A license issued under this Act authorizes the cemetery authority to accept care funds for the cemetery identified in the license. If a license application seeks licensure to accept care funds on behalf of more than one cemetery location, the Comptroller, upon approval of the license application, shall issue to the cemetery authority a separate license for each cemetery location indicated on the application. Each license issued by the Comptroller under this Act is independent of any other

license that may be issued to a cemetery authority under a single license application.

Every license issued by the Comptroller 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.

No more than one place of business shall be maintained under the same license, but the Comptroller may issue more than one license to the same licensee upon compliance with the provisions of this Act governing an original issuance of a license, for each new license.

Whenever a licensee shall wish to change the name as originally set forth in his license, he shall give written notice thereof to the Comptroller together with the reasons for the change and if the change is approved by the Comptroller he shall issue a new license.

A license issued by the Comptroller shall remain in full force and effect until it is surrendered by the licensee or suspended or revoked by the Comptroller as provided in this Act.

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

(760 ILCS 100/11.1)

Sec. 11.1. Investigation of unlawful practices. If it appears to the Comptroller that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this Act, the Comptroller may:

(1) require that person to file on such terms as the Comptroller prescribes a statement or report in writing, under oath or otherwise, containing all information the Comptroller 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 person in connection with the books and records pertaining to or having an impact upon the 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 Comptroller 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.

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

(760 ILCS 100/11.2)

Sec. 11.2. Service. Service by the Comptroller of any notice requiring a person to file a statement or report shall be made:

(1) personally by delivery of a duly executed copy thereof 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

thereof to the person to be served at his or her last known abode or principal place of business within this State.

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

(760 ILCS 100/12) (from Ch. 21, par. 64.12)

Sec. 12. Annual reports. Every licensee shall prepare a written report as of the end of the preceding calendar year or fiscal year, as the case may be, showing:

(a) The amount of the principal of the care funds held in trust by the trustee of the care funds at the beginning of such year and in addition thereto all moneys or property received during such year (1) under and by virtue of the sale of a lot, grave, crypt or niche; (2) under or by virtue of the terms of the contract authorized by the provisions of Section 3 of this Act; (3) under or by virtue of any gift, grant, legacy, payment or other contribution made either prior to or subsequent to the effective date of this Act, and (4) under or by virtue of any contract or conveyance made either prior to or subsequent to the effective date of this Act;

(b) The securities in which such care funds are invested and the cash on hand as of the date of the report;

(c) The income received from such care funds during the preceding calendar year, or fiscal year, as the case may be;

(d) The expenditures made from said income during the preceding calendar year, or fiscal year, as the case may be; and

(e) The number of interments made during the preceding calendar year, or fiscal year, as the case may be.

Where any of the care funds of a licensee are held by an independent trustee, the report filed by the licensee shall contain a certificate signed by the trustee of the care funds of such licensee certifying to the truthfulness of the statements in the report as to (1) the total amount of principal of the care funds held by the trustee, (2) the securities in which such care funds are invested and the cash on hand as of the date of the report and (3) the income received from such care funds during the preceding calendar year, or fiscal year, as the case may be.

Such report shall be filed by such licensee on or before March 15 of each calendar year, in the office of the Comptroller. If the fiscal year of such licensee is other than on a calendar year basis, then such licensee shall file the report required by this Section within 2 1/2 months of 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 licensee. Such extension shall not exceed 60 days. If a licensee fails to submit an annual report to the Comptroller within the time specified in this Section, the Comptroller shall impose upon the licensee a penalty of \$5 for each and every day the licensee remains delinquent in submitting the annual report. The Comptroller may abate all or part of the \$5 daily penalty for good cause shown.

Such report shall be made under oath and shall be in the form furnished by the Comptroller. Each report shall be accompanied by a check or money order in the amount of \$10, payable to: Comptroller, State of Illinois.

If any annual report shows that the amount of the care funds held in trust at the end of the preceding calendar year or fiscal year, as the case may be, has increased in amount

over that shown by the next preceding report, then the fidelity bond theretofore filed shall be increased to the amount required by Section 9 of this Act. Such increased fidelity bond shall accompany the report and no report shall be accepted by the Comptroller unless accompanied by such bond, except where the filing of a bond is excused by Section 18 of this Act.

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

(760 ILCS 100/13) (from Ch. 21, par. 64.13)

Sec. 13. Books, accounts, and records. Every licensee and the trustee of the care funds of every licensee shall be a resident of this State and shall keep in this State and use in its business such books, accounts and records as will enable the Comptroller 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 Comptroller hereunder. The licensee shall keep the books, accounts, and records at the location identified in the license issued by the Comptroller or as otherwise agreed by the Comptroller in writing. The books, accounts, and records shall be accessible for review upon demand of the Comptroller.

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

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

Sec. 14. The Comptroller may at any time investigate the cemetery business of every licensee with respect to its care funds. The Comptroller shall examine at least annually every licensee who holds \$250,000 or more in its care funds. For that purpose, the Comptroller 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 Comptroller may require the attendance of and examine under oath all persons whose testimony he may require relative to such business and in such cases the Comptroller or any qualified representative of the Comptroller whom the Comptroller may designate, may administer oaths to all such persons called as witnesses, and the Comptroller, or any such qualified representative of the Comptroller, may conduct such examinations. The cost of an initial examination shall be borne by the cemetery authority if it has \$10,000 or more in such fund; otherwise, by the Comptroller. The charge made by the Comptroller for such examination shall be based upon the total amount of care funds held by the cemetery authority as of the end of the calendar or fiscal year for which a report is required by Section 12 of this Act and shall be in accordance with the following schedule:

less than \$10,000.....	no charge;
\$10,000 or more but less than	
\$50,000.....	\$10;
\$50,000 or more but less than	
\$100,000.....	\$40;
\$100,000 or more but less than	
\$250,000.....	\$80;
\$250,000 or more.....	\$100.

Any licensee which is not required to be examined annually shall submit an annual report to the Comptroller containing



such information as the Comptroller reasonably may request.

The Comptroller may order additional audits or examinations as he or she 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 Comptroller 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 for deposits into trust accounts or trust investment activities.

Prior to ordering an additional audit or examination, the Comptroller shall request the licensee to respond and comment upon the factors identified by the Comptroller as warranting the subsequent examination or audit. The licensee shall have 30 days to provide a response to the Comptroller. If the Comptroller decides to proceed with the additional examination or audit, the licensee shall bear the full cost of that examination or audit, up to a maximum of \$7,500. The Comptroller may elect to pay for the examination or audit and receive reimbursement from the licensee. Payment of the costs of the examination or audit by a licensee shall be a condition of receiving or maintaining a license under this Act. All moneys received by the Comptroller for examination or audit fees shall be maintained in a separate account to be known as the Comptroller's Administrative Fund. This Fund, subject to appropriation by the General Assembly, may be utilized by the Comptroller for enforcing this Act and other purposes that may be authorized by law.

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

(760 ILCS 100/15) (from Ch. 21, par. 64.15)

Sec. 15. The Comptroller may, upon 10 days' notice to the licensee, by United States mail directed to the licensee at the address set forth in the license, stating the contemplated action and, in general, the grounds therefor, and upon reasonable opportunity to be heard prior to such action, revoke any license issued hereunder if he finds that:

(a) The licensee has failed to make the annual report or to maintain in effect the required bond or to comply with an order, decision, or finding of the Comptroller made pursuant to this Act; or that

(b) The licensee has violated any provision of this Act or any regulation or direction made by the Comptroller under this Act; or that

(c) Any fact or condition exists which would constitute grounds for denying an application for a new license.

(Source: P.A. 91-7, eff. 6-1-99.)

(760 ILCS 100/15.1) (from Ch. 21, par. 64.15-1)

Sec. 15.1. The Comptroller may, in accordance with Section 15, revoke only the particular license with respect to which

grounds for revocation may occur or exist, or if he finds that such grounds for revocation are of general application to all offices or to more than one office operated by such licensee, he may revoke all of the licenses issued to such licensee or such number of licenses to which grounds apply, as the case may be.

Whenever a license is revoked by the Comptroller he shall apply to the Circuit Court of the county wherein such licensee is located for a receiver to administer the care funds of such licensee.

(Source: P.A. 78-592.)

(760 ILCS 100/15.2) (from Ch. 21, par. 64.15-2)

Sec. 15.2. A licensee may surrender any license by delivering to the Comptroller written notice that he thereby surrenders such license but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender, or affect his bond. The Comptroller shall not permit a license to be surrendered by a licensee unless and until such licensee has furnished to the Comptroller satisfactory evidence of his release and discharge from all trust liabilities and obligations and unless and until the care funds of such licensee have been transferred to a successor licensee who shall be licensed by the Comptroller in conformity with the provisions of this Act.

However, the Comptroller shall accept the surrender of a license held by a cemetery authority that is a cemetery association or corporation owning, operating or controlling a cemetery not for profit, whose cemetery has been conveyed to and accepted by any city, village, incorporated town, township or county, upon: (a) the licensee submitting to the Comptroller a copy of the act, resolution or ordinance under which the political subdivision accepted or is charged with the responsibility of operating and controlling the cemetery; (b) the making and filing with and approval by the Comptroller of a final account for care funds from the date of last report made by the licensee to the Comptroller to the date of transfer to the successor cemetery authority; (c) the furnishing of a copy of the instrument of appointment or certificate of election of trustees of the public graveyard or managers of the municipal cemetery authorized to hold care funds or trust funds for care, and the receipt of such trustees of the public graveyard or managers of the municipal cemetery for the care funds investments listed in the final account; and (d) the return of the Cemetery Authority License to the Comptroller for cancellation. Upon satisfactory performance of the foregoing by a licensee, the same shall be deemed satisfactory evidence of the licensee's release and discharge from all trust liabilities and obligations and transfer of the licensee's care funds to an authorized successor within the meaning and intent of this Act.

(Source: P.A. 78-592.)

(760 ILCS 100/15.3) (from Ch. 21, par. 64.15-3)

Sec. 15.3. Every license issued hereunder shall remain in force until the same has been surrendered or revoked in accordance with this Act, but the Comptroller may on his own motion, issue new licenses to a licensee whose license or licenses have been revoked if no fact or condition then exists

which clearly would have warranted the Comptroller in refusing originally the issuance of such license under this Act.  
(Source: P.A. 78-592.)

(760 ILCS 100/15.4) (from Ch. 21, par. 64.15-4)

Sec. 15.4. No license shall be revoked until the licensee has had at least 10 days' notice of a hearing thereon and an opportunity to be heard. When any license is so revoked, the Comptroller shall within 20 days thereafter, prepare and keep on file in his office the transcript of the evidence taken and a written order or decision of revocation, and shall send by United States mail a copy of such order or decision of revocation to the licensee at the address set forth in the license within 5 days after the filing in his office of such order, finding or decision. A review of any such order, finding or decision may be had as provided in Section 19 of this Act.

(Source: P.A. 83-333.)

(760 ILCS 100/15a) (from Ch. 21, par. 64.15a)

Sec. 15a. Where any cemetery authority owning, operating, controlling or managing a privately operated cemetery or any trustee for the same 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 Comptroller 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 Comptroller 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.

(Source: P.A. 87-747; 88-477.)

(760 ILCS 100/15b)

Sec. 15b. Sales; liability of purchaser for shortage.

In the case of a sale of any privately operated 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 Section 4 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.

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 of the partnership if the cemetery authority is a partnership, the cemetery authority shall, at least 21 days prior to the sale or transfer, notify the Comptroller, in writing, of the pending date of sale or transfer so as to permit the Comptroller 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 21 day notification period unless the Comptroller notifies the cemetery authority during that period that there is a basis for determining a deficiency which will require additional time to finalize. The sale or transfer may not be completed by the cemetery authority unless and until:

(a) The Comptroller has completed the audit of the cemetery authority's books and records;

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

(c) The Comptroller issues a new cemetery care license upon application of the newly controlled corporation or partnership, which license must be applied for within 30 days of the anticipated date of the sale or transfer, subject to the payment of any delinquencies, if any, as stated in item (b) above.

For purposes of this Section, a person, firm, corporation, partnership, or institution that acquires the cemetery through a real estate foreclosure shall be subject to the provisions of this Section. The sale or transfer of the controlling interest of a cemetery authority to an immediate family member is not subject to the license application process required in item (c) of this Section.

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 21 days prior to the sale or transfer, notify the Comptroller, in writing, of the pending sale or transfer.

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

(760 ILCS 100/16) (from Ch. 21, par. 64.16)

Sec. 16. Whenever a licensee refuses or neglects to make a required report or whenever it appears to the Comptroller from any report or examination that such licensee has committed a violation of law or that the care funds have not been administered properly or that it is unsafe or inexpedient for such licensee or the trustee of the care funds of such cemetery authority to continue to administer such funds or that any officer of such licensee or of the trustee of the care funds of such licensee has abused his trust or has been guilty of misconduct or malversation in his official position injurious to such licensee or that such licensee has suffered as to its care funds a serious loss by larceny, embezzlement, burglary, repudiation or otherwise, the Comptroller shall by an order direct the discontinuance of such illegal, unsafe or unauthorized practices and shall direct strict conformity with the requirements of the law and safety and security in its transactions, shall order all funds returned, and may apply to the Circuit Court of the county wherein such licensee is

located to prevent any disbursements or expenditures by such licensee until the care funds are in such condition that it would not be jeopardized thereby and the Comptroller shall communicate the facts to the Attorney General of the State of Illinois who shall thereupon institute such proceedings against the licensee or its trustee or the officers of either or both as the nature of the case may require.

(Source: P.A. 88-477.)

(760 ILCS 100/17) (from Ch. 21, par. 64.17)

Sec. 17. If the Comptroller finds at any time that the bond is insecure or exhausted or otherwise doubtful, an additional bond in like amount to be approved by the Comptroller shall be filed by the licensee within 30 days after written demand therefor upon the licensee by the Comptroller.

(Source: P.A. 78-592.)

(760 ILCS 100/18) (from Ch. 21, par. 64.18)

Sec. 18. Application; when bond is unnecessary. The provisions of this Act as to the (a) registration, (b) application for license, (c) filing of a fidelity bond, (d) filing of an annual report, and (e) examination by the Comptroller, apply to a cemetery authority owning, operating, controlling or managing a privately operated cemetery whether the care funds are held by such cemetery authority as trustee or by any independent trustee for the same. However, no bond need be filed with the Comptroller as to care funds of such cemetery authority held as trustee by a bank or trust company authorized to do business in this State as a trust company in accordance with Section 2-10 of the Corporate Fiduciary Act or held by an investment company.

Upon application by such cemetery authority to the Comptroller, and upon a showing that all of the care funds of such cemetery authority are held by such bank or trust company as trustee for such cemetery authority pursuant to an agreement in writing approved from time to time by the Comptroller for the handling and management of all of the care funds of such cemetery authority, or are held by an investment company, the Comptroller in writing may permit the licensee to operate without the filing of any bond as to such care funds except such fidelity bond as he or she may require for the protection of such cemetery authority against defaults by its employees engaged in the handling and collection of funds.

(Source: P.A. 88-477; 89-615, eff. 8-9-96.)

(760 ILCS 100/19) (from Ch. 21, par. 64.19)

Sec. 19. The Comptroller may make, amend, rescind and enforce such rules and regulations and amendments thereto, as may be necessary for the purpose of carrying out this Act. However, the Comptroller may not make or amend any rule or regulation without holding a hearing thereon and without first giving all cemetery authorities licensed to hold care funds at least 10 days' notice of such hearing, the notice to set forth the proposed rules, regulations or the proposed amendments thereof. Among other things, the Comptroller may, for the purposes of this Act, prescribe the form or forms in which required information shall be set forth, the items or details to be shown in any statement or report, and the methods to be

followed in the preparation of accounts and in the appraisal or evaluation of assets and liabilities. When any regulations or amendments thereto are made after such hearing, a written order setting forth the regulations or amendments shall be prepared by the Comptroller and kept on file in his office and a copy of each such order shall be sent by the Comptroller by United States mail to all cemetery authorities within 5 days after the filing in his office of such order. No regulations or amendments shall become effective until 10 days after the mailing of such order. Copies of all other orders, decisions and findings shall be mailed to the cemetery authorities affected thereby by United States mail within 5 days of such filing. All regulations and all amendments thereto and all orders, decisions and findings shall be filed and entered by the Comptroller in an indexed permanent book or record, with the effective date thereof suitably indicated, and such book or record is a public document. A review of all orders, decisions and findings, including orders making regulations or amendments, may be had under the Administrative Review Law, as now or hereafter amended.

(Source: P.A. 82-783.)

(760 ILCS 100/21) (from Ch. 21, par. 64.21)

Sec. 21. Except as otherwise provided for in this Act, whenever the Comptroller is required to give notice to any applicant or licensee, such requirement shall be considered complied with if, within the time fixed herein, such notice is enclosed in an envelope plainly addressed to such applicant or licensee, as the case may be, United States postage fully prepaid, and deposited, registered, in the United States mail.

(Source: P.A. 78-592.)

(760 ILCS 100/22) (from Ch. 21, par. 64.22)

Sec. 22. Nothing in this Act shall be construed to impair the obligation of any existing contract.

(Source: Laws 1947, p. 338.)

(760 ILCS 100/23) (from Ch. 21, par. 64.23)

Sec. 23. Every person having taken an oath or affirmation in any proceeding or matter wherein an oath is required by this Act, who shall swear wilfully, 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 in the Statute relative to perjury and subornation of perjury.

(Source: Laws 1947, p. 338.)

(760 ILCS 100/24) (from Ch. 21, par. 64.24)

Sec. 24. Whoever intentionally fails to deposit the required amounts into a trust provided for in this Act, intentionally and improperly withdraws or uses trust funds for his or her own benefit, or otherwise intentionally violates any provision of this Act (other than the provisions of Section 23 and subsections (b), (c), (d), and (e) of Section 2a) shall be guilty of a Class 4 felony, and each day such provisions are violated shall constitute a separate offense.

If any person intentionally violates this Act or fails or refuses to comply with any order of the Comptroller or any

part of an order that has become final to such person and is still in effect, the Comptroller may, after notice and hearing at which it is determined that a violation of this Act or such order has been committed, further order that such person shall forfeit and pay to the State of Illinois a sum not to exceed \$5,000 for each violation. Such liability shall be enforced in an action brought in any court of competent jurisdiction by the Comptroller in the name of the People of the State of Illinois.

In addition to the other penalties and remedies provided in this Act, the Comptroller may bring a civil action in the county of residence of the licensee or any person accepting care funds to enjoin any violation or threatened violation of this Act.

The powers vested in the Comptroller by this Section are additional to any and all other powers and remedies vested in the Comptroller by law.

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

(760 ILCS 100/25)

Sec. 25. Use of care funds. When a township or multi-township cemetery district takes over a cemetery or cemetery authority, the care fund and care fund expenditures continue to be subject to the provisions of this Act, and the township or multi-township cemetery district must continue to use the care fund exclusively for the care and maintenance of the cemetery in accordance with this Act.

(Source: P.A. 91-181, eff. 1-1-00.)

(760 ILCS 100/26)

Sec. 26. Abandoned or neglected cemeteries; clean-up. The Comptroller may administer a program for the purpose of cleaning up abandoned or neglected cemeteries located in Illinois. Administration of this program may include the Comptroller's issuance of grants for that purpose to units of local government, school districts, and not-for-profit associations.

If an abandoned or neglected cemetery has been dedicated as an Illinois nature preserve under the Illinois Natural Areas Preservation Act, any action to cause the clean up of the cemetery under the provisions of this Section shall be consistent with the rules and master plan governing the dedicated nature preserve.

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



**Information maintained by the Legislative Reference Bureau**

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as Public Acts soon after they become law.

For information concerning the relationship between statutes and Public Acts, refer to the Guide.

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

**PROFESSIONS, OCCUPATIONS, AND BUSINESS OPERATIONS**  
**(225 ILCS 411/) Cemetery Oversight Act.**

(225 ILCS 411/Art. 5 heading)

Article 5.

General Provisions

(Article scheduled to be repealed on January 1, 2022)

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/5-1)

(Section scheduled to be repealed on January 1, 2022)

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

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/5-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/5-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-10. Declaration of public policy. The practice of cemetery operation in the State of Illinois is hereby declared to affect the public health, safety, and well-being of its citizens and to be subject to regulation and control in the public interest. It is further declared that cemetery operation, as defined in this Act, should merit the confidence of the public and that only qualified persons shall be authorized to own, operate, manage, or otherwise control a cemetery in the State of Illinois. This Act shall be liberally construed to best carry out this purpose.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/5-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 provided by a licensed funeral director for the disposition of a dead human body.

"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.

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

"Cemetery manager" means an individual directly responsible or holding himself or herself directly responsible for the operation, maintenance, development, or improvement of a cemetery that is or shall be licensed under this Act, irrespective of whether the individual is paid by the licensed cemetery authority or a third party. This definition does not include a volunteer who receives no compensation, either directly or indirectly, for his or her work as a cemetery manager.

"Cemetery merchandise" means items of personal property normally sold by a cemetery authority not covered under the Illinois Funeral or Burial Funds Act, including, but not limited to: (1) memorials, (2) markers, (3) monuments, (4) foundations and installations, and (5) outer burial containers.

"Cemetery operation" means to engage in any or all of the following, whether on behalf of, or in the absence of, a cemetery authority: (i) the interment, entombment, or inurnment of human remains, (ii) the sale of interment, entombment, or inurnment rights, cemetery merchandise, or cemetery services, (iii) the maintenance of interment rights ownership records, (iv) the maintenance of or reporting of

interment, entombment, or inurnment records, (v) the maintenance of cemetery property, (vi) the development or improvement of cemetery grounds, or (vii) the maintenance and execution of business documents, including State and federal government reporting and the payment of taxes, for a cemetery business entity.

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

"Cemetery services" means those services customarily performed by cemetery personnel in connection with the interment, entombment, or inurnment of a dead human body.

"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.

"Confidential information" means unique identifiers, including a person's Social Security number, home address, home phone number, personal phone number, personal email address, personal financial information, and any other information protected by law.

"Consumer" means an individual who purchases or who is considering purchasing cemetery, burial, or cremation products or services from a cemetery authority, whether for themselves or for another person.

"Customer service employee" means an individual who has direct contact with consumers to explain cemetery merchandise, services, and interment rights and to execute the sale of those items to consumers, whether at the cemetery or an off-site location, irrespective of whether compensation is paid by the cemetery authority or a third party. This definition does not include a volunteer who receives no compensation, either directly or indirectly, for his or her work as a customer service employee.

"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, crypts, or niches are sold to the public and in which interments, inurnments, and entombments 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 any standards or method for burial or cremation 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.

"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.

"Lawn crypt" means a permanent underground crypt installed in multiple units for the entombment 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.

"Mausoleum crypt" means a grouping of spaces constructed of reinforced concrete or similar material constructed or assembled above the ground for entombing 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 by the Cemetery Oversight Database 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 burying ground" means a cemetery in which no lots, crypts, or niches are sold and in which interments, inurnments, and entombments are restricted to a group of individuals all belonging to a religious order or granted burial rights by special consideration of the religious order.

"Religious cemetery" means a cemetery owned, operated, controlled, and 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. The unique personal identifier is assigned by the Cemetery Oversight Database.

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

(225 ILCS 411/5-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-20. Exemptions.

(a) Full exemption. Except as provided in this subsection, this Act does not apply to (1) any cemetery authority operating as a family burying ground or religious burying ground, (2) any cemetery authority that has not engaged in an interment, inurnment, or entombment of human remains within the last 10 years, or (3) any cemetery authority that is less than 3 acres. 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 Section 10-20 of this Act. A cemetery authority claiming a full exemption shall be subject to Sections 10-40, 10-55, and 10-60 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) Partial exemption. If a cemetery authority does not qualify for a full exemption and (1) engages in 25 or fewer interments, inurnments, or entombments of human remains for each of the preceding 2 calendar years, (2) operates as a public cemetery, or (3) operates as a religious cemetery, then the cemetery authority is partially exempt from this Act but shall be required to comply with Sections 10-23, 10-40, 10-55, 10-60, subsections (a), (b), (b-5), (c), (d), and (h) of Section 20-5, Sections 20-6, 20-8, 20-10, 20-12, 20-30, 20-35, 20-40, 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 Section 10-20 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.

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

(225 ILCS 411/5-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-25. Powers of the Department. Subject to the provisions of this Act, the Department may exercise the following powers:

(1) Authorize certification programs 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 a licensed cemetery authority's records from any year or any other aspects of cemetery operation as the Department deems appropriate.

(3) Investigate any and all cemetery operations.

(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.

(8) Work with the Office of the Comptroller and the Department of Public Health, Division of Vital Records to exchange information and request additional information relating to a licensed cemetery authority.

(9) Investigate cemetery contracts, grounds, or employee records.

If the Department exercises its authority to conduct investigations under this Section, the Department shall provide the cemetery authority with information sufficient to challenge the allegation. If the complainant consents, then the Department shall provide the cemetery authority with the identity of and contact information for the complainant so as to allow the cemetery authority and the complainant to resolve the complaint directly. Except as otherwise provided in this Act, any complaint received by the Department and any information collected to investigate the complaint shall be maintained by the Department for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement

officials or other regulatory agencies or persons that have an appropriate regulatory interest, as determined by the Secretary, or to a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, state, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

(Source: P.A. 99-78, eff. 7-20-15.)

(225 ILCS 411/Art. 10 heading)

Article 10.

Licensing and Registration Provisions

(Article scheduled to be repealed on January 1, 2022)

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/10-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 or (ii) attach the title "licensed cemetery authority", "licensed cemetery manager", or "licensed customer service employee" to his or her name. No person shall, without a valid license or exemption from licensure from the Department, render or offer to render services constituting the practice of cemetery operation.

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

(225 ILCS 411/10-10)

Sec. 10-10. (Repealed).

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

(225 ILCS 411/10-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-15. Licenses for cemetery authorities, cemetery managers, and customer service employees. The application for a cemetery authority license must be submitted to the Department within 6 months after the Department adopts rules under this Act. For cemetery managers already working for a cemetery authority at the time of cemetery authority application for licensure, the application for a cemetery manager license must be submitted at the same time as the original application for licensure as a cemetery authority. Any applicant for licensure as a cemetery manager of a cemetery authority that is already licensed under this Act or that has a pending application for licensure under this Act must submit his or her application to the Department on or before his or her first day of work. The application for a customer service employee license must be submitted to the Department within 10 days after the cemetery authority for which he or she works becomes licensed under this Act or on or before his or her first day of work for a cemetery authority



that is already licensed under this Act, 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.

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

(225 ILCS 411/10-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 Section 10-55 of this Act and further refined by rule. Applications for partial or full exemption from licensure as a cemetery authority shall be submitted to the Department within 6 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. The process for renewing a full or partial exemption shall be set by rule. 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.

(b) (Blank).

(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.

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

(225 ILCS 411/10-21)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 has not committed any act or offense in any jurisdiction that would constitute the basis for discipline under this Act. When considering such license, 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 the Department shall determine whether each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock has met the requirements of this item (1) of subsection (a) of this Section.

(2) The applicant must provide a statement of its assets and liabilities to the Department.

(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 shall authorize the Department to conduct a criminal background check that does not involve fingerprinting.

(5) In the case of a person or entity applying for renewal of his, her, or its license, 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) Has acted in an ethical manner as set forth in Section 10-23 of this Act. In determining qualifications of licensure, 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) The applicant shall authorize the Department to conduct a criminal background check that does not involve fingerprinting.

(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) Submits proof of successful completion of a certification course recognized by the Department for a cemetery manager or customer service employee, whichever the case may be.

(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) (Blank).

(9) In the case of a person applying for renewal of his or her license, 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 authorize the Department to conduct a criminal background check that does not involve fingerprinting. The Department must, in turn, conduct the criminal background check on each applicant. The Department shall adopt rules to implement this subsection (c), but in no event shall the Department impose a fee upon the applicant for the background check.

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

(225 ILCS 411/10-22)

Sec. 10-22. (Repealed).

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

(225 ILCS 411/10-23)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-23. Code of Professional Conduct and Ethics. Licensed cemetery authorities and their licensed cemetery managers and customer service employees, and cemetery authorities maintaining a partial exemption and their cemetery managers and customer service employees shall:

(a) refrain from committing any action that may violate Section 25-10 of this Act;

(b) be aware of applicable federal and State laws and regulations, adhere to those laws and regulations, and be able to explain them to families in an understandable manner;

(c) treat all human remains with proper care and



dignity, honoring known religious, ethnic, and personal beliefs;

(d) protect all confidential information;

(e) carry out all aspects of service in a competent and respectful manner;

(f) fulfill all written and verbal agreements and contracts;

(g) provide honest, factual, and complete information regarding all aspects of the services offered and provided;

(h) not engage in advertising that is false, misleading, or otherwise prohibited by law;

(i) not discriminate against any person because of race, creed, marital status, sex, national origin, sexual orientation, or color, except a religious cemetery may restrict its services to those of the same religious faith or creed. A cemetery authority operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation;

(j) to have clear and specific cemetery rules and regulations, subject to other applicable law, including this Act, and to apply them equally to all families served;

(k) report all violations of this Act and this Section to the Department.

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

(225 ILCS 411/10-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-25. Certification.

(a) The Department shall authorize certification programs for cemetery manager and customer service employee applicants. The certification programs must consist of education and training in cemetery ethics, cemetery law, and cemetery practices. Cemetery ethics shall include, without limitation, the Code of Professional Conduct and Ethics as set forth in Section 10-23 of this Act. Cemetery law shall include, without limitation, the Cemetery Oversight Act, the Cemetery Care Act, the Disposition of Remains Act, and the Cemetery Protection Act. Cemetery practices shall include, without limitation, treating the dead and their family members with dignity and respect. The certification program shall include an examination administered by the entity providing the certification.

(a-5) An entity seeking to offer a certification program to cemetery manager applicants and customer service employee applicants must receive approval of its program from the Department in a manner and form prescribed by the Department by rule. As part of this process, the entity must submit to the Department the examination it offers or intends to offer as part of its certification program.

(a-10) A cemetery manager applicant or customer service employee applicant may choose any entity that has been approved by the Department from which to obtain certification.

(b) Cemetery manager applicants and customer service employee applicants shall pay the fee for the certification program directly to the entity offering the program.

(c) If the cemetery manager applicant or customer service employee applicant neglects, fails, or refuses to become

certified 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) A cemetery manager applicant or customer service employee applicant who has completed a certification program offered by an entity that has not received the Department's approval as required by this Section has not met the qualifications for licensure as set forth in Section 10-21 of this Act.

(e) The Department shall recognize any certification program that is conducted by a death care trade association in Illinois that has been in existence for more than 5 years that, in the determination of the Department, provides adequate education and training in cemetery law, cemetery ethics, and cemetery practices and administers an examination covering the same.

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

(225 ILCS 411/10-30)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-30. Continuing education. The Department shall adopt rules for continuing education of cemetery managers and customer service employees. The continuing education programs may consist of education and training in cemetery ethics, cemetery law, and cemetery practices as defined in Section 10-25 of this Act. An entity seeking to offer a continuing education program to cemetery managers and customer service employees must receive approval of its program from the Department in a manner and form prescribed by the Department by rule. Cemetery managers shall be required to complete 6 hours of continuing education during each renewal cycle. Customer service employees shall be required to complete 3 hours of continuing education during each renewal cycle.

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

(225 ILCS 411/10-39)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-39. Cemetery manager and customer service employee; display of certification and license; grace periods. The cemetery manager and customer service employee must conspicuously display the certification and the license after it is received at the cemetery authority's place of business. Any person applying for original licensure as a cemetery manager without the required certification from a program approved by the Department shall have a reasonable period of time, not to exceed one year from the date of his or her original application, but not any second or subsequent application, to complete the program. In the interim, the cemetery manager without certification may manage the cemetery if he or she (1) has submitted an application for licensure and (2) has received training from another person, as verified by an appropriate form approved by the Department, who has received the required certification from a program recognized by the Department. Any person applying for original licensure as a customer service employee without the required certification from a program approved by the Department shall have a reasonable period of time, not to exceed one year from the date of his or her original application, but not any

second or subsequent application, to complete the program. In the interim, the customer service employee without certification may engage in the work of a customer service employee if he or she (1) has submitted an application for licensure and (2) has received training from another person, as verified by an appropriate form approved by the Department, who has received certification from a program recognized by the Department.

(Source: P.A. 97-679, eff. 2-6-12.)

(225 ILCS 411/10-40)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-40. Expiration and renewal of license. Every cemetery authority, cemetery manager, and customer service employee license shall expire every 2 years. Every registration as a fully exempt cemetery authority or partially exempt cemetery authority shall expire every 4 years. The expiration date, renewal period, and other requirements for each license and registration shall be further refined by rule.

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

(225 ILCS 411/10-45)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-45. Transfer or sale, preservation of license.

(a) (Blank).

(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. The sale or transfer may not be completed by the cemetery authority unless and until:

(1) (Blank).

(2) (Blank).

(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.

(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.

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

(225 ILCS 411/10-50)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-50. Dissolution. Where any licensed cemetery authority or any trustee thereof seeks dissolution 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. The Department, represented by the Attorney General, may apply to the circuit court for the appointment of a receiver or for directions of such court as to the proper continued operation of the cemetery.

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

(225 ILCS 411/10-55)

(Section scheduled to be repealed on January 1, 2022)

Sec. 10-55. Fees.

(a) Except as provided in this Section, the fees for the administration and enforcement of this Act shall be set by the Department by rule. The fees shall be reasonable and shall not be refundable.

(b) Cemetery manager applicants and customer service employee applicants shall pay any certification program or continuing education program fee directly to the entity offering the program.

(c) The Department may waive fees based upon hardship.

(d) Nothing shall prohibit a cemetery authority from paying, on behalf of its cemetery managers or customer service employees, their application, renewal, or restoration fees.

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

(f) The fee for application as a cemetery authority seeking a full exemption is \$0.

(g) The fee to renew registration as a fully exempt cemetery authority is \$0. As provided in Section 10-40 of this Act and as further refined by rule, each registration as a fully exempt cemetery authority shall expire every 4 years.

(h) The fee for application as a cemetery authority seeking a partial exemption is \$150.

(i) The fee to renew registration as a partially exempt cemetery authority is \$150. As provided in Section 10-40 of this Act and as further refined by rule, each registration as a partially exempt cemetery authority shall expire every 4 years.

(j) The fee for original licensure, renewal, and restoration as a cemetery authority not seeking a full or partial exemption is \$75. As provided in Section 10-40 of this Act and as further refined by rule, each cemetery authority license shall expire every 2 years.

(k) The fee for original licensure, renewal, and restoration as a cemetery manager is \$25. As provided in Section 10-40 of this Act and as further refined by rule, each cemetery manager license shall expire every 2 years.

(l) The fee for original licensure, renewal, and restoration as a customer service employee is \$25. As provided in Section 10-40 of this Act and as further refined by rule, each customer service employee license shall expire every 2



years.

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

(225 ILCS 411/10-60)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/Art. 15 heading)

Article 15.

Trust Funds

(Repealed)

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

(225 ILCS 411/Art. 20 heading)

Article 20.

Business Practice Provisions

(Article scheduled to be repealed on January 1, 2022)

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20-5. Maintenance and records.

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

(1) the laying of seed, sod, or other suitable ground

cover as soon as practical following an interment given the weather conditions, climate, and season and the interment's proximity to ongoing burial activity;

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

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

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

(5) maintaining, repairing, or removing, if necessary, drains, water lines, roads, buildings, fences, and other structures; and

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

In determining whether a cemetery authority provides reasonable maintenance of the cemetery property, the Department shall consider:

(1) the cemetery authority's contractual obligations for care and maintenance;

(2) the size of the cemetery;

(3) the extent and use of the cemetery authority's financial resources;

(4) the standard of maintenance of one or more similarly situated cemeteries; in determining whether a cemetery is similarly situated, the Department shall consider the cemetery's size, location, topography, and financial resources, and whether the cemetery is a fraternal cemetery, a religious cemetery, a public cemetery, a cemetery owned and operated by a cemetery association, or a licensed cemetery.

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

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

A cemetery authority accused of violating the reasonable maintenance standard set forth in this Section shall have a reasonable opportunity to cure the violation. The cemetery authority shall have 10 business days after receipt of notice to cure the violation. If a cemetery authority cannot cure the violation within 10 business days, then the cemetery authority may request a time extension in order to cure the violation. The request for an extension shall be made in writing to the Department and must be postmarked within 10 business days after receipt of the notice of the alleged violation. The request shall outline all reasons for the extension and an estimated date by which the cure will be accomplished. Acceptable reasons include, without limitation, delays caused by weather conditions, season or climate, equipment failures, or acquisitions of materials or supplies being addressed by the authority in a timely manner, and unexpected temporary absences of personnel. The Department may approve or deny the extension. If the extension is denied, then the cemetery authority must cure the violation within 10 business days.



after the date of receipt of the Department's extension denial. If the extension is granted, then the cemetery authority must cure the violation within the extended period of time. A cemetery authority that does not cure the violation within the appropriate period of time shall be subject to discipline in accordance with Article 25 of this Act.

(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. The cemetery authority shall update its map and index described in subsection (b-5) within a reasonable time after any expansion or alteration of the cemetery property. 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 if (1) a human body that should have been interred, entombed, or inurned at the cemetery after the effective date of this amendatory Act of the 97th General Assembly is missing, displaced, or dismembered and (2) 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 the specific location of the interred, entombed, or inurned human remains. The specific location shall correspond to the map or plat maintained in accordance with subsection (b) of this Section.

(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) A licensed cemetery authority shall keep in this State and use in its business such 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 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.

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

(225 ILCS 411/20-6)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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).

(f) In the event the provider of the database imposes a fee for entries into the database, the fee shall be paid directly by the Department to the provider, and the fee may not be imposed upon cemetery authorities making entries into the database. However, the provider need not refund any entry fees paid by cemetery authorities prior to the effective date of this amendatory Act of the 97th General Assembly.

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

(225 ILCS 411/20-8)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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) the date on which the arrangements were made; (ii) the price of the service selected and the services and merchandise included for that price; (iii) the supplemental items of service and merchandise requested and the price of each item; (iv) the terms or method of payment agreed upon;

and (v) a statement as to any monetary advances made on behalf of the family. The cemetery authority shall maintain a copy of such written contract in its permanent records.

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

(225 ILCS 411/20-11)

Sec. 20-11. (Repealed).

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

(225 ILCS 411/20-12)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-25)

Sec. 20-25. (Repealed).

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



(225 ILCS 411/20-30)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/20-35)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20-35. Stacking; burial or interment of an unknown individual or unknown body part.

(a) The stacking of caskets underground of any individual is limited to no more than 3 caskets in one grave space with the exception of an arrangement made pursuant to a lawful contract with a consumer that complies with the requirements of Section 20-10 of this Act.

(b) Burials and interments of unknown individuals or unknown body parts must be entered into the Cemetery Oversight Database as provided in Section 20-6 of this Act.

(Source: P.A. 97-679, eff. 2-6-12.)

(225 ILCS 411/20-40)

(Section scheduled to be repealed on January 1, 2022)

Sec. 20-40. Burial of multiple persons. A cemetery authority shall not knowingly bury human remains from multiple persons, known or unknown, in the same casket or grave space with the exception of (1) human remains that are placed in individual containers, (2) a mass casualty event, either natural or man-made, or (3) an arrangement made pursuant to a lawful contract with a consumer that complies with the requirements of Section 20-10 of this Act.

(Source: P.A. 97-679, eff. 2-6-12.)

(225 ILCS 411/Art. 22 heading)

Article 22.

Cemetery Associations

(Repealed)

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

(225 ILCS 411/Art. 25 heading)

Article 25.

Administration and Enforcement

(Article scheduled to be repealed on January 1, 2022)

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-1)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-3)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 \$8,000 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 higher 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 agency, 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 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, employee, 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) (Blank).

(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, except for a violation of item (3) of subsection (a) of this Section. If a person licensed under this Act violates item (3) of

subsection (a) of this Section, then the action may commence within 10 years after the occurrence of the alleged violation. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the alleged violation.

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

(225 ILCS 411/25-13)

Sec. 25-13. (Repealed).

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

(225 ILCS 411/25-14)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 may direct the consumer to the sign posted in its office as required by Section 20-30 of this Act. Cemetery authorities shall report to the Department within 30 days after the settlement of 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.

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

(225 ILCS 411/25-14.5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-14.5. Comptroller report. The Comptroller shall annually provide a report to the Department with the total amount of trust funds reported by a cemetery authority licensed under the Cemetery Care Act, the Illinois Pre-Need Cemetery Sales Act, or the Illinois Funeral or Burial Funds Act and provide other information about a cemetery authority upon the request of the Department. Additionally, the Comptroller shall report to the Department any adverse action taken against a cemetery authority under the Cemetery Care Act, the Illinois Pre-Need Cemetery Sales Act, or the Illinois Funeral or Burial Funds Act.

(Source: P.A. 97-679, eff. 2-6-12.)

(225 ILCS 411/25-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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; (3) examine any books and records of the licensee 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.

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

(225 ILCS 411/25-30)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.  
(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-35)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.  
(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-40)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-45)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-50)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-55)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-60)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-65)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-70)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 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.

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

(225 ILCS 411/25-75)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 transferred into the Cemetery Relief Fund.

(c) All monies transferred 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.

(e) In the event there is a structural surplus in the Cemetery Oversight Licensing and Disciplinary Fund, the Department may expend moneys out of the Cemetery Oversight Licensing and Disciplinary Fund for the purposes described in subsection (c) of this Section.

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12; 97-1130, eff. 8-28-12.)

(225 ILCS 411/25-80)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-85)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-90)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.  
(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-95)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-100)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-105)

(Section scheduled to be repealed on January 1, 2022)

Sec. 25-105. Violations. Each of the following acts is a Class A misdemeanor for the first offense and a Class 4 felony for each subsequent offense:

(1) the practice of or attempted practice of or holding out as available to practice as a cemetery authority, cemetery manager, or customer service employee without a license; or

(2) the obtaining of or the attempt to obtain any license or authorization under this Act by fraud or misrepresentation.

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

(225 ILCS 411/25-110)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 \$8,000 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.

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

(225 ILCS 411/25-115)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/25-120)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 employee that is taken in retaliation for a cemetery manager's, customer service employee's, or employee'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 employee because the cemetery manager, customer service employee, or employee 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 employee 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 employee 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 employee. 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 employee may be awarded all remedies necessary to make the cemetery manager, customer service employee, or employee 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 employee under any other federal or State law, rule, or regulation or under any employment contract.

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

(225 ILCS 411/25-125)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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 in the approval of entities seeking to offer certification programs to cemetery manager applicants and customer service employee applicants. Notice of any proposed rulemaking under this Act and applications submitted by entities seeking to offer certification programs shall be transmitted to the Board and the Department shall review the response of the Board and any

recommendations made therein.

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

(225 ILCS 411/Art. 35 heading)

Article 35.

Consumer Bill of Rights

(Article scheduled to be repealed on January 1, 2022)

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/35-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/35-10)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/35-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/Art. 75 heading)

Article 75.

Administrative Provisions

(Article scheduled to be repealed on January 1, 2022)

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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. (Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-15)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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. (Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-20)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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. (Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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. (Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-35)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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. (Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/75-45)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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. (Source: P.A. 96-863, eff. 3-1-10.)



(225 ILCS 411/75-50)

(Section scheduled to be repealed on January 1, 2022)

Sec. 75-50. Burial permits. Notwithstanding any law to the contrary, every burial permit shall contain information 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.

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

(225 ILCS 411/75-55)

(Section scheduled to be repealed on January 1, 2022)

Sec. 75-55. Transition.

(a) (Blank).

(b) (Blank).

(c) All cemeteries not maintaining a full exemption or partial exemption shall pay a one-time fee to the Department, due no later than December 15, 2010, equal to \$20 plus an additional charge of \$1 for each burial performed within the cemetery during calendar year 2009.

(d) All fees collected under this Section prior to the effective date of this amendatory Act of the 97th General Assembly shall not be refunded.

(e) (Blank).

(f) (Blank).

(g) (Blank).

(Source: P.A. 96-863, eff. 3-1-10; 97-593, eff. 8-26-11; 97-679, eff. 2-6-12.)

(225 ILCS 411/Art. 90 heading)

Article 90.

Amendatory Provisions and Repeals

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/90-1)

Sec. 90-1. (Amendatory provisions; text omitted).

(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-3)

Sec. 90-3. (Amendatory provisions; text omitted).

(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-5)

Sec. 90-5. (Amendatory provisions; text omitted).

(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-10)

Sec. 90-10. (Amendatory provisions; text omitted).

(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-25)

Sec. 90-25. (Amendatory provisions; text omitted).

(Source: P.A. 96-863, eff. 3-1-12; text omitted.)

(225 ILCS 411/90-30)

Sec. 90-30. (Amendatory provisions; text omitted).

(Source: P.A. 96-863, eff. 3-1-10; text omitted.)



(225 ILCS 411/90-33)  
Sec. 90-33. (Amendatory provisions; text omitted).  
(Source: P.A. 96-863, eff. 1-19-10; text omitted.)

(225 ILCS 411/90-35)  
Sec. 90-35. (Amendatory provisions; text omitted).  
(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-40)  
Sec. 90-40. (Amendatory provisions; text omitted).  
(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-45)  
Sec. 90-45. (Amendatory provisions; text omitted).  
(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-50)  
Sec. 90-50. (Amendatory provisions; text omitted).  
(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-57)  
Sec. 90-57. (Amendatory provisions; text omitted).  
(Source: P.A. 96-863, eff. 1-19-10; text omitted.)

(225 ILCS 411/90-60)  
Sec. 90-60. (Amendatory provisions; text omitted).  
(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/90-90)  
Sec. 90-90. (Repealed).  
(Source: P.A. 96-863, eff. 3-1-12. Repealed by P.A. 97-679, eff. 2-6-12.)

(225 ILCS 411/90-92)  
Sec. 90-92. The Cemetery Association Act is amended by repealing Sections 16, 16.5, 17, 18, 19, and 20.  
(Source: P.A. 96-863, eff. 1-19-10.)

(225 ILCS 411/90-95)  
Sec. 90-95. (Repealed).  
(Source: P.A. 96-863, eff. 3-1-12. Repealed by P.A. 97-679, eff. 2-6-12.)

(225 ILCS 411/Art. 91 heading)  
Article 91.  
Additional Amendatory Provisions  
(Amendatory provisions; text omitted)  
(Source: P.A. 96-863, eff. 3-1-10; text omitted.)

(225 ILCS 411/Art. 900 heading)  
Article 900.  
Severability  
(Article scheduled to be repealed on January 1, 2022)  
(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/900-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/Art. 999 heading)

Article 999.

Effective date

(Article scheduled to be repealed on January 1, 2022)

(Source: P.A. 96-863, eff. 3-1-10.)

(225 ILCS 411/999-5)

(Section scheduled to be repealed on January 1, 2022)

Sec. 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.

(Source: P.A. 96-863, eff. 1-19-10.)

**Information maintained by the Legislative Reference Bureau**

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## **CONSERVATION**

### **(525 ILCS 30/) Illinois Natural Areas Preservation Act.**

(525 ILCS 30/1) (from Ch. 105, par. 701)

Sec. 1. This Act shall be known and may be cited as the "Illinois Natural Areas Preservation Act".  
(Source: P.A. 82-445.)

(525 ILCS 30/2) (from Ch. 105, par. 702)

Sec. 2. All areas within the State except those that are expressly designated by law for preservation and protection in their natural condition are liable to be altered by human activity. Natural lands and waters together with the plants and animals living thereon in natural communities are a part of the heritage of the people. They are of value for scientific research, for teaching, as reservoirs of natural materials not all of the potential uses of which are now known, as habitats for rare and vanishing species, as places of historic and natural interest and scenic beauty and as living museums of the native landscape wherein one may envision and experience primeval conditions in a wilderness-like environment. They also contribute generally to the public health and welfare and the environmental quality of the State.

It is therefore the public policy of the State of Illinois to secure for the people of present and future generations the benefits of an enduring resource of natural areas, including the elements of natural diversity present in the State, by establishing a system of nature preserves, protecting nature preserves and gathering and disseminating information regarding them, providing for appropriate use of nature preserves that will not damage them, establishing and maintaining a register of natural areas and buffer areas, providing certain forms of protection and control of registered natural areas and registered buffer areas and otherwise encouraging and assisting in the preservation of natural areas and features.  
(Source: P.A. 85-150.)

(525 ILCS 30/3) (from Ch. 105, par. 703)

Sec. 3. Unless the context otherwise requires, the terms defined in Sections 3.01 through 3.16 have the meanings ascribed to them in those Sections.  
(Source: P.A. 82-445.)

(525 ILCS 30/3.01) (from Ch. 105, par. 703.01)

Sec. 3.01. "Abandoned cemetery" means a cemetery (a) in which no interments have been made and no parts of which have

been conveyed or transferred (other than by inheritance or operation of law) for at least 30 years, (b) which has been exempt from real estate taxes for at least 30 years and (c) for which there is no cemetery authority.

(Source: P.A. 82-445.)

(525 ILCS 30/3.02) (from Ch. 105, par. 703.02)

Sec. 3.02. "Buffer area" means an area of land, any estate, interest or right in which has been dedicated or registered under this Act as a buffer area because it protects, provides access to or otherwise serves as a necessary adjunct to a nature preserve or registered natural area or because in the opinion of the Commission it will, with protection, become a natural area suitable for dedication as a nature preserve in the future.

(Source: P.A. 82-445.)

(525 ILCS 30/3.03) (from Ch. 105, par. 703.03)

Sec. 3.03. "Cemetery" means a parcel of land devoted to, or at least a part of which has been used for, the interment of human remains.

(Source: P.A. 82-445.)

(525 ILCS 30/3.04) (from Ch. 105, par. 703.04)

Sec. 3.04. "Cemetery authority" means a legally authorized owner, operator, manager or other person in control of a cemetery and actively attending to its care and maintenance.

(Source: P.A. 82-445.)

(525 ILCS 30/3.05) (from Ch. 105, par. 703.05)

Sec. 3.05. "Commission" means the Illinois Nature Preserves Commission created under this Act.

(Source: P.A. 82-445.)

(525 ILCS 30/3.06) (from Ch. 105, par. 703.06)

Sec. 3.06. "Dedicate" means to set aside land in perpetuity as a nature preserve or as a buffer area as provided in this Act for the benefit of the public, thereby subjecting the land to a negative easement in favor of the public and precluding the owner from asserting any right of ownership inconsistent with this Act or the dedication.

(Source: P.A. 82-445.)

(525 ILCS 30/3.07) (from Ch. 105, par. 703.07)

Sec. 3.07. "Department" means the Department of Natural Resources.

(Source: P.A. 89-445, eff. 2-7-96.)

(525 ILCS 30/3.08) (from Ch. 105, par. 703.08)

Sec. 3.08. "Director" means the Director of the Department, who may be represented by his designated agents.

(Source: P.A. 82-445.)

(525 ILCS 30/3.09) (from Ch. 105, par. 703.09)

Sec. 3.09. "Land" means real property and ownership rights applying thereto and includes water and the land thereunder, structures and improvements.

(Source: P.A. 82-445.)

(525 ILCS 30/3.10) (from Ch. 105, par. 703.10)

Sec. 3.10. "Natural area" means an area of land in public or private ownership which, in the opinion of the Commission, either retains or has recovered to a substantial degree its original natural or primeval character, though it need not be completely undisturbed, or has floral, faunal, ecological, geological or archaeological features of scientific, educational, scenic or esthetic interest.  
(Source: P.A. 82-445.)

(525 ILCS 30/3.11) (from Ch. 105, par. 703.11)

Sec. 3.11. "Nature preserve" means a natural area, and land necessary for its protection, any estate, interest or right in which has been dedicated under this Act to be maintained as nearly as possible in its natural condition and to be used in a manner and under limitations consistent with its continued preservation, without impairment, disturbance or artificial development, for the public purposes of present and future scientific research, education, esthetic enjoyment and providing habitat for plant and animal species and communities and other natural objects.  
(Source: P.A. 82-445.)

(525 ILCS 30/3.12) (from Ch. 105, par. 703.12)

Sec. 3.12. "Plan" means a master plan, developed and approved in accordance with the rules, for the preservation, protection, development, management and use of a nature preserve or a registered area.  
(Source: P.A. 82-445.)

(525 ILCS 30/3.13) (from Ch. 105, par. 703.13)

Sec. 3.13. "Register" means the official list of registered areas or to place an area on such list.  
(Source: P.A. 82-445.)

(525 ILCS 30/3.14) (from Ch. 105, par. 703.14)

Sec. 3.14. "Registered area" means a natural area or a buffer area registered by the Department under this Act.  
(Source: P.A. 82-445.)

(525 ILCS 30/3.15) (from Ch. 105, par. 703.15)

Sec. 3.15. "Rules" means rules adopted by the Commission in conjunction with the Department under this Act.  
(Source: P.A. 82-445.)

(525 ILCS 30/3.16) (from Ch. 105, par. 703.16)

Sec. 3.16. "System" means the State system of nature preserves established under this Act.  
(Source: P.A. 82-445.)

(525 ILCS 30/4) (from Ch. 105, par. 704)

Sec. 4. The Illinois Nature Preserves Commission is created. The Commission succeeds and continues the Commission created by "An Act relating to the creation of the Illinois Nature Preserves Commission and defining its powers and duties", approved August 28, 1963, as amended. The Commission consists of 9 members appointed by the Governor. The Chief of



the Illinois Natural History Survey and the Director of the Illinois State Museum shall advise the Governor on the making of appointments to the Commission and shall recommend persons suitable for appointment. The Governor shall obtain the advice of the Chief of the Illinois Natural History Survey and the Director of the Illinois State Museum concerning the suitability of any person he proposes to appoint as a member of the Commission. Members shall be persons who have demonstrated an interest in the preservation of natural areas. The members of the Commission created by "An Act relating to the creation of the Illinois Nature Preserves Commission and defining its powers and duties", approved August 28, 1963, as amended, incumbent on the effective date of this Act, shall serve as members of this Commission until the expiration of their terms under that Act, with the terms of 3 members expiring on June 30 of each year. Members shall serve until their successors are appointed and qualified. Their successors shall be appointed for 3-year terms, expiring on June 30. When an appointment is made to fill a vacancy, the appointment shall be for the remainder of the unexpired term. Any member of the Commission who has served 2 consecutive full terms is ineligible for reappointment for a period of one year following the expiration of the second term.

The Commission shall select from its membership a chairman and such other officers as it considers necessary and shall adopt policies and rules for conducting its affairs, transacting its business and keeping records. The Commission shall meet annually or more frequently upon the call of the chairman or 3 members. The members of the Commission shall serve without compensation but may be reimbursed for necessary expenses incurred in connection with the performance of their duties.

(Source: P.A. 82-445.)

(525 ILCS 30/5) (from Ch. 105, par. 705)

Sec. 5. The Director, the Chief of the Illinois Natural History Survey and the Director of the Illinois State Museum, or their representatives, and representatives of such other agencies, institutions and organizations as the Commission may determine shall serve as advisors to the Commission. The Commission may appoint consultants. Advisors and consultants shall have the privilege of discussion and debate, but without the right to vote, in the meetings of the Commission. They shall serve without compensation but may be reimbursed for necessary expenses incurred in connection with the performance of their duties. The Commission may meet without the participation of the advisors and consultants when it so desires.

(Source: P.A. 82-445.)

(525 ILCS 30/6) (from Ch. 105, par. 706)

Sec. 6. To effectuate the purposes of this Act, the Commission has the powers and duties enumerated in Sections 6.01 through 6.09 and elsewhere in this Act.

(Source: P.A. 82-445.)

(525 ILCS 30/6.01) (from Ch. 105, par. 706.01)

Sec. 6.01. To compile and maintain inventories, registers and records of nature preserves, other natural areas and

features, and species of plants and animals and their habitats and establish a fee, by rule, to be collected to recover the actual cost of collecting, storing, managing, compiling, and providing access to such inventories, registers, and records. All fees collected under this Section shall be deposited into the Natural Areas Acquisition Fund. The monies deposited into the Natural Areas Acquisition Fund under this Section shall not be subject to administrative charges or chargebacks unless otherwise authorized by this Act.

(Source: P.A. 97-1136, eff. 1-1-13.)

(525 ILCS 30/6.02) (from Ch. 105, par. 706.02)

Sec. 6.02. To seek and approve the dedication of nature preserves as part of the system.

(Source: P.A. 82-445.)

(525 ILCS 30/6.03) (from Ch. 105, par. 706.03)

Sec. 6.03. To prepare, or guide and participate in the preparation of, master plans for nature preserves, to keep watch over the protection, management and use of nature preserves, and to approve or disapprove the manner of holding and managing any nature preserve.

(Source: P.A. 82-445.)

(525 ILCS 30/6.04) (from Ch. 105, par. 706.04)

Sec. 6.04. To conduct investigations and to disseminate information and recommendations pertaining to nature preserves; other natural areas; and habitats of endangered, threatened or rare species of plants and animals and other elements of natural diversity.

(Source: P.A. 82-445.)

(525 ILCS 30/6.05) (from Ch. 105, par. 706.05)

Sec. 6.05. To promote by advice and other assistance the protection of natural areas in the State which are not dedicated as nature preserves.

(Source: P.A. 82-445.)

(525 ILCS 30/6.06) (from Ch. 105, par. 706.06)

Sec. 6.06. To submit to the Governor, and to publish, before May 1 of each odd-numbered year a report which shall account for the condition of each nature preserve and each registered area and shall set forth actions of the Commission relating to the status of nature preserves and registered areas; and to publish such additional reports as it deems necessary.

(Source: P.A. 82-445.)

(525 ILCS 30/6.07) (from Ch. 105, par. 706.07)

Sec. 6.07. To formulate and adopt policies for (a) development and maintenance of the nature preserves system; (b) selection, acquisition, management, protection and use of dedicated and registered areas; (c) dedication of land within the system; (d) registration of areas; (e) protection of registered areas; (f) protection of habitats of endangered, threatened or rare species; (g) protection of geological sites; and (h) protection of archaeological sites and

artifacts.

(Source: P.A. 82-445.)

(525 ILCS 30/6.08) (from Ch. 105, par. 706.08)

Sec. 6.08. To adopt rules in accordance with the "Illinois Administrative Procedure Act", for (a) development and maintenance of the nature preserves system; (b) selection, acquisition, management, protection and use of dedicated and registered areas; (c) dedication of land within the system; (d) registration of areas; (e) protection of registered areas; (f) protection of habitats of endangered, threatened or rare species; (g) protection of geological sites; and (h) protection of archaeological sites and artifacts. Such rules shall be promulgated after consultation with and written approval by the Department.

(Source: P.A. 83-1072.)

(525 ILCS 30/6.09) (from Ch. 105, par. 706.09)

Sec. 6.09. To accept and administer, with the approval of the Director, gifts, grants and legacies of money, securities or other property to be used by the Commission for the purposes of this Act and according to the tenor of such gift, grant or legacy.

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

(525 ILCS 30/7) (from Ch. 105, par. 707)

Sec. 7. To effectuate the purposes of this Act, the Department has the powers and duties enumerated in sections 7.01 through 7.06 and elsewhere in this Act.

(Source: P.A. 82-445.)

(525 ILCS 30/7.01) (from Ch. 105, par. 707.01)

Sec. 7.01. To dedicate land held by the Department as nature preserves as provided in this Act.

(Source: P.A. 82-445.)

(525 ILCS 30/7.02) (from Ch. 105, par. 707.02)

Sec. 7.02. To cooperate with the Commission in matters relating to the purposes of this Act, and, at its discretion, to provide to the Commission upon its request, services, supplies, funds, facilities and other assistance.

(Source: P.A. 82-445.)

(525 ILCS 30/7.03) (from Ch. 105, par. 707.03)

Sec. 7.03. To review and approve in writing rules promulgated by the Commission.

(Source: P.A. 83-1072.)

(525 ILCS 30/7.04) (from Ch. 105, par. 707.04)

Sec. 7.04. To enforce rules pertaining to public use of and activities on nature preserves and buffer areas.

(Source: P.A. 82-445.)

(525 ILCS 30/7.05) (from Ch. 105, par. 707.05)

Sec. 7.05. To acquire by gift, legacy, purchase, transfer, grant, agreement, dedication, or condemnation under the Eminent Domain Act, as amended, or other method, the fee simple title to real property or any lesser estates, interests

or rights therein, including but not limited to leasehold estates, easements either appurtenant or in gross and either granting the Department specified rights of use or denying to the grantor specified rights of use or both (which easements may be perpetual and shall not be extinguished by conveyance of the servient estate), licenses, covenants, and other contractual rights in real property and to hold and manage the same for the purposes of this Act, and with or without public access.

(Source: P.A. 96-328, eff. 8-11-09.)

(525 ILCS 30/7.05a)

Sec. 7.05a. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

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

(525 ILCS 30/7.06) (from Ch. 105, par. 707.06)

Sec. 7.06. To register natural areas and buffer areas.

(Source: P.A. 82-445.)

(525 ILCS 30/8) (from Ch. 105, par. 708)

Sec. 8. There shall be a master plan for each nature preserve or registered area. The manner of preparation, review and adoption of the plan shall be as provided by rules.

(Source: P.A. 82-445.)

(525 ILCS 30/9) (from Ch. 105, par. 709)

Sec. 9. A State system of nature preserves is established. The system consists of nature preserves dedicated as provided in this Act.

A natural area which has been found by the Commission to be suitable for inclusion in the system shall become a nature preserve upon its dedication by the owner of the land, or of an interest or a right therein, with the approval of the Commission and the Governor. Dedication may be either donative or for a consideration. The dedication shall be evidenced by an instrument of dedication which shall be in such form as the Commission may approve. So long as consistent with the purposes of this Act, the instrument of dedication may (a) define the respective rights and duties of the owner or custodian and the Commission; (b) contain provisions relating to management, development, use, public access, sale or transfer; (c) provide procedures to be applied in case of violation of its provisions; (d) recognize or create reversionary rights, transfers upon conditions and gifts; (e) contain such other provisions as may be necessary or advisable and (f) vary in provisions from one nature preserve to another in accordance with differences in the characteristics and conditions of the areas involved. No condition of the instrument of dedication shall limit the perpetuity of the dedication except that preexisting encumbrances on the land may be recognized.

The Commission may cause the instrument of dedication and any amendments thereto to be filed for record in the office of the recorder of each county in which the nature preserve is



located.

(Source: P.A. 83-358.)

(525 ILCS 30/10) (from Ch. 105, par. 710)

Sec. 10. An area may be dedicated as a buffer area in the same manner as provided in this Act for the dedication of a nature preserve. A dedicated buffer area shall have the same status and protection under this Act as a nature preserve, including being subject to the provisions of Section 14, except that the Commission, the Governor and any public owner of a dedicated interest therein may jointly approve a taking of land therefrom, or allow an intrusion thereon, for another public use after a finding by the Commission that such taking or intrusion would be in the public interest. A dedicated buffer area may be dedicated as a nature preserve.

(Source: P.A. 82-445.)

(525 ILCS 30/11) (from Ch. 105, par. 711)

Sec. 11. Any part or all of a cemetery that is suitable for dedication may be dedicated, as provided in this Act, by the owner or other cemetery authority. Dedication of a cemetery or a part thereof does not affect its status as a cemetery nor affect any rights of continuing use of the cemetery for cemetery purposes including the maintenance, construction or preservation of markers, monuments or memorials, the care of any burial space or the use of a burial space for an interment, except that, after the cemetery is dedicated, the cemetery authority shall not convey or assign any right of interment or authorize any interment for which there was not a prior right and any maintenance or construction activity shall be in accordance with the rules and the master plan.

(Source: P.A. 82-445.)

(525 ILCS 30/12) (from Ch. 105, par. 712)

Sec. 12. If all or part of an abandoned cemetery is suitable for dedication, the county board for the county in which it is situated may dedicate it in the manner provided in this Act. If a county board proposes and intends to dedicate a described abandoned cemetery or part thereof, it shall so notify the Commission by resolution. Upon receiving the resolution of the county board, the Commission shall, in a manner to be provided by rules, give public notice of the proposal and provide an opportunity for any person to be heard at a public meeting or to request the holding of a public meeting on the question of whether the cemetery is an abandoned cemetery and, if so, whether it should be dedicated. If, after considering any statements it receives on the matter, the Commission decides the cemetery is an abandoned cemetery and that it should be dedicated, the county board may dedicate the cemetery or part thereof as provided in Section 9.

(Source: P.A. 82-445.)

(525 ILCS 30/13) (from Ch. 105, par. 713)

Sec. 13. An owner of a nature preserve retains custody, administration and management thereof, or may assign, lease or convey an interest or ownership therein, or contract for the custody, maintenance or operation thereof, subject to the



instrument of dedication, the policies of the Commission, the rules, the plan and this Act. The Department, the Commission and others may participate in management or custody of a nature preserve as provided by the instrument of dedication or the rules.

(Source: P.A. 82-445.)

(525 ILCS 30/14) (from Ch. 105, par. 714)

Sec. 14. Nature preserves are held in trust, for those uses and purposes expressed in this Act which are not prohibited by their instruments of dedication, for the benefit of the people of the State of present and future generations. Areas dedicated as nature preserves are hereby declared to be put to their highest, best and most important use for the public benefit. They shall be protected, managed and used in the manner provided by rules. They may not be taken under power of eminent domain or by other means for any other use except another public use and except upon approval of the Commission, the Governor and any public owner of a dedicated interest therein after a finding by the Commission of the existence of an imperative and unavoidable public necessity for such other public use, and upon such terms and conditions as the Commission may determine, except as may otherwise be provided in the instrument of dedication.

The owner of an interest or right in a nature preserve may amend the instrument of dedication, with the approval of the Commission and the Governor, after the Commission has determined that the amendment will not permit an impairment, disturbance, development or use of the nature preserve or the natural features therein in a manner inconsistent with the purposes of this Act.

Before the Commission may make a finding of the existence of an imperative and unavoidable public necessity for another public use, grant or dispose of a nature preserve, grant a license, easement or other interest or right therein or amend any instrument of dedication, it shall, in a manner to be provided by rules, give public notice of the proposed action and provide an opportunity for any person to be heard at a public meeting or to request the holding of a public meeting.

The Commission may cause any legal instrument altering the status of a nature preserve to be filed for record in the office of the recorder for each county in which the nature preserve is located.

(Source: P.A. 83-358.)

(525 ILCS 30/15) (from Ch. 105, par. 715)

Sec. 15. Any public agency or instrumentality of the State and its political subdivisions has the power, and is urged, to dedicate suitable areas or portions of areas within its holdings and to continue holding them as nature preserves. Any public agency or instrumentality holding a natural area with the intention of preserving natural conditions thereon or for a purpose the Commission determines to be compatible with dedication of the area as a nature preserve shall dedicate it, subject to approval of the Commission and the Governor.

(Source: P.A. 82-445.)

(525 ILCS 30/16) (from Ch. 105, par. 716)

Sec. 16. A register of areas is established. The register

consists of areas registered by the Department under this Act with the approval of the Commission and the owner.

A registered area may be in public or private ownership and may or may not be proposed for public acquisition. A registered area may include a dedicated area.

The register shall include areas determined by the Commission to be worthy of preservation for the public purposes and policies set forth in this Act. The manner of registration of areas and of protection, control and management of registered areas shall be as provided by rules. No natural area shall be construed to be unworthy of preservation because it is not registered. Publication of the register is notice to all persons that the registered areas are worthy of preservation.

(Source: P.A. 82-445.)

(525 ILCS 30/17) (from Ch. 105, par. 717)

Sec. 17. All public agencies shall recognize that the protection of nature preserves, buffer areas and registered areas is the public policy of the State and shall avoid the planning of any action that would adversely affect them.

It shall be the public policy of each agency of State or local government to utilize its authority in furtherance of the purposes of this Act, and to evaluate, through a process of consultation with the Department, whether the actions, including capital projects, that are authorized, funded, or carried out by the agency of State or local government are likely to result in the destruction or adverse modification of any natural area that is registered under this Act or identified in the Illinois Natural Areas Inventory.

The evaluation shall be conducted early in the planning of a proposed action. If the proposed action is found likely to have an adverse impact on a natural area, the agency shall study the proposed action to determine possible methods of eliminating or mitigating the adverse impact. Before implementing any action, the agency shall attempt to mitigate or eliminate any adverse impacts in a manner consistent with the planned action. The Department, Commission, or any affected person may seek a writ of mandamus to compel an agency of State or local government to engage in the evaluation and study required by this Section.

(Source: P.A. 88-139.)

(525 ILCS 30/18) (from Ch. 105, par. 718)

Sec. 18. No public agency shall designate an area as a nature preserve unless it is dedicated as a nature preserve under this Act or unless such designation is approved by the Commission.

(Source: P.A. 82-445.)

(525 ILCS 30/19) (from Ch. 105, par. 719)

Sec. 19. The dedication or registration of an area or any other action taken under this Act shall not void or replace any protective status under law which an area would have were it not a dedicated or registered area, the protective provisions of this Act being supplemental thereto.

(Source: P.A. 82-445.)

(525 ILCS 30/20) (from Ch. 105, par. 720)

Sec. 20. This Act does not provide public access to land without agreement of the owner thereof.  
(Source: P.A. 82-445.)

(525 ILCS 30/21) (from Ch. 105, par. 721)

Sec. 21. The Attorney General, or the State's Attorney of the county where a nature preserve or registered area is located, may, upon his own motion or upon request of the Commission, institute a civil action for an injunction, or other appropriate legal action, to restrain violations of this Act or of any rule. In such a proceeding the court shall determine whether a violation has been committed and shall enter such orders as it considers necessary to remove the effects of any violation and to prevent such violation from continuing or from being renewed in the future.  
(Source: P.A. 82-445.)

(525 ILCS 30/22) (from Ch. 105, par. 722)

Sec. 22. Any person who violates this Act or any rule, or causes such violation by his employee or agent, shall be liable for a civil penalty of not to exceed \$10,000 for each violation, such penalty to be recovered in an action brought by the Attorney General or the State's Attorney in the circuit court. The penalty shall be used to restore the nature preserve or registered area or to secure the preservation of similar areas.  
(Source: P.A. 82-445.)

(525 ILCS 30/23) (from Ch. 105, par. 723)

Sec. 23. Any person who, directly or through an employee or agent, (a) willfully kills, injures, disturbs or removes any animal or plant or willfully damages, destroys or removes any object, or attempts to do any of the preceding, on a dedicated area, except as provided by rule for scientific research or for management to preserve or restore natural conditions, or on a registered area, except as provided by rule, (b) enters a dedicated or registered area that is closed to the public contrary to the rules or without permission of the owner or custodian or (c) otherwise violates this Act or any rule is guilty of a Class A misdemeanor. When the violation is a continuing offense, each day shall be considered a separate violation. Enforcements under Sections 21, 22 and 23 may be concurrent or separate.  
(Source: P.A. 85-150.)

(525 ILCS 30/24) (from Ch. 105, par. 724)

Sec. 24. Conservation Police Officers, other employees designated by the Director, sheriffs and other police officers shall enforce this Act and the rules promulgated thereunder and are empowered to arrest any person detected in violation thereof.  
(Source: P.A. 82-445.)

(525 ILCS 30/25) (from Ch. 105, par. 725)

Sec. 25. All final administrative decisions under this Act are subject to judicial review under the "Administrative Review Law", as now or hereafter amended, and the rules

adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the "Administrative Review Law".

(Source: P.A. 83-1539.)

(525 ILCS 30/26) (from Ch. 105, par. 726)

Sec. 26. All actions heretofore effected and all areas dedicated under Sections 1a, 2a, 2b, 2c and 2d of "An Act in relation to the acquisition, control, maintenance, improvement and protection of State parks and nature preserves", approved June 26, 1925, as amended, "An Act relating to the creation of the Illinois Nature Preserves Commission and defining its powers and duties", approved August 28, 1963, as amended, and "An Act in relation to the designation of abandoned cemeteries as nature preserves", approved September 5, 1975, including adoption of rules, policies, and resolutions by the Illinois Nature Preserves Commission, dedication of areas as nature preserves and dedication of buffer areas shall, except as otherwise expressly provided in this Act, continue in effect without impairment or interruption and be subject to this Act.

(Source: P.A. 82-445.)