State Board of Funeral and Cemetery Service

A compilation of the Indiana Code and Indiana Administrative Code

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NOTICE: This compilation incorporates the most recent revisions of the statutory provisions and administrative rules governing the funeral and cemetery services professions, as of April 10, 2013. Note that this compilation is not an official version of the Indiana Code. It is distributed as a general guide to those regulated by the Indiana Professional Licensing Agency. It is not intended to be offered as legal advice, and it may contain typographical errors. Neither the Indiana Professional Licensing Agency nor the State Board of Funeral and Cemetery Service are able to provide legal advice on issues contained herein. For legal advice, please consult an attorney. To obtain official copies of the Indiana Code or Indiana Administrative Code, please contact your nearest public library or visit the website of the Indiana General Assembly at www.in.gov/legislative.

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INDIANA CODE § 25-15

ARTICLE 15. EMBALMERS AND FUNERAL DIRECTORS

INDIANA CODE § 25-15-1

Chapter 1. Repealed

(*Repealed by P.L.246-1985, SEC.33.)*

INDIANA CODE § 25-15-2

Chapter 2. Definitions

IC 25-15-2-1 Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-2 "Alternative container"

Sec. 2. "Alternative container" means a rigid or nonrigid receptacle or other enclosure that:
(1) is made of a nonmetallic material; and
(2) does not have ornamentation or an inner lining.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-3 "Board"

Sec. 3. "Board" means the state board of funeral and cemetery service.
As added by P.L.246-1985, SEC.1. Amended by P.L.48-1991, SEC.27.

IC 25-15-2-3.5 "Branch location"

Sec. 3.5. As used in this chapter, "branch location" means a physical structure:
(1) that is owned or leased by a person, not in conjunction with any other person, who owns and operates a licensed funeral home in the same or adjoining county;
(2) where human remains are prepared for a viewing, a funeral, or final disposition after initial preparation in a funeral home;
(3) where memorial visitation or the viewing of human remains is conducted before or as part of a memorial or funeral service; and
(4) where funerals that are not primarily for religious or worship purposes are conducted or held.
As added by P.L.237-1995, SEC.2.

IC 25-15-2-4 "Casket"

Sec. 4. "Casket" means a rigid enclosure that:
(1) is made of wood, metal, or other material;
(2) is ornamented;
(3) has a fixed or nonfixed inner lining; and
(4) is designed to encase human remains.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-5 "Consumer"

Sec. 5. "Consumer" means a person that:
(1) during an individual's lifetime; or
(2) after an individual's death;
discusses, offers to purchase, or purchases funeral goods or funeral services for the individual's human remains.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-6 "Cremate"

Sec. 6. "Cremate" means to incinerate human remains and to mechanically or manually reduce the bone fragments of the remains to unidentifiable bone fragments.
As added by P.L.246-1985, SEC.1. Amended by P.L.231-1995, SEC.3.

IC 25-15-2-7 "Disposition"

Sec. 7. "Disposition" means:
(1) interment of human remains in the earth in an established cemetery;
(2) interment of human remains in a mausoleum or columbarium;
(3) disposal of cremated human remains on the property of a consenting owner, on uninhabited public land, or on a waterway;
(4) burial of human remains at sea;
(5) delivery of human remains within the jurisdiction of the anatomical education program (IC 21-44-2) to a school, college, or physician entitled by law to receive the human remains for the promotion of science and art of medicine or dentistry; or
(6) other final disposal of human remains.
As added by P.L.246-1985, SEC.1. Amended by P.L.238-1987, SEC.2; P.L.2-2007, SEC.320.

IC 25-15-2-8 "Embalmer"

Sec. 8. "Embalmer" means a person who is licensed as an embalmer under this article.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-9 "Embalming"

Sec. 9. "Embalming" means the temporary preservation and disinfection of human remains by the internal or external application of chemicals or by other methods in preparation for disposition.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-10 "Exempted person"

Sec. 10. As used in this chapter, "exempted person" means a person that does not perform any funeral services other than one (1) or more of the following:
(1) Sells, as a seller licensed under IC 30-2-13 or an agent or a representative of a seller:
(A) funeral merchandise described in IC 30-2-13-8 at need; or
(B) funeral merchandise defined in IC 30-2-13-8 under a certificate of authority authorized by IC 30-2-13-33 and not funeral services defined in section 17(1), 17(2), or 17(3) of this chapter unless they are funeral services (as defined in IC 30-2-13-8) and ratified as required by IC 30-2-13-20.
(2) Cremates human remains, but does not conduct a funeral service in conjunction with the cremation.
(3) Cremates human remains or holds human remains less than forty-eight (48) hours for the purpose of cremating the human remains without a funeral service or memorial service in conjunction with the final disposition of the cremated remains.
(4) Performs services for a morgue in a hospital or other facility licensed under IC 16-21 that are directly related to the purposes of the hospital or other facility.
(5) Performs services for a school of mortuary science that are directly related to an educational purpose.
(6) Arranges, supervises, or conducts a religious or memorial service for a deceased individual if:
(A) the human remains of the deceased individual are not present at the service; and
(B) final disposition of the deceased individual's human remains has been or will be completed under the authority of a funeral director having obtained a burial permit issued by the state of Indiana.

(7) Conducts a religious or memorial service with the human remains of the deceased individual present if the funeral is arranged and directly supervised by a funeral director.
(8) If the person is a cemetery, sells or offers advice concerning methods or alternatives available for final disposition of human remains.
As added by P.L.246-1985, SEC.1. Amended by P.L.2-1993, SEC.137; P.L.237-1995, SEC.3; P.L.2-1996, SEC.270.

IC 25-15-2-11 "Funeral"
Sec. 11. "Funeral" means a memorial service or ceremony for a deceased individual where human remains or cremated remains are present or a memorial visitation or viewing of the human remains of a deceased individual.
As added by P.L.246-1985, SEC.1. Amended by P.L.237-1995, SEC.4.

IC 25-15-2-12 "Funeral director"
Sec. 12. "Funeral director" means an individual who has a funeral director license issued under this article.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-13 "Funeral director intern"
Sec. 13. "Funeral director intern" means an individual who has a funeral director intern license issued under this article.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-14 "Funeral goods"
Sec. 14. "Funeral goods" means goods, other than clothing, flowers, gravemarkers, and urns, that are sold or offered for sale directly to a consumer for use in connection with funeral services.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-15 "Funeral home"
Sec. 15. "Funeral home" means a physical structure where:
(1) human remains are prepared for a funeral or final disposition;
(2) human remains are held for disposition;
(3) there is an embalming room in compliance with licensure requirements of this article where at least one (1) of the following takes place:
(A) The embalming of human remains.
(B) The prevention of the spread of infectious or contagious disease from human remains.
(C) The aspiration of internal body fluids and gasses from human remains.
(D) The temporary storage of non-casketed human remains awaiting final disposition.
(E) The dressing, final preparation, and casketing of human remains;
(4) memorial visitation or the viewing of human remains is conducted before or as part of a memorial or funeral service; and
(5) funerals whose primary function is not for a religious or worship purpose are conducted or held.
As added by P.L.246-1985, SEC.1. Amended by P.L.237-1995, SEC.5.

IC 25-15-2-16 "Funeral home licensee"
Sec. 16. "Funeral home licensee" means a person that has a funeral home license issued under this article.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-17 "Funeral services"
Sec. 17. As used in this chapter, "funeral services" means:
(1) accepting, holding, caring for, or preparing human remains for a funeral or final disposition, including embalming (where authorized) and the practice of restorative arts;
(2) at need counseling of survivors of a deceased individual on:
(A) the services, methods, and alternatives for final disposition of human remains; and
(B) the requirements of federal and state law applicable to the sale of funeral services and merchandise;
(3) arranging, supervising, or conducting a funeral service in conjunction with the memorialization or the disposition of human remains, (however, "funeral services" does not include interment services performed in a cemetery by cemetery personnel), including attendance at services held in cemeteries or crematories where third persons are directly responsible for the physical acts associated with interment or final disposition of human remains;
(4) selling or offering to sell funeral merchandise described in IC 30-2-13-8 to a consumer at the time of need or in advance of need;
(5) selling or offering to sell funeral services described in IC 30-2-13-8 at the time of need or in advance of need;
(6) managing a funeral home or branch location licensed under IC 25-15-4-1 or IC 25-15-4-1.1; and
(7) arranging for the final disposition of human remains in compliance with public health and safety laws and in a manner that prevents the spread of infectious disease.
As added by P.L.246-1985, SEC.1. Amended by P.L.207-1993, SEC.3; P.L.237-1995, SEC.6.

IC 25-15-2-18 "Human remains"
Sec. 18. "Human remains" means any part of the body of a deceased individual. The term includes human remains that have been cremated.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-19 "Licensee"
Sec. 19. "Licensee" means a person that has been issued a license under this article.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-20 "Outer burial container"
Sec. 20. "Outer burial container" means any container that is designed for placement in a grave around a casket or alternative container. The term includes a burial vault, grave box, or grave liner.
As added by P.L.246-1985, SEC.1.

IC 25-15-2-21 "Person"
Sec. 21. "Person" includes a partnership, limited liability company, corporation, trust, or other business association.
As added by P.L.246-1985, SEC.1. Amended by P.L.8-1993, SEC.381.

IC 25-15-2-22 "Practice of funeral service"
Sec. 22. As used in this chapter, "practice of funeral service" means:
(1) the application of the principles, methods, and techniques of mortuary science to the delivery of funeral services;
(2) the counseling of individuals concerning methods and alternatives for the final disposition of human remains;
(3) the prevention of the spread of infectious and contagious disease from human remains; and
(4) compliance, in the delivery of funeral merchandise and services, with laws relating to health, public safety, and the environment.
As added by P.L.246-1985, SEC.1. Amended by P.L.237-1995, SEC.7.

INDIANA CODE § 25-15-3

Chapter 3. Repealed

(*Repealed by P.L.48-1991, SEC.78.*

INDIANA CODE § 25-15-4

Chapter 4. Minimum Qualifications; Reciprocity

IC 25-15-4-1 Funeral home licenses

Sec. 1. To qualify for a funeral home license, a person who is an applicant must:

(1) operate a funeral home that complies with the rules of the board;
(2) disclose:
(A) the name of the applicant and if the applicant is an individual, the principal address of residence of the applicant;
(B) the location of the funeral home;
(C) if the applicant is not an individual, the names and principal address of residence of the directors or other executive officers of the applicant;
(D) the name of the manager in charge of the funeral home; and
(E) any other information required by the board; and
(3) pay the fee set by the board.

As added by P.L.246-1985, SEC.3.

IC 25-15-4-1.1 Branch location licenses

Sec. 1.1. To qualify for a branch location license, a person who is an applicant must:

(1) possess a funeral home license issued under section 1 of this chapter;
(2) operate a branch location that meets the requirements of the board; and
(3) pay the fee set by the board.

As added by P.L.237-1995, SEC.8.

IC 25-15-4-2 Funeral director intern licenses

Sec. 2. (a) To qualify for a funeral director intern license, an applicant must:

(1) be an individual who is at least eighteen (18) years of age;
(2) submit proof that the applicant has not been convicted of:
(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; and
(B) a crime that has a direct bearing on the applicant's ability to practice competently;
(3) have a diploma from an accredited high school;
(4) have successfully completed either:
(A) a course of education consisting of:
(i) thirty (30) semester hours or forty-five (45) quarter hours of college level work in a regionally accredited postsecondary educational institution that includes course work in the subjects of English, the humanities, science, business, and other electives that apply toward a baccalaureate degree from the postsecondary educational institution; and
(ii) four (4) academic quarters, or its equivalent, in an accredited college, school, or department of mortuary science approved by the board; or
(B) a twenty-one (21) month program in an accredited college, school, or department of mortuary science that has been approved by the board; and
(5) pay the fee set by the board for a funeral director intern license.

(b) The board may require an applicant for a funeral director intern license to pass an examination before issuing a license to the applicant.

As added by P.L.246-1985, SEC.3. Amended by P.L.214-1993, SEC.43; P.L.2-2007, SEC.321.

IC 25-15-4-3 Funeral director licenses

Sec. 3. (a) An applicant must qualify under subsection (b) to be licensed as a funeral director. However, subject to IC 25-15-8-10, an individual qualified under subsection (c) or (d) shall be treated as a qualified individual.

(b) To qualify for a funeral director license, an applicant must:
(1) be an individual who is at least eighteen (18) years of age;
(2) submit proof that the applicant has not been convicted of:
(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or
(B) a crime that has a direct bearing on the applicant's ability to practice competently;
(3) have a diploma from an accredited high school;
(4) have successfully completed either:
(A) a course of education consisting of:
(i) thirty (30) semester hours or forty-five (45) quarter hours of college level work in a regionally accredited postsecondary educational institution that includes course work in the subjects of English, humanities, science, business, and other electives that apply toward a baccalaureate degree from the postsecondary educational institution; and
(ii) four (4) academic quarters or the equivalent in an accredited college, school, or department of mortuary science approved by the board; or
(B) a twenty-one (21) month program in an accredited college, school, or department of mortuary science approved by the board;
(5) pass the examination required by the board for a funeral director license;
(6) under the direct supervision of a funeral director licensee, have at least one (1) year of continuous experience in the practice of funeral service; and
(7) pay the licensing fee set by the board for a funeral director licensee.

(c) An individual may be licensed as a funeral director if, on June 30, 1985, the individual had a funeral director license and an embalmer license issued by the state board of embalmers and funeral directors.

(d) An individual may be a funeral director if, on June 30, 1985, the individual had a funeral director license issued by the state board of embalmers and funeral directors.

As added by P.L.246-1985, SEC.3. Amended by P.L.214-1993, SEC.44; P.L.2-2007, SEC.322.

IC 25-15-4-4 Embalmer licenses

Sec. 4. An individual may be an embalmer only if, on June 30, 1985, the individual had an embalmer license issued by the state board of embalmers and funeral directors.

As added by P.L.246-1985, SEC.3.

IC 25-15-4-5 Funeral director licenses; exemption from examination for persons licensed in other states

Sec. 5. An applicant for a funeral director license, who is licensed in another state with requirements that are substantially equal to the requirements in section 3(b) of this chapter, as determined by the board, may be exempted by the board from the examination requirement under section 3(b)(5) of this chapter or the one (1) year supervised practice period requirement under section 3(b)(6) of this chapter.

As added by P.L.246-1985, SEC.3.

INDIANA CODE § 25-15-5

Chapter 5. Examination

IC 25-15-5-1 Time; place

Sec. 1. At least one (1) of each type of examination required under IC 25-15-4 must be held annually. These examinations may be conducted at any place in Indiana set by the board.

As added by P.L.246-1985, SEC.4.

IC 25-15-5-2 Repealed
(Repealed by P.L.177-2009, SEC.63.)

IC 25-15-5-3 Failure of examination; taking next examination; additional fees and education requirements
Sec. 3. Any qualified applicant who fails an examination and is refused a license may take the next scheduled examination upon payment of an additional fee set by the board under IC 25-15-9-8. However, if an applicant fails more than one (1) funeral director intern license examination or more than one (1) funeral director license examination, the board may require the applicant to submit proof to the board that the applicant has met the additional education requirements set by the board before the board allows the applicant to take another examination under this article.
As added by P.L.246-1985, SEC.4. Amended by P.L.48-1991, SEC.28.

INDIANA CODE § 25-15-6

Chapter 6. Expiration of Licenses; Renewal of Licenses; Continuing Education

IC 25-15-6-1 Time of expiration
Sec. 1. (a) Except as provided in subsection (b), a license issued under this article expires on the date established by the licensing agency under IC 25-1-6-4.
(b) A funeral director intern license expires two (2) years after it is issued by the board.
As added by P.L.246-1985, SEC.5. Amended by P.L.214-1993, SEC.45; P.L.105-2008, SEC.31.

IC 25-15-6-2 Funeral homes; renewal of licenses
Sec. 2. The board shall renew the license of a funeral home licensee that pays the registration fee set by the board.
As added by P.L.246-1985, SEC.5.

IC 25-15-6-3 Funeral directors or embalmers; renewal of licenses
Sec. 3. The board shall renew the license of a funeral director or embalmer who:
(1) pays the fee; and
(2) meets the continuing education requirements;
set by the board.
As added by P.L.246-1985, SEC.5.

IC 25-15-6-4 Funeral directors or embalmers; reinstatement of expired license
Sec. 4. The (a) The board shall reinstate the expired license of:
(1) a funeral director;
(2) an embalmer;
(3) a funeral director intern; or
(4) a funeral home;
that applies for reinstatement of the license not later than three (3) years after the date the license expired and meets the requirements for reinstatement under IC 25-1-8-6(c).
(b) If the license of:
(1) a funeral director;
(2) an embalmer;
(3) a funeral director intern; or
(4) a funeral home;
has been expired for more than three (3) years, the board shall reinstate the license if the holder of the license applies for reinstatement of the license and meets the requirements for reinstatement under IC 25-1-8-6(d).
As added by P.L.246-1985, SEC.5. Amended by P.L.237-1995, SEC.13; P.L.194-2005, SEC.55; P.L.105-2008, SEC.32.

IC 25-15-6-5 Funeral directors; continuing education credits
Sec. 5. (a) The board shall require a funeral director to obtain ten (10) hours of continuing education credit in any two (2) year period in order to renew or reinstate a license under this chapter. The board shall require that continuing education credit be earned in board approved courses or programs on one (1) or more of the following subjects:
(1) Embalming and restorative arts.
(2) Prevention of the spread of infectious disease and compliance with mandatory public health requirements.
(3) Federal and state laws and rules regulating the embalming and funeral professions.
(4) Funeral home management.
(5) Religion.
(6) Natural science.
(7) Grief counseling and the psychological effect of death on survivors.
(b) Continuing education hours earned as a prerequisite to the issuance or maintenance of a professional license other than a funeral director license may not be counted in determining compliance with this section.
As added by P.L.246-1985, SEC.5. Amended by P.L.237-1995, SEC.13; P.L.194-2005, SEC.55.

IC 25-15-6-5.1 Revocation, suspension, or expiration of funeral home and branch location license
Sec. 5.1. When a person's funeral home license is revoked, suspended, or expired, the person's branch location license that arises from that funeral home license is revoked, suspended, or expired.
As added by P.L.237-1995, SEC.9.

IC 25-15-6-6 Reinstatement of expired license
(Repealed by P.L.105-2008, SEC.67.)

IC 25-15-6-7 Inactive license continuing education exemption; reactivation requirements; practice under inactive license; sanction
Sec. 7. (a) A funeral director who holds an inactive funeral director license under IC 25-15-4-6 is exempt from continuing education requirements of section 5 of this chapter.
(b) An individual may reactivate an inactive funeral director's license by completing all hours of continuing education required of licensed funeral directors for each year that the license has been classified as inactive. If an individual's license has been inactive for four (4) or more years, the board shall require the individual to pass an examination under IC 25-15-4 before reinstating the individual's license to active status.
(c) An individual who resumes the practice of funeral service or the provision of funeral services to the public under an inactive funeral director license (as described in IC 25-15-4-6) violates this article and the board shall revoke the individual's inactive license.
As added by P.L.207-1993, SEC.5. Amended by P.L.237-1995, SEC.14; P.L.194-2005, SEC.57.

INDIANA CODE § 25-15-7

Chapter 7. Transfer and Assignment of Licenses; Name Changes; Ownership Changes

IC 25-15-7-1 Transferability of licenses

Sec. 1. A license issued under this article is not transferable from one (1) person to another.

As added by P.L.246-1985, SEC.6.

IC 25-15-7-2 Funeral home licenses; location

Sec. 2. A funeral home license applies only to one (1) location and is not transferable from one (1) location to another.

As added by P.L.246-1985, SEC.6.

IC 25-15-7-3 Funeral homes; changing, transferring, or assigning name

Sec. 3. The board may not prohibit a funeral home licensee from:

(1) changing the licensee's name; or

(2) transferring or assigning the licensee's name to another funeral home licensee.

As added by P.L.246-1985, SEC.6.

IC 25-15-7-4 Shares of funeral home corporations; transfers

Sec. 4. The board may not prohibit a shareholder or a corporation that is a funeral home licensee from transferring or assigning any part of the shareholder's ownership of the corporation to another person.

As added by P.L.246-1985, SEC.6.

IC 25-15-7-5 Assets of funeral homes and branch locations; transfers of interest

Sec. 5. The board may not prohibit a person from transferring or assigning any interest that the person has in the assets of a funeral home or branch location, other than a funeral home or branch location license, to another person.

As added by P.L.246-1985, SEC.6. Amended by P.L.237-1995, SEC.10.

INDIANA CODE § 25-15-8

Chapter 8. Grounds for Discipline; Sanctions by Board; Violations

IC 25-15-8-1 Grounds for discipline of licensees

Sec. 1. A licensee that:

(1) promotes or participates in a scheme or plan in the nature of a burial association, burial certificate plan, or burial membership plan;

(2) after an individual has died, personally or through an agent solicits, makes, or offers to make a direct or an indirect payment of a commission for the purpose of securing the individual's human remains;

(3) fails to promptly surrender possession of human remains after receiving a demand from the person legally entitled to custody of the human remains;

(4) transports or disposes of human remains without a permit required by law;

(5) takes possession of human remains without authorization from the person legally entitled to custody of the human remains;

(6) makes a misleading claim concerning the protective qualities of a casket, an alternative container, or an outer burial container; or

(7) shows a casket, an alternative container, or an outer burial container to a consumer if the casket, alternative container, or outer burial container does not have a conspicuously displayed card or brochure that lists the price of the casket, alternative container, or outer burial container and briefly describes the casket, alternative container, or outer burial container;

may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.6; P.L.214-1993, SEC.46.

IC 25-15-8-1.5 Discipline of licensee for display of revoked or expired credentials

Sec. 1.5. The board may discipline a licensee under IC 25-1-11 if that licensee displays to the public credentials issued by the board that:

(1) have been revoked by the board; or

(2) have expired.

As added by P.L.240-1985, SEC.9. Amended by P.L.207-1993, SEC.7; P.L.214-1993, SEC.47.

IC 25-15-8-2 Funeral home licenses; grounds for discipline

Sec. 2. A funeral home licensee who itself or through an officer, an agent, an employee, or an independent contractor:

(1) operates a funeral home or a branch location in the same location as another funeral home licensee;

(2) operates a funeral home at any location or branch location without a separate funeral home license or branch location license for that location;

(3) operates a funeral home or a branch location without a manager who:

(A) has a funeral director license; and

(B) has filed an affidavit with the board acknowledging that the individual is the manager of the funeral home or the branch location;

(4) operates a funeral home or branch location without having a funeral director either perform or directly supervise each act of funeral service performed for the funeral home or a branch location;

(5) fails to conspicuously display the certificate of licensure issued to the funeral home licensee and the certificate of licensure or a duplicate original of the certificate of licensure issued to the funeral director managing the funeral home or the branch location in a public area of the funeral home or the branch location;

(6) fails to annually report to the board:

(A) if the licensee is a sole proprietor, the name of the funeral home or the branch location and principal address of residence of the funeral home licensee;

(B) the location of the funeral home or the branch location;

(C) if the licensee is not a sole proprietor, the names and principal addresses of residences of the directors or other executive officers of the funeral home licensee;

(D) the name of the manager in charge of the funeral home or the branch location;

(E) the name and principal address of residence of each practitioner that has engaged in the practice of funeral services for the funeral home or the branch location in the preceding twelve (12) months and the period of time during which the practitioner worked for the funeral home or the branch location; and

(F) any other information required by the board;

(7) knowingly violates any rule of construction, equipping, or operation for funeral homes or branch locations adopted by the board under IC 25-15-9-8;

(8) engages in the practice of funeral service or provides funeral services to the public under an inactive license (as described in IC 25-15-4-6);

(9) permits a person other than a funeral director to engage in the practice of funeral service or the provision of funeral services to the public or otherwise violates any provision of this chapter; or

(10) misrepresents the quality or character of:

(A) any service or merchandise sold by a competitor; or

(B) any professional practice of a competitor;

may be disciplined under IC 25-1-11.

As added by P.L.246-1985, SEC.7. Amended by P.L.48-1991, SEC.29; P.L.207-1993, SEC.8; P.L.214-1993, SEC.48; P.L.1-1994, SEC.125; P.L.237-1995, SEC.15.

IC 25-15-8-3 Repealed
(*Repealed by P.L.214-1993, SEC.91.)*

IC 25-15-8-4 Selling funeral goods or services; grounds for discipline
Sec. 4. A practitioner who, when selling or offering to sell funeral goods or funeral services to a consumer, fails to:
(1) act compassionately;
(2) disclose prices related to arranging a funeral;
(3) answer questions, including telephone inquiries, accurately and to the reasonable satisfaction of the inquiring person;
(4) disclose that embalming human remains is not always required by law but may be desirable if viewing or visitation precedes disposition;
(5) explain which outer burial containers meet cemetery requirements, if any;
(6) explain requirements, including cremation requirements, for caskets and other alternative containers; or
(7) disclose whether the cash advance price of each:
(A) funeral goods or funeral service described by the practitioner as "cash advance", "accommodation", or "cash disbursement", or a similar term; and
(B) goods or service obtained from a third party and paid on behalf of the consumer by the funeral home licensee for which the practitioner is an agent;
is equal to the cost of the item to the funeral home selling it;
may be disciplined under IC 25-1-11.
As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.10; P.L.214-1993, SEC.49.

IC 25-15-8-5 Statements of price and terms; grounds for discipline
Sec. 5. (a) This section does not apply to a practitioner acting as an exempted person.
(b) A practitioner who, when selling funeral goods or services to a consumer, fails to give the consumer a written statement signed on behalf of a funeral home licensee by a funeral director that includes:
(1) an itemized description of each funeral goods and funeral service for which the consumer has contracted and either the price of each item or the package price for all of the items;
(2) an itemized description of any supplemental goods and services that the consumer has the option to purchase from the funeral home licensee and the price for each item;
(3) an indication of the contract items on which the funeral home licensee is advancing credit and the amount of the credit being advanced;
(4) the total cost to the consumer of the contract items; and
(5) a description of the method of payment agreed upon;
may be disciplined under IC 25-1-11.
As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.11; P.L.214-1993, SEC.50.

IC 25-15-8-6 Practitioners of funeral services; grounds for discipline
Sec. 6. (a) This section does not apply to a practitioner who is acting as an exempted person or an embalmer.
(b) A practitioner who engages in the practice of funeral service may be disciplined under IC 25-1-11 if the practitioner:
(1) does not act as the agent of one (1) or more funeral home licensees;
(2) fails to register with the board in which funeral homes the practitioner is performing services and for which funeral home licensees the practitioner is an agent; or
(3) fails to notify the board to cancel a registration described in subdivision (2), if the practitioner ceases to perform services in a funeral home or for a funeral home licensee.
As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.12; P.L.214-1993, SEC.51.

IC 25-15-8-7 Notice of change in practitioner's name or address
Sec. 7. A practitioner who fails to notify the board of a change in the practitioner's name or principal address of residence within thirty (30) days after the change may be disciplined under IC 25-1-11.
As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.13; P.L.214-1993, SEC.52.

IC 25-15-8-8 Funeral director interns
Sec. 8. (a) This section does not apply to a funeral director intern who is acting as an exempted person.
(b) Except as provided in subsection (c), a funeral director intern may engage in the practice of funeral service or provide funeral services to the public if the funeral director intern is acting under the direct supervision of a person holding a funeral director's license. Direct supervision means that:
(1) a licensed funeral director supervising an intern who is performing duties not requiring counseling is physically present in the facility where the intern is performing the duties; or
(2) a funeral director supervising an intern who is counseling is physically present in the same room with the intern and counselee.
(c) A funeral director intern who engages in the practice of funeral service or provides funeral services to the public without the direct supervision of a funeral director may be disciplined under IC 25-1-11.
As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.14; P.L.214-1993, SEC.53; P.L.237-1995, SEC.16.

IC 25-15-8-9 Embalmers
Sec. 9. (a) This section does not apply to an embalmer who is acting as an exempted person.
(b) An embalmer who performs any funeral service other than embalming may be disciplined under IC 25-1-11.
As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.15; P.L.214-1993, SEC.54.

IC 25-15-8-10 Funeral directors engaging in embalming
Sec. 10. (a) This section does not apply to a funeral director who is acting as an exempted person.
(b) A funeral director who:
(1) is qualified to engage in the practice of funeral service only under IC 25-15-4-3(d) and not under IC 25-15-4-3(b) or IC 25-15-4-3(c); and
(2) engages in embalming;
may be disciplined under IC 25-1-11.
As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.16; P.L.214-1993, SEC.55.

IC 25-15-8-11 Funeral directors; management of funeral home; failure to file affidavits
Sec. 11. A funeral director who:
(1) manages a funeral home without filing an affidavit with the board acknowledging that the funeral director is the manager of the funeral home; or
(2) fails to file an affidavit with the board indicating that the funeral director is no longer the manager of a funeral home when the funeral director ceases to manage the funeral home;
may be disciplined under IC 25-1-11.
As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.17; P.L.214-1993, SEC.56.

IC 25-15-8-12 Funeral directors; management of funeral home; violations as grounds for discipline

Sec. 12. A funeral director who has an affidavit on file with the board indicating that the individual is the manager of a funeral home and no affidavit on file with the board indicating that the individual has ceased to be its manager may be disciplined under IC 25-1-11 if:

(1) the funeral home that the funeral director is registered to manage commits a violation under section 1 or 2 of this chapter, other than section 2(3) of this chapter; or

(2) a practitioner acting as an agent of the funeral home that the funeral director is registered to manage commits a violation under sections 4 through 11 of this chapter.

As added by P.L.246-1985, SEC.7. Amended by P.L.207-1993, SEC.18; P.L.214-1993, SEC.57.

IC 25-15-8-13 Repealed

(*Repealed by P.L.214-1993, SEC.91.)*

IC 25-15-8-14 Repealed

(*Repealed by P.L.207-1993, SEC.35 and P.L.214-1993, SEC.91.)*

IC 25-15-8-15 Repealed

(*Repealed by P.L.214-1993, SEC.91.)*

IC 25-15-8-16 Repealed

(*Repealed by P.L.214-1993, SEC.91.)*

IC 25-15-8-17 Repealed

(*Repealed by P.L.214-1993, SEC.91.)*

IC 25-15-8-18 Repealed

(*Repealed by P.L.214-1993, SEC.91.)*

IC 25-15-8-19 Injunctions; applications for orders

Sec. 19. If a violation of any of sections 21 through 26 of this chapter is being committed:

(1) the board in its own name;

(2) the board in the name of the state;

(3) the attorney general in the name of the state, at the request of the board; or

(4) the prosecuting attorney of the county in which the violation occurs, at the request of the board, and in the name of the state;

may apply for an order enjoining the violation from the circuit court of the county in which the violation occurs.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-20 Injunctions or orders; bonds

Sec. 20. Upon a showing that a person has violated any of sections 21 through 26 of this chapter, the court may grant without bond an injunction, restraining order, or other appropriate order.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-21 Use of certain titles without funeral home license; infraction

Sec. 21. A person that uses the title "funeral home", "undertaking parlor", "mortuary", "memorial chapel", or a variant of these titles without a funeral home license issued under this article commits a Class B infraction.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-22 Use of certain titles without funeral director or funeral director intern license; infraction

Sec. 22. A person that uses the title "funeral director", "mortician", "undertaker", "funeral service licensee", "funeral director intern", "embalmer", "funeral home manager", or a variant of any of these titles without a funeral director license or a funeral director intern license issued under this article commits a Class B infraction.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-23 Use of certain words to describe funeral services by person without license; infraction

Sec. 23. A person that renders or offers to render services to the public, if the words "funeral service", "funeral directing", "undertaking", "funeral", "funeral arrangement", "embalming", or a variant of these words is used to describe the services, without a license issued under this article commits a Class B infraction.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-24 Practice of funeral service or operation of funeral home without license; infraction

Sec. 24. (a) This section does not apply to a person acting as an exempted person.

(b) A person that engages in the practice of funeral service without a license issued under this article commits a Class B infraction.

(c) A person that operates a funeral home without a funeral home license issued under this article commits a Class B infraction.

As added by P.L.246-1985, SEC.7.

IC 25-15-8-25 Issuance of permit under IC 16-37-3-10

Sec. 25. A local health officer may issue a permit under IC 16-37-3-10 only to a funeral director acting as an agent or a funeral home licensee or another individual acting under the direct supervision of a funeral director who is an agent of a funeral home licensee.

As added by P.L.246-1985, SEC.7. Amended by P.L.2-1993, SEC.138.

IC 25-15-8-26 Other licensing requirements void

Sec. 26. Any licensing requirement that is adopted by a state agency, other than the board, or a political subdivision for the purpose of regulating the operation of a funeral home or branch location or the practice of funeral service is void.

As added by P.L.246-1985, SEC.7. Amended by P.L.237-1995, SEC.11.

INDIANA CODE § 25-15-9

Chapter 9. State Board of Funeral and Cemetery Service; Education Fund; Cemetery Registration

IC 25-15-9-1 Establishment of board

Sec. 1. The state board of funeral and cemetery service is established.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-2 Members; chairman

Sec. 2. (a) The board consists of eleven (11) members as follows:

(1) Ten (10) members appointed by the governor for terms of four (4) years.

(2) The commissioner of the state department of health or the commissioner's designee.

(b) The board shall elect a chairman from the board's own membership every two (2) years to serve a term of two (2) years. The chairman shall be elected alternately from those board members appointed under sections 3 and 4 of this chapter.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.767; P.L.236-1995, SEC.45.

IC 25-15-9-3 Funeral directors; members

Sec. 3. Four (4) of the board's appointed members must be licensed funeral directors, in good standing, without any association with a school

of mortuary science other than as a preceptor or supervisor of a funeral service intern.
As added by P.L.48-1991, SEC.31.

IC 25-15-9-4 Cemetery owners or managers; members
Sec. 4. Four (4) of the board's appointed members must be active in the cemetery industry in Indiana, either as an owner or a manager of an operating cemetery property.
As added by P.L.48-1991, SEC.31.

IC 25-15-9-5 Consumers; members
Sec. 5. Two (2) of the board's appointed members must be residents of Indiana who are not associated with the practice of funeral service or a cemetery operation other than as consumers.
As added by P.L.48-1991, SEC.31.

IC 25-15-9-6 Party affiliation; members
Sec. 6. Not more than five (5) of the board's appointed members may be affiliated with the same political party.
As added by P.L.48-1991, SEC.31.

IC 25-15-9-7 Number of terms; limitation
Sec. 7. The board's appointed members may serve only two (2) terms on the board, including prior service either as a member of the state board of funeral service or the state board of embalmers and funeral directors. A member of the board may serve until the member's successor is appointed and qualified under this chapter.
As added by P.L.48-1991, SEC.31. Amended by P.L.194-2005, SEC.58.

IC 25-15-9-8 Sale and payment of funeral or burial expenses; duties of board
Sec. 8. The board shall do the following:
(1) Adopt rules under IC 4-22-2 to do the following:
(A) Establish standards for the sale and payment of funeral or burial services or merchandise in advance of need.
(B) Establish the terms of contracts authorized under IC 30-2-13.
(C) Implement IC 30-2-13.
(D) Implement IC 23-14-48.5.
(2) Register and issue certificates to sellers of merchandise or services under IC 30-2-13.
(3) Determine compliance with this article by persons engaged in the sale and payment of funeral or burial services or merchandise in advance of need under IC 30-2-13.
(4) Investigate any complaint alleging a violation of IC 30-2-13.
(5) Set fees under IC 25-1-8.
(6) For a violation of this article or IC 30-2-13 by a person engaged in the sale and payment of funeral or burial services or merchandise in advance of need under IC 30-2-13, if necessary, take any combination of the following actions:
(A) Issue an appropriate order to correct the violation.
(B) Suspend the seller's certificate of authority.
(C) Permanently revoke the seller's certificate of authority.
(D) Censure the seller.
(E) Issue a letter of reprimand to the seller.
(F) Place the seller on probation.
(G) Assess a civil penalty against the seller in an amount not to exceed one thousand dollars ($1,000) for each violation, except for a finding of incompetency due to a physical or mental disability. When imposing a civil penalty, the board shall consider the seller's ability to pay the amount assessed. If the seller fails to pay the civil penalty within the time specified by the board, the board may suspend the seller's certificate of authority without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the seller's inability to pay a civil penalty.
(H) Refer the matter to the attorney general or prosecuting attorney for enforcement.
(7) In addition to any actions taken under subdivision (6), permanently revoke a seller's certificate of authority, if the seller demonstrates a pattern or practice of violating the following provisions:
(A) The requirement under IC 30-2-13-12 that all property paid or delivered to fund a contract for prepaid services or merchandise be irrevocably deposited to trust or escrow thirty (30) days after the contract is signed.
(B) The prohibition against knowingly inducing a purchaser to breach an existing contract under IC 30-2-13-13(e).
As added by P.L.48-1991, SEC.31. Amended by P.L.207-1993, SEC.21; P.L.241-1995, SEC.1; P.L.65-2007, SEC.4.

IC 25-15-9-9 Funeral homes; standards for operation; duties of department
Sec. 9. The funeral director, consumer, and the state department of health members of the board shall do the following:
(1) Adopt rules under IC 4-22-2 to do the following:
(A) Establish standards for the competent practice of funeral service.
(B) Establish sanitation standards for the construction and equipping of funeral homes.
(C) Establish standards for the operation of funeral homes.
(D) Set fees under IC 25-1-8.
(E) Carry out this article.
(2) Establish a program of inspection to administer this article.
(3) Pass upon the qualifications of each applicant for a license under this article.
(4) Provide all examinations under this article.
(5) License all applicants who meet the requirements of IC 25-15-4.
(6) Investigate a complaint alleging a violation of this article.
(7) For a violation of this article by a person who is licensed under this article, if necessary, take any combination of the following actions:
(A) Issue an appropriate order to correct the violation.
(B) Suspend the seller's certificate of authority issued under IC 30-2-13.
(C) Permanently revoke the licensee's license.
(D) Censure the licensee.
(E) Issue a letter of reprimand.
(F) Place the licensee on probation.
(G) Assess a civil penalty against the licensee in an amount not to exceed one thousand dollars ($1,000) for each violation, except for a finding of incompetency due to a physical or mental disability. When imposing a civil penalty, the board shall consider a licensee's ability to pay the amount assessed. If the licensee fails to pay the civil penalty within the time specified by the board, the board may suspend the licensee's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the licensee's inability to pay a civil penalty.
(H) Refer the matter to the attorney general or the prosecuting attorney for enforcement.
(8) The board shall suspend the license of a funeral home licensee who employs a person who:
(A) holds an inactive funeral director license (as described in IC 25-15-4-6); and
(B) engages in the practice of funeral services or provides funeral services to the public (as described in IC 25-15-2-17 or IC 25-15-2-22).

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.768; P.L.207-1993, SEC.22.

IC 25-15-9-10 Cemeteries; operation; duties of department

Sec. 10. The cemetery, consumer, and the state department of health members of the board shall do the following:

(1) Determine compliance with IC 23-14 by cemetery owners.

(2) Investigate a complaint alleging a violation of IC 23-14.

(3) For a violation of IC 23-14 by a cemetery owner, if necessary, take any combination of the following actions:

(A) Issue an appropriate order to correct the violation.

(B) Suspend the seller's certificate of authority issued under IC 30-2-13.

(C) Censure the cemetery owner.

(D) Issue a letter of reprimand.

(E) Assess a civil penalty against the cemetery owner in an amount not to exceed one thousand dollars ($1,000) for each violation, except for a finding of incompetency due to a physical or mental disability. When imposing a civil penalty, the board shall consider a cemetery owner's ability to pay the amount assessed.

(F) Refer the matter to the attorney general or prosecuting attorney for enforcement.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.769; P.L.207-1993, SEC.23.

IC 25-15-9-11 Official actions of board; voting

Sec. 11. An official action of the board is valid only if the action is adopted by at least six (6) of the board's members. However, cemetery members may not vote on any matter involving section 9 of this chapter, and funeral director members may not vote on any matter involving section 10 of this chapter. When either cemetery or funeral director members are ineligible to vote, an official action of the board is valid if the action is adopted by at least four (4) of the board's members.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-12 Health officers; cooperation with department

Sec. 12. The state department of health and local health officers shall cooperate with the board to enforce the sanitation standards adopted by the board for funeral homes.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.770.

IC 25-15-9-13 Funeral service education fund

Sec. 13. (a) The funeral service education fund is established for the following purposes:

(1) To supplement the funding for a program of inspection administered by the funeral director, consumer, and state department of health members of the board under section 9 of this chapter.

(2) To fund educational projects of the funeral director, consumer, and state department of health members of the board directed toward funeral directors and embalmers.

(b) The fund shall be administered by the funeral director, consumer, and state department of health members of the board.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the amount of money in the fund at the close of a fiscal year exceeds forty thousand dollars ($40,000), the treasurer of state shall transfer the excess from the fund into the state general fund.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.771.

IC 25-15-9-14 Fees and gifts; collection and distribution

Sec. 14. The Indiana professional licensing agency shall collect all fees required under this article and gifts received by the board and at the end of each month shall do the following:

(1) Report amounts collected to the auditor of state.

(2) Transfer amounts collected to the treasurer of state for deposit as follows:

(A) An amount established by the board and not exceeding five dollars ($5) per license issued under this article in the funeral service education fund.

(B) Gifts dedicated to the funeral service education fund in that fund.

(C) The remainder, after deducting the amounts described in clause (A) or (B), in the state general fund.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-15 Salary; reimbursement of expenses

Sec. 15. (a) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

(b) Each member of the board who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

As added by P.L.48-1991, SEC.31.

IC 25-15-9-16 Payment of expenses

Sec. 16. All expenses incurred in the administration of this article shall be paid from the state general fund. However, expenses approved by the funeral director, consumer, and state department of health members of the board for payment from the funeral service education fund shall be paid from that fund.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.772.

IC 25-15-9-17 Registration of cemeteries

Sec. 17. (a) Each cemetery that:

(1) qualifies for a certificate of authority as a seller under IC 30-2-13; or

(2) is subject to IC 23-14-48;

must register with the board.

(b) The cemetery, consumer, and state department of health members of the board shall impose a registration fee for each geographic location of a cemetery to which this section applies that is equal to the combined total of fees charged under IC 25-15 for one (1) funeral home license and one (1) individual funeral director's license.

As added by P.L.48-1991, SEC.31. Amended by P.L.2-1992, SEC.773; P.L.52-1997, SEC.51.

IC 25-15-9-18 Priority of persons determining final disposition and interment of human remains; persons prohibited from being an authorized agent

Sec. 18. (a) Except as provided in subsection (b), the following persons, in the order of priority indicated, have the authority to designate the manner, type, and selection of the final disposition of human remains, to make arrangements for funeral services, and to make other ceremonial arrangements after an individual's death:

(1) A person:

(A) granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19; or

(B) named in a United States Department of Defense form

"Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

(2) An individual specifically granted the authority in a power of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The individual who was the spouse of the decedent at the time of the decedent's death, except when:

(A) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or

(B) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(4) The decedent's surviving adult child or, if more than one (1) adult child is surviving, the majority of the adult children. However, less than half of the surviving adult children have the rights under this subdivision if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(5) The decedent's surviving parent or parents. If one (1) of the parents is absent, the parent who is present has the rights under this subdivision if the parent who is present has used reasonable efforts to notify the absent parent.

(6) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this subdivision if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

(7) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree survives, the majority of those who are of the same degree of kinship. However, less than half of the individuals who are of the same degree of kinship have the rights under this subdivision if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who are of the same degree of kinship.

(8) If none of the persons identified in subdivisions (1) through (7) are available, any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home that:

(A) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent's remains; and

(B) attests in writing that a good faith effort has been made to contact any living individuals described in subdivisions (1) through (7).

(9) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following:

(A) If none of the persons identified in subdivisions (1) through (8) is available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize or designate the manner, type, or selection of the final disposition of human remains.

(c) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner or crematory authority of the determination under subsection (b)(2).

(d) If the decedent had filed a protection order against a person described in subsection (a) and the protection order is currently in effect, the person described in subsection (a) may not authorize or designate the manner, type, or selection of the final disposition of human remains.

(e) A law enforcement agency shall determine if the protection order is in effect. If the law enforcement agency cannot determine the existence of a protection order that is in effect, the law enforcement agency shall consult the protective order registry established under IC 5-2-9-5.5.

(f) If a person vested with a right under subsection (a) does not exercise that right not later than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains and the right to determine final disposition passes to the next person described in subsection (a).

(g) A funeral home has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals of the same degree of kinship have been notified of the final disposition instructions.

(h) If there is a dispute concerning the disposition of a decedent's remains, a funeral home is not liable for refusing to accept the remains of the decedent until the funeral home receives:

(1) a court order; or

(2) a written agreement signed by the disputing parties;

that determines the final disposition of the decedent's remains. If a funeral home agrees to shelter the remains of the decedent while the parties are in dispute, the funeral home may collect any applicable fees for storing the remains, including legal fees that are incurred.

(i) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(j) A spouse seeking a judicial determination under subsection (a)(3)(A) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by filing the petition under the same cause number as the dissolution or separation proceeding. A spouse who files a petition under this subsection is not required to pay a filing fee.

As added by P.L.237-1995, SEC.17. Amended by P.L.102-2007, SEC.3; P.L.3-2008, SEC.185; P.L.143-2009, SEC.7. Amended by P.L. 6-2012, SEC. 4.

IC 25-15-9-19 Priority of persons determining final disposition and interment of human remains; persons prohibited from being an authorized agent

Sec. 19. (a) An individual who signs an authorization for the cremation, interment, entombment, or inurnment of human remains:

(1) is considered to warrant the truthfulness of:

(A) any fact set forth in the authorization;

(B) the identity of the person for whose remains cremation, interment, entombment, or inurnment is sought; and

(C) the individual's authority to order the cremation, interment, entombment, or inurnment; and

(2) is personally and individually liable to pay damages in compensation for harm that:
(A) is caused by; or
(B) results from;
the signing of the authorization for cremation, interment, entombment, or inurnment.
(b) A funeral home that relies in good faith on a signed authorization for the cremation, interment, entombment, or inurnment of human remains is not civilly or criminally liable or subject to disciplinary actions for carrying out the disposition of the decedent's remains in accordance with the instructions in the authorization.
As added by P.L. 6-2012, SEC. 5..

INDIANA CODE § 25-15-10

Chapter 10. Courtesy Card

Chapter 10. Courtesy Cards for Funeral Services
Sec. 1. As used in this chapter, "courtesy card" means a special permit issued by the board to funeral directors licensed in states that border Indiana.
Sec. 2. As used in this section, "funeral ceremonies" refer to services or rites commemorating the deceased, with the dead human body present, conducted at:
(1) churches;
(2) funeral homes;
(3) cemeteries;
(4) crematories; or
(5) elsewhere.
Funeral ceremonies include visitations, funerals, graveside funeral services, and other similar rites or ceremonies.
Sec. 3. Beginning January 1, 2013, the board shall issue a courtesy card to an individual who is not licensed under this article as a funeral director but who is licensed or certified as a funeral director in one (1) or more states, if all of the following requirements are met:
(1) The individual is licensed as a funeral director in a state that borders Indiana.
(2) The bordering state issues courtesy cards or similar permits to funeral directors licensed in Indiana.
(3) The individual completes an application for a courtesy card on a form provided by the board. The application for a courtesy card must include certification, including the seal of the state where the individual is licensed.
(4) The individual certifies on the application that the individual has reviewed and understands materials prepared by the board for individuals seeking courtesy cards.
(5) The individual pays the fee established under section 4 of this chapter.
Sec. 4. The board shall adopt rules under IC 4-22-2 to set the fee for the card. The fee must be sufficient to cover the cost of issuing the card. When establishing the fee, the board must consider the fees charged by states bordering Indiana that issue courtesy cards. Insofar as possible, the fees established must be consistent with the fees of the bordering states that issue courtesy cards.
Sec. 5. A courtesy card issued under this chapter is valid for a period consistent with other licenses issued by the board, to be established by the board.
Sec. 6. The holder of a courtesy card issued under this chapter is authorized to undertake the following acts of funeral directing:
(1) Remove and transport unembalmed and embalmed deceased human bodies:
(A) to Indiana from; and
(B) from Indiana to;
the state or states where the courtesy card holder is licensed as a funeral director.
(2) Prepare and complete sections of a death certificate and other disposition permits needed for disposition of deceased human remains, and sign and file death certificates and permits.
(3) Sign and file death certificates and other disposition permits without the assistance of or being under the supervision of a funeral director licensed under this article.
(4) Supervise and conduct funeral ceremonies in Indiana without the assistance of a funeral director licensed under this article.
Sec. 7. A courtesy card holder must comply with all laws and rules of Indiana when engaged in any acts of funeral directing in this state. The board may revoke or suspend a courtesy card or subject the courtesy card holder to discipline in accordance with the laws and rules applicable to funeral directors licensed under this article. Any disciplinary measure taken by the board against a courtesy card holder must be reported by the board to the state board or agency that issued the courtesy card holder's funeral director's license or certification.
Sec. 8. The holder of a courtesy card issued under this chapter is not authorized to undertake the following acts:
(1) Transfer the courtesy card to another individual.
(2) Own or operate a funeral home, crematory, or office that provides or offers to sell or arrange funeral or disposition services in Indiana.
(3) Except as provided in section 6 of this chapter, perform any acts related to the practice of funeral direction in Indiana, including:
(A) arranging for a funeral or disposition service with members of the public;
(B) being employed by or contracted to perform funeral or embalming service in Indiana by a funeral home licensed under this article;
(C) advertising Indiana funeral or disposition services;
(D) executing contracts for funeral or disposition services in Indiana;
(E) preparing or embalming deceased human remains in Indiana; or
(F) exhuming or disinterring human remains in Indiana.
As added by P.L. 95-2012, SEC. 1..

Non-Code Provisions Under Public Law 61-2008

P.L.61-2008, SECTION 16
(a) The state board of funeral and cemetery service established by IC 25-15-9-1 shall adopt rules under IC 4-22-2 to implement:
(1) IC 30-2-9-7(c);
(2) IC 30-2-10-9(c); and
(3) IC 30-2-13-38(e);
all as added by this act, before January 1, 2009.
(b) This SECTION expires January 2, 2009.

P.L.61-2008, SECTION 17
(a) As used in this SECTION, "commission" refers to the probate code study commission established by IC 2-5-16-2.
(b) The commission shall study and make findings and recommendations concerning the following:
(1) Whether current law is adequate to:
(A) protect money and property placed in cemetery perpetual care trusts and preneed funeral trusts; and
(B) ensure that the money is used for its intended purposes.
(2) Whether additional restrictions, prohibitions, or rules are needed concerning cemetery perpetual care trusts and preneed funeral trusts to sufficiently protect consumers and the general public.

(3) Whether it is appropriate to revise Indiana law concerning funeral and cemetery trusts.
(4) Approaches used by other states to regulate funeral and cemetery trusts, trustees, funeral service and merchandise sellers, funeral home owners and operators, and cemetery owners.
(5) Any other matter concerning funeral and cemetery trusts the commission considers appropriate.

(c) The commission shall report its finding and recommendations to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2008.

(d) This SECTION expires November 2, 2008.

INDIANA CODE § 30-2

TITLE 30. TRUSTS AND FIDUCIARIES

INDIANA CODE § 30-2-9

Chapter 9. Prepaid Funeral Plans and Funeral Trust Funds Established Before 1982

IC 30-2-9-1 Agreement or contract; personal property, merchandise, or services; General Cemetery law

Sec. 1. (a) Any payment of money made to any person, firm, partnership, association, limited liability company, or corporation, other than a bank or trust company, upon any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of any personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person or persons whose body or bodies are to be so disposed of, shall be held to be trust funds, and the person, firm, partnership, association, or corporation receiving said payments is hereby declared to be a trustee thereof. This subsection applies only to such a contract or agreement executed before July 1, 1978.

(b) After June 30, 1978, it is unlawful to enter into any agreement or contract for a purpose described in subsection (a) unless the agreement or contract requires that all payments be made by the settlor to an account in a:
(1) bank;
(2) trust company;
(3) savings association; or
(4) credit union;
whose principal office is in Indiana.

(c) Nothing contained in this chapter shall be deemed or construed to apply to those persons, firms, partnerships, associations, limited liability companies, or corporations covered by the "Indiana General Cemetery Law", IC 23-14-1.

(Formerly: Acts 1963, c.303, s.1.) As amended by Acts 1978, P.L.133, SEC.1; Acts 1979, P.L.272, SEC.1; P.L.8-1993, SEC.465; P.L.79-1998, SEC.92.

IC 30-2-9-1.5 Funeral trusts

Sec. 1.5. (a) After June 30, 1978, but before July 1, 1982, an individual may establish one (1) funeral trust under this section, in lieu of any other arrangement for advance payment of funeral and burial expense, such as a joint account, that may be lawful under section 1(b) of this chapter.

(b) A funeral trust established under this section must:
(1) be irrevocable;
(2) have only one (1) settlor;
(3) name a financial institution qualified under section 1(b) of this chapter in which all funds are to be deposited;
(4) name an embalmer, a funeral director, or funeral home, licensed under IC 25-15, as sole beneficiary;
(5) be accompanied by a contract between the settlor and beneficiary as provided in subsection (c); and
(6) be either a time deposit, or account, or certificate of deposit in a financial institution, in the names of the settlor and the beneficiary payable on death to the survivor, or name the designated financial institution as sole trustee.

(c) A funeral trust contract must specify in detail the funeral and burial services to be provided by the beneficiary, and must specify the place of the funeral and the place of burial or other disposition. The contract must contain an acknowledgement by the settlor that he understands the irrevocable nature of the trust. In addition, the contract may provide for reasonable adjustment of the services to be provided if:
(1) the settlor has not contributed the full amount specified in the contract at the time of his death; or
(2) the reasonable expense of transporting the corpse a distance greater than twenty-five (25) miles to the place of the funeral or the place of burial is paid by the beneficiary.
The contract may contain other provisions not inconsistent with this chapter, including a provision for disposition of income on the trust funds that results in a balance greater than the contribution agreed to by the settlor.

(d) The settlor may change the beneficiary, but any new beneficiary must be licensed under IC 25-15 or be a funeral director or funeral home licensed under the laws of another state. The settlor may also change the place of the funeral or the place of burial.

(e) Any trust established under section 1(a) of this chapter may be converted to a funeral trust, provided for under this section, by agreement of the parties to the original contract, payment of all trust funds into the funeral trust, and satisfaction of all requirements of this section including execution of the required contract.

(f) Any trust established under this chapter may be converted to a funeral trust provided for under IC 30-2-10 by satisfaction of all requirements of that chapter.

As added by Acts 1978, P.L.133, SEC.2. Amended by Acts 1979, P.L.272, SEC.2; Acts 1982, P.L.179, SEC.1; P.L.246-1985, SEC.20.

IC 30-2-9-2 Deposit of funds; investments

Sec. 2. All trust funds paid under section 1(a) of this chapter shall be deposited in a bank or trust company whose principal office is in this state, or invested in a savings and loan, or building and loan association whose principal office is in this state, in the name of the trustee, as trustee, within thirty (30) days after receipt thereof, and shall be held by such trustee in trust, subject to the provisions of this chapter.

(Formerly: Acts 1963, c.303, s.2.) As amended by Acts 1978, P.L.133, SEC.3.

IC 30-2-9-3 Permits; fidelity bonds; accounts, books, and records

Sec. 3. No person, firm, partnership, association, limited liability company, or corporation may accept or hold trust funds paid under section 1(a) of this chapter without first securing from the state board of funeral service a permit to accept and hold the funds. Applications for the permit must be in writing, signed by the applicant, and duly verified on forms furnished by the board. Each application must contain at least the following:
(1) The full name and address (both residence and place of business) of the applicant, and every member, officer, and director of the applicant if the applicant is a firm, partnership, association, limited liability company, or corporation. Any permit issued in response to the application is valid for two (2) years, only at the

address stated in the application for the applicant or at the address as may be approved by the board.

(2) A detailed statement of the applicant's assets and liabilities.

(3) A fidelity bond executed by the applicant and a surety company authorized to do business in this state in the amount not exceeding ten thousand dollars ($10,000) as the board may require.

Upon receipt of such application and bond, the board shall issue a permit unless it determines that the applicant has made false statements or representations in the application, is insolvent, has conducted or is about to conduct his business in a fraudulent manner, or is not duly authorized to transact business in this state. The board may require an additional bond from time to time in amounts equal to one tenth (1/10) of the trust funds held by the permittee. The bond must run to the state of Indiana for the use and benefit of the beneficiaries of the trust funds. The permittee shall keep accurate accounts, books, and records in this state of all transactions, copies of all agreements, dates, and amounts of payments made and accepted on all agreements, the names and addresses of the contracting parties, the persons for whose benefit the funds are accepted, and the names of the depositories of the funds. The permittee shall make reports to the board annually or at any other times that the board may require, on forms furnished by the board. Every application must be accompanied by a fee of ten dollars ($10) and every report must be accompanied by a fee of two dollars ($2). The permittee shall make all the books and records pertaining to the trust funds available to the board for examination. The board, or a qualified person designated by it may at any time investigate the books, records, and accounts of the permittee with respect to its trust funds and for that purpose may require the attendance of and examine under oath all persons whose testimony he may require.

(Formerly: Acts 1963, c.303, s.3.) As amended by Acts 1978, P.L.133, SEC.4; P.L.246-1985, SEC.21; P.L.8-1993, SEC.466.

IC 30-2-9-4 Deposits or investments; interest or dividends; withdrawal; forfeiture

Sec. 4. The amount or amounts deposited or invested, with interest or dividends thereon, if any, shall not be withdrawn until the death of the person or persons for whose funeral or burial such funds were paid, unless sooner withdrawn and repaid to the person who originally paid the money under or in connection with said agreement or series of agreements or to his or her legal representative: Provided, That if the agreement or series of agreements provides for forfeiture and retention of any or all such payments by reason of default in payment upon and according to the terms thereof, then upon any such default and forfeiture the trustee may withdraw such deposits or investments: Provided, further, That nothing herein contained shall prohibit the change of depository by the trustee and the transfer of trust funds from one depository to another. This section applies only to trust funds that include payments under section 1(a) of this chapter.

(Formerly: Acts 1963, c.303, s.4.) As amended by Acts 1978, P.L.133, SEC.5.

IC 30-2-9-5 Compensation and expenses of trustee

Sec. 5. This chapter shall not be construed to prohibit a trustee under section 1(a) of this chapter from being reimbursed and receiving from the fund its reasonable expenses in the custody and administration of the funds and the usual and reasonable compensation for its services as the trustee. However, the expenses and compensation shall be fixed by the state board of funeral service in a reasonable amount based upon the principal fund and the earnings of the fund deposited or invested under each of the agreements or series of agreements. A financial institution trustee under section 1.5 of this chapter may be reimbursed for its reasonable expenses from the fund, except the amount shall be fixed by the Indiana department of financial institutions.

(Formerly: Acts 1963, c.303, s.5.) As amended by Acts 1978, P.L.133, SEC.6; P.L.246-1985, SEC.22.

IC 30-2-9-6 Liquidated damages

Sec. 6. It shall be unlawful for any such agreement or agreements to provide for forfeiture and retention of payments upon any such agreement or series of agreements as and for liquidated damages for default therein in excess of 10% of the payments made or $35.00, whichever sum is the larger.

(Formerly: Acts 1963, c.303, s.6.)

IC 30-2-9-7 False reports

Sec. 7. (a) Except as provided in subsection (b) or (c), a person who violates this chapter or makes any false and fraudulent report required under this chapter commits a Class B misdemeanor.

(b) A person who knowingly or intentionally uses or disburses funds in a funeral trust established under this chapter for purposes other than the purposes required under this chapter commits a Class C felony.

(c) Except as authorized in an agreement described in section 4 of this chapter permitting the early withdrawal of funds, a trustee that disburses funds in a funeral trust established under this chapter without verifying:

(1) the death of the individual for whom services are to be provided under the contract; and

(2) that the beneficiary fully performed all funeral and burial services provided for in the contract;

through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction.

(Formerly: Acts 1963, c.303, s.7.) As amended by Acts 1978, P.L.2, SEC.3001; P.L.113-2007, SEC.8; P.L.61-2008, SEC.4..

IC 30-2-9-8 Partial invalidity of law

Sec. 8. If any part or parts of this chapter shall be held unconstitutional, the remaining provisions shall be given full force and effect as completely as if the part held unconstitutional had not been included herein, if such remaining part or parts can then be administered for the purpose of licensing and regulating payments for future use in connection with the disposition of a dead human body, as provided for in this chapter.

(Formerly: Acts 1963, c.303, s.8.) As amended by Acts 1982, P.L.171, SEC.116.

INDIANA CODE § 30-2-10

Chapter 10. Funeral Trust Funds

IC 30-2-10-1 Establishment

Sec. 1. An individual may establish one (1) funeral trust under this chapter, in lieu of any other arrangements for advance payment for funeral and burial expense.

As added by Acts 1982, P.L.179, SEC.2.

IC 30-2-10-2 Payments required to be made to accounts in certain banks, trust companies, and other institutions

Sec. 2. It is unlawful to enter into any agreement or contract for a purpose described in section 1 of this chapter unless the agreement or contract requires that all payments be made by the settlor to an account in a:

(1) bank;

(2) trust company;

(3) savings association; or

(4) credit union;

whose principal office is in Indiana.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.79-1998, SEC.93.

IC 30-2-10-3 Validity of trust; requirements

Sec. 3. A funeral trust established under this chapter is valid only if it:

(1) is irrevocable;

(2) has only one (1) settlor;

(3) names as trustee an Indiana institution qualified under section 2 of this chapter, and requires that all funds be deposited in that institution;

(4) names a funeral home, licensed under IC 25-15, as sole beneficiary; and

(5) is accompanied by a written contract between settlor and beneficiary as provided in section 5 of this chapter.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.246-1985, SEC.23.

IC 30-2-10-4 Trustee; expenses and compensation

Sec. 4. The trustee, in the administration of funds accepted under this chapter, may be reimbursed and receive from the funds its reasonable expenses in the custody and administration of the funds, and is entitled to the usual and reasonable compensation for its services as trustee. The expenses and compensation shall be paid in accordance with the rules of the department of financial institutions.

As added by Acts 1982, P.L.179, SEC.2.

IC 30-2-10-5 Contracts; required provisions

Sec. 5. The contract under which funds are accepted under this chapter must be in writing and contain, as a minimum, the following provisions:

(1) Details of the professional services, facilities, equipment, and a description of merchandise to be provided by the beneficiary. If the merchandise or equipment includes a vault (as defined in IC 23-14-33-33) that:

(A) will be used to encase the remains of a deceased individual; and

(B) is not airtight and watertight;

the details must include a written statement indicating that the vault is not airtight and watertight.

(2) A provision that the beneficiary may provide merchandise of equal or better quality if the merchandise contracted for is no longer available at the time the merchandise is to be provided.

(3) The place of the funeral and the place of the burial or other final disposition to be made of the decedent.

(4) An acknowledgment by the settlor that the settlor understands the irrevocable nature of the trust.

(5) A provision for reasonable adjustment of the services, or cost of services, if the body is transported a distance greater than twenty-five (25) miles to the place of funeral or the place of burial or final disposition and transportation of a distance in excess of twenty-five (25) miles was not contemplated at the time of the execution of the contract.

(6) A provision for full payment of the contract amount by the settlor, a description of the manner in which the funds are to be deposited, and a statement that the interest will accrue to the trust account and a further statement that the principal and interest earned shall inure to the beneficiary to cover all the costs incident to the beneficiary's performance of the contract, any excess to be refunded to the estate of the settlor or to the heirs at law.

(7) The settlor's name, address, and social security number.

(8) The date that the funeral trust is executed by the settlor.

(9) The trustee's name and address.

(10) The beneficiary's license number issued by the state board of funeral service.

(11) A provision that except under the circumstances described in subsection (12), only the settlor may change the beneficiary, that the settlor may make the change at any time, and that the change is not effective until written notification is given to the original beneficiary.

(12) A provision that allows the state board of funeral service to change the beneficiary by naming a funeral home as new beneficiary if the original beneficiary becomes deceased, dissolved, terminated, or otherwise loses beneficiary status as a licensee of the state board, and the settlor or the settlor's guardian or personal representative fails to select a qualified beneficiary.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.246-1985, SEC.24; P.L.61-2008, SEC.5.

IC 30-2-10-6 Change of beneficiary; procedure

Sec. 6. If the settlor changes the beneficiary, he must:

(1) select a new beneficiary licensed under IC 25-15, or a funeral home or a funeral director licensed in another state; and

(2) give written notification to the funeral home originally named as beneficiary.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.246-1985, SEC.25.

IC 30-2-10-7 Delivery of copy of contract to settler

Sec. 7. (a) The settlor shall be furnished an executed copy of the contract.

(b) If a contract has been approved and signed by both parties and a copy of the contract has been delivered to the settlor, no further notification to the settlor related to the contract is required.

As added by Acts 1982, P.L.179, SEC.2.

IC 30-2-10-8 Management of funds by financial institutions; annual reports from beneficiaries

Sec. 8. (a) Indiana financial institutions in which trust funds have been deposited in accordance with this chapter may place the funds in a common or commingled trust fund under a single trust instrument. The trustee shall maintain a separate accounting record for each trust fund.

(b) All interest earned by funds deposited in accordance with this chapter accrue to the trust.

(c) The trustee shall disburse the funds deposited in accordance with this chapter to the named beneficiary to discharge an obligation arising from any contract described in section 5 of this chapter, upon receipt of evidence satisfactory to the trustee that the contract has been performed.

(d) A funeral home, licensed under IC 25-15 that is named as beneficiary of funeral trust funds under this chapter shall annually report the following to the state board of funeral service:

(1) The funeral home's name, Indiana license number, and officers.

(2) The name and address of any trustee with which funeral trust funds are deposited for the funeral home.

(e) No bonds or permits are required from funeral homes that enter into contracts described in section 5 of this chapter.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.246-1985, SEC.26.

IC 30-2-10-9 Violations; offense

Sec. 9. (a) Except as provided in subsections (b) and (c), a person who knowingly violates this chapter commits a Class A misdemeanor.

(b) A person who knowingly or intentionally uses or disburses funds in a funeral trust established under this chapter for purposes other than the purposes required under this chapter commits a Class C felony.

(c) A trustee that disburses funds in a funeral trust established under this chapter without verifying:

(1) the death of the individual for whom services are to be provided under the contract; and

(2) that the beneficiary fully performed all funeral and burial services provided for in the contract;

through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction.

As added by Acts 1982, P.L.179, SEC.2. Amended by P.L.207-1993, SEC.24; P.L.113-2007, SEC.9; P.L.61-2008, SEC.6.

IC 30-2-10-10 Incapacity, resignation, and removal of trustees

Sec. 10. IC 30-4-3-29 governs procedures concerning the incapacity, resignation, or removal of a trustee.

As added by Acts 1982, P.L.179, SEC.2.

INDIANA CODE § 30-2-13

Chapter 13. Payment of Funeral, Burial Services, or Merchandise in Advance of Need

IC 30-2-13-1 Applicability of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to any written agreement between a purchaser and a seller that obligates the seller to provide prepaid services or merchandise, or both, for a named individual in conjunction with the death, funeral, burial, or final disposition of the individual.

(b) Except as provided in subsections (c) and (d), this chapter does not apply to the following:

(1) Perpetual care funds under IC 23-14-48.

(2) The sale of burial rights. However, this chapter applies to the sale of services or merchandise sold in conjunction with the sale of burial rights and to the use of free or discounted burial rights as an inducement for a purchaser to transfer sellers.

(3) A contract between a purchaser and a seller that requires delivery of prepaid services or merchandise, or both, not later than one (1) year after the date of final payment and for circumstances other than death.

(c) The annual reporting requirements of section 31 of this chapter apply to a perpetual care fund.

(d) The solicitation requirements of section 24 of this chapter and the provisions concerning inducement in section 13(h) of this chapter apply to the sale of burial rights.

As added by P.L.200-1991, SEC.1. Amended by P.L.207-1993, SEC.25; P.L.120-1994, SEC.2; P.L.241-1995, SEC.2; P.L.114-1999, SEC.1; P.L.14-2000, SEC.62.

IC 30-2-13-2 "Agent" defined

Sec. 2. As used in this chapter, "agent" means a person authorized by a seller to offer, sell, or solicit the sale of a contract on behalf of the seller and includes an employee or independent contractor of the seller.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-2.5 "At-need services and merchandise" defined

Sec. 2.5. (a) As used in this chapter, "at-need services and merchandise" includes personal property or services:

(1) listed in section 8(1) of this chapter; and

(2) purchased after the time of death.

(b) The term does not include burial rights.

As added by P.L.207-1993, SEC.26.

IC 30-2-13-3 "Board" defined

Sec. 3. As used in this chapter, "board" refers to the state board of funeral and cemetery service established by IC 25-15-9-1.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-4 "Contract" defined

Sec. 4. As used in this chapter, "contract" means a written agreement between a purchaser and a seller that:

(1) obligates the seller to provide prepaid services or merchandise, or both, for a named individual; and

(2) becomes irrevocable thirty (30) days after the written agreement is signed by the purchaser and seller.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-5 "Delivery" defined

Sec. 5. As used in this chapter, "delivery" means the time when:

(1) services are performed in connection with the funeral or other disposition of the purchaser or the individual for whom services are to be provided under the contract;

(2) except for merchandise described in section 8(1)(A) and 8(1)(C) of this chapter, the merchandise is:

(A) in the possession of the purchaser or used for the intended purpose of the merchandise; or

(B) permanently installed on or in cemetery property, the burial rights to which have been transferred or granted to the purchaser or individual for whose interment the merchandise is to be used; or

(3) except for merchandise described in section 8(1)(A) and 8(1)(C) of this chapter, the merchandise is:

(A) purchased by the seller and stored in manufactured form, in a manner and number equal to all merchandise sold, on the premises where the merchandise is to be used or installed and specifically identified in the name of the purchaser, although any applicable installation or final finishing fees remain subject to the terms of the contract made under this chapter; or

(B) permanently identified with the name of the purchaser or individual for whom the merchandise is to be provided and delivered to a warehouse, with both title to the merchandise and a warehouse receipt delivered to the purchaser, and notification to and acceptance of delivery acknowledged in writing by the purchaser.

As added by P.L.200-1991, SEC.1. Amended by P.L.241-1995, SEC.3; P.L.236-1995, SEC.52; P.L.114-1999, SEC.2.

IC 30-2-13-6 "Fund" defined

Sec. 6. As used in this chapter, "fund" refers to the preneed consumer protection fund established by section 28 of this chapter.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-7 "Insurance policy" defined

Sec. 7. As used in this chapter, "insurance policy" means a policy providing one (1) or more of the types of insurance described in IC 27-1-5-1, Class 1(a) and Class 1(c).

As added by P.L.200-1991, SEC.1.

IC 30-2-13-8 "Prepaid services or merchandise" or "services or merchandise" defined

Sec. 8. As used in this chapter, "prepaid services or merchandise" or "services or merchandise" includes personal property or services:

(1) typically sold or provided in connection with the final disposition or memorialization of human remains, including:

(A) caskets or other primary containers, including rental, temporary, or disposable caskets or containers;

(B) outer burial containers;

(C) cremation or transportation containers;

(D) funeral clothing or accessories;

(E) monuments;
(F) grave markers;
(G) cremation urns;
(H) embalming services;
(I) funeral directing services provided at the time of death and in connection with the final disposition of human remains;
(J) final date carving fees, including carving fees for double monuments;
(K) cremation;
(L) cremation services;
(M) other funeral and burial items, including items of service or merchandise that may be rented or leased; and
(N) services or merchandise otherwise described as cash advance items under section 11.5 of this chapter and sold directly by the seller and not provided by a third person; and
(2) purchased in advance of need to be provided or delivered after the death of the purchaser or individual for whom services or merchandise are to be provided in the contract.
As added by P.L.200-1991, SEC.1. Amended by P.L.207-1993, SEC.27; P.L.241-1995, SEC.4; P.L.114-1999, SEC.3.

IC 30-2-13-9 "Purchaser" defined

Sec. 9. (a) Except as provided in subsection (b), as used in this chapter, "purchaser" means a person or firm contracting with a seller for services or merchandise to be provided or delivered for a named individual.

(b) As used in section 13(b) of this chapter, "purchaser" means:
(1) an individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19;
(2) an individual described in subsection (a);
(3) the attorney in fact, appointed under IC 30-5, of an individual described in subsection (a);
(4) the guardian, appointed under IC 29-3, of an individual described in subsection (a); or
(5) if an individual described in subsection (a) is deceased:
(A) the surviving spouse of the individual;
(B) if there is no surviving spouse, the adult children of the individual;
(C) if there is no surviving spouse or surviving adult child, the surviving parent or parents of the individual; or
(D) if there is neither a surviving spouse nor adult children, nor a surviving parent, the personal representative (as defined in IC 29-1-1-3) of the individual.
As added by P.L.200-1991, SEC.1. Amended by P.L.207-1993, SEC.28; P.L.114-1999, SEC.4; P.L.143-2009, SEC.17.

IC 30-2-13-10 "Seller" defined

Sec. 10. As used in this chapter, "seller" means a person doing business as a sole proprietor, a firm, a limited liability company, a corporation, an association, or a partnership contracting to provide services or merchandise, or both, to a named individual.
As added by P.L.200-1991, SEC.1. Amended by P.L.8-1993, SEC.468; P.L.114-1999, SEC.5.

IC 30-2-13-11 "Trustee" or "escrow agent, acting as a fiduciary" defined

Sec. 11. (a) As used in this chapter, "trustee" or "escrow agent, acting as a fiduciary", means a:
(1) bank;
(2) trust company;
(3) savings association; or
(4) credit union;
that maintains an office in Indiana and is qualified under state or federal law to serve as a trustee or escrow agent, acting as a fiduciary.

(b) For a contract using a life insurance policy as consideration, the term also includes a life insurance company or other entity that establishes a trust for the purposes of holding and administering life insurance policies issued by an insurance company to fund contracts under this chapter. Notwithstanding any other law to the contrary, a life insurance company or other entity acting as a trustee shall comply with this chapter.

(c) For a contract using a previously issued life insurance policy as consideration, the seller is considered to be a qualified trustee if ownership is irrevocably assigned to the seller in conjunction with an assignment of death benefits.
As added by P.L.200-1991, SEC.1. Amended by P.L.241-1995, SEC.5; P.L.79-1998, SEC.94; P.L.114-1999, SEC.6.

IC 30-2-13-11.5 "Cash advance item" defined

Sec. 11.5. (a) As used in this chapter, "cash advance item" means an item of property, or services, or merchandise that is not sold directly by a seller and is described to a purchaser as one (1) of the following:
(1) A cash advance.
(2) An accommodation.
(3) A cash disbursement.
(4) An estimated future charge by a third party.
(5) A similar term.

(b) The term also refers to a service or property obtained from a third party for which the seller collects an estimated payment to be held in trust or escrow until services or merchandise subject to a contract are delivered because the cost of the service or property can only be estimated at the time the contract is made.

(c) Cash advance items include the following:
(1) Cemetery or crematory services.
(2) Pallbearers.
(3) Public transportation.
(4) Clergy honoraria.
(5) Flowers.
(6) Musicians or singers.
(7) Nurses.
(8) Obituary notices.
(9) Gratuities.
(10) Death Certificates.
(11) Sales tax.
(12) Foreign language interpreters.
(13) Religious commemorative services.
(14) Fees charged for the following:
(A) Interment.
(B) Opening and closing of a grave or crypt.

(d) If property or services are not cash advance items under this section, they are services or merchandise under section 8 of this chapter.
As added by P.L.114-1999, SEC.7.

IC 30-2-13-12 Contracts

Sec. 12. (a) This section applies to contracts for prepaid services or merchandise, or both, entered into under this chapter before January 1, 1996.

(b) A purchaser may enter into more than one (1) contract under this chapter for prepaid services or merchandise, or both. Each contract may be funded with cash, either in a lump sum or installment payments, or an insurance policy, or both. The purchaser may revoke the contract if the purchaser sends the seller written notice of the revocation within thirty (30) days after the contract is signed by the purchaser and seller. If a purchaser revokes a contract the seller shall refund to the purchaser, without interest, all property used to fund the contract. If the seller receives payment of at least five hundred dollars ($500) in cash that must ultimately be placed in trust or escrow under this section, the seller shall, not more than five (5) days after receiving the payment, deposit the

payment in escrow pending irrevocable deposit to trust or escrow authorized by IC 30-2-10. Thirty (30) days after the contract is signed all property paid or delivered to the seller to fund each contract shall be irrevocably deposited by the seller to trust or escrow authorized by either IC 30-2-10 or IC 23-14-49-1. All property received for services or merchandise sold by a seller licensed under IC 25-15 shall be irrevocably deposited to trust in compliance with IC 30-2-10. All sellers shall guarantee the provision of all services and merchandise sold under a contract authorized by this chapter.

(c) If a contract under this chapter is funded with an insurance policy, the ownership of the insurance policy must be irrevocably assigned to a trustee. The seller may not borrow against, pledge, withdraw, or impair the cash value of the policy.

(d) A finance charge may be assessed on a contract sold on an installment basis, and the seller shall disclose to the purchaser all the applicable requirements under federal and state law.

(e) A seller or successor seller who has accepted cash or an insurance policy, or both, as full payment of a contract under subsection (b), is responsible for providing all contracted prepaid services and merchandise if the insurance company or trust company used to fund the contract is insolvent.

(f) A purchaser who purchases a contract with cash in a lump sum or through an insurance contract shall make the payment for the contract payable only to the seller. A purchaser who purchases a contract with cash in installments may make payments for the contract to the seller.

As added by P.L.200-1991, SEC.1. Amended by P.L.1-1992, SEC.159; P.L.207-1993, SEC.29; P.L.120-1994, SEC.3; P.L.241-1995, SEC.6; P.L.52-1997, SEC.52.

IC 30-2-13-12.1 Contracts entered into after December 31, 1995, and before July 1, 1999

Sec. 12.1. (a) This section applies to contracts for prepaid services or merchandise, or both, entered into under this chapter after December 31, 1995, and before July 1, 1999.

(b) A purchaser may enter into more than one (1) contract under this chapter for prepaid services or merchandise, or both. Each contract may be funded with cash, either in a lump sum or installment payments, or an insurance policy, or both. The purchaser may revoke the contract if the purchaser sends the seller written notice of the revocation within thirty (30) days after the contract is signed by the purchaser and seller. If a purchaser revokes a contract, the seller shall refund to the purchaser, without interest, all property used to fund the contract. If the seller receives payment of at least five hundred dollars ($500) in cash that must ultimately be placed in trust or escrow under this section, the seller shall, not more than five (5) days after receiving the payment, deposit the payment in escrow pending irrevocable deposit to trust or escrow authorized by either subsection (h) or (i). Thirty (30) days after the contract is signed all property paid or delivered to the seller to fund each contract shall be irrevocably deposited by the seller to trust or escrow authorized by either subsection (h) or (i). Except for installment contracts funded with cash and contracts funded with a newly issued insurance policy that has a limited or qualified death benefit period, all sellers shall guarantee the provision of all services and merchandise sold under a contract authorized by this chapter. At delivery, a seller may not impose additional charges to recover a difference between the original contract retail prices or current retail prices for services and merchandise that are sold under the contract, whichever is greater, and the amount on deposit in trust or escrow.

(c) If a contract under this chapter is funded with an insurance policy, the ownership of the insurance policy must be irrevocably assigned to a trustee. The seller may not borrow against, pledge, withdraw, or impair the cash value of the policy.

(d) A finance charge may be assessed on a contract sold on an installment basis, and the seller shall disclose to the purchaser all the applicable requirements under federal and state law.

(e) A seller or successor seller who has accepted cash or an insurance policy, or both as full payment of a contract under subsection (b) is responsible for providing all contracted prepaid services and merchandise if the insurance company or trust company used to fund the contract is insolvent.

(f) A purchaser who purchases a contract with cash or through an insurance contract shall make the payment for the contract payable only to the seller or insurer, respectively.

(g) A seller may not accept or deposit to trust or escrow cash, an insurance policy, or any other property as consideration for services or merchandise to be provided in the future except in connection with a contract authorized by this chapter.

(h) A trust account authorized and established under this chapter must:

(1) be irrevocable and require the seller to deposit to trust all sums or property received from the purchaser;

(2) designate the seller as settlor and the seller as beneficiary;

(3) designate a trustee qualified under this chapter and authorize the trustee to charge a reasonable fee for services;

(4) require that a separate account be maintained in the name of each purchaser;

(5) require that interest earned on the account be added to the principal and reinvested;

(6) permit assets of the separate accounts of several purchasers to be commingled for investment; and

(7) require that on delivery of services or merchandise the trustee shall remit to the seller the amount on deposit in the purchaser's trust.

Upon full delivery of all services and merchandise under the contract, if the amount on deposit in the trust is greater than the seller's total current retail price of all services and merchandise under the contract, the remaining amount may but need not be returned to the individual, if any, designated by the purchaser to receive the remainder, or to the purchaser's estate.

(i) An escrow account authorized and established under this chapter must:

(1) be irrevocable and require the seller to deposit to escrow all sums or property received from the purchaser;

(2) designate the seller as settlor and beneficiary;

(3) designate a trustee qualified under this chapter and authorize the trustee to charge a reasonable fee for services;

(4) require that the escrow account be maintained in the name of the seller and serve as a depository for all cash or other property received by the seller to fund contracts sold by the seller;

(5) permit the commingling of cash for investment;

(6) permit the seller to withdraw from the escrow account the current retail value of prepaid services or merchandise delivered under this chapter; and

(7) permit any interest earned or appreciation in value of money or other property deposited in escrow to be paid to the seller not more frequently than monthly, to the extent that the total value of the escrow account after a payment under this subdivision is not less than the current retail value of all services and merchandise under the contracts that remain undelivered.

(j) A trust account or an escrow account established under this chapter:

(1) must include the provisions set forth in either subsection (h) or (i);

(2) may be included as an integral part of a seller's contract through the execution of an adoption agreement that references the trust account or escrow account; and

(3) is not required to be represented by a separate trust or escrow document for each contract.

(k) The entire value of an irrevocable trust or an escrow established under this chapter may not be considered as a resource in determining a person's eligibility for Medicaid under IC 12-15-2-17.

(l) A contract for prepaid services or merchandise, or both, entered into after June 30, 1997, must contain a statement that:

(1) the purchaser may revoke the contract under subsection (b) within thirty (30) days after the contract is signed; and

(2) after thirty (30) days, the contract is irrevocable.

(m) This chapter does not prohibit a purchaser from immediately making the trust or escrow required under this chapter irrevocable and assigning ownership of an insurance policy used to fund a contract to obtain favorable consideration for Medicaid, Supplemental Security Income, or another public assistance program under federal or state law.

As added by P.L.241-1995, SEC.7. Amended by P.L.113-1996, SEC.2; P.L.195-1997, SEC.1; P.L.114-1999, SEC.8.

IC 30-2-13-12.5 Contracts entered into after June 30, 1999

Sec. 12.5. (a) This section applies to the following contracts entered into or established under this chapter after June 30, 1999:

(1) Contracts for prepaid services.

(2) Contracts for prepaid merchandise.

(3) Trusts or escrows established to hold consideration paid for services or merchandise subject to a contract entered into under this chapter.

(b) A contract between a purchaser and a seller must:

(1) specify that the consideration for the contract is:

(A) cash, payable either in a lump sum or in installments; or

(B) an insurance policy that is:

(i) newly issued in conjunction with and integral to the contract;

(ii) issued previously in a transaction separate and distinct from the contract; or

(iii) both.

If a contract is funded with an insurance policy, the ownership of the policy must be irrevocably assigned to a trustee, and the seller may not borrow against, pledge, withdraw, or impair the cash value of the policy;

(2) specify that only the purchaser, acting by written notice to the seller, may revoke the contract within thirty (30) days after the date the contract is signed by the purchaser and the seller and that the contract becomes irrevocable upon the expiration of the thirty (30) day period;

(3) specify that, if the contract is revoked, the seller shall refund and return to the purchaser, without interest, the cash or insurance policy used to fund the contract;

(4) specify that not more than thirty (30) days after the contract is signed by the purchaser and the seller, the whole of the cash or insurance policy serving as consideration for the contract must be deposited into a trust or escrow authorized by subsection (c) or (d). However, a seller may elect to serve as trustee of a previously existing life insurance contract;

(5) except as provided in subsection (f), unconditionally require that the seller shall deliver all services or merchandise, or both, specified in the contract and receive as consideration for the delivery of services or merchandise, or both, only the cash or insurance policy held in trust or escrow without regard to the solvency of the insurer or the adequacy or loss in value of any cash deposit or insurance policy used to fund a contract;

(6) except as provided in subsection (f), prohibit a seller from imposing additional charges to recover any shortage or difference between the retail prices for services or merchandise, or both, in effect on the date of delivery of the services or merchandise, or both, and the value of the trust or escrow applicable to the contract on the date of delivery;

(7) require that a seller accepting the transfer of a contract permitted under section 13 of this chapter shall honor the requirements and obligations of the contract;

(8) permit the seller to assess a finance charge on a contract sold on an installment basis and require that the seller disclose to the purchaser the applicable requirements of federal and Indiana law;

(9) provide that the contract must comply with the following requirements:

(A) The contract must be made in a form that is:

(i) written in clear and understandable language; and

(ii) printed in a size and style of type that is easy to read.

(B) The contract must describe the services, merchandise, or cash advance items being purchased. If the merchandise or cash advance items include a vault (as defined in IC 23-14-33-33) that:

(i) will be used to encase the remains of a deceased individual; and

(ii) is not airtight and watertight;

the contract must include a written statement indicating that the vault is not airtight and watertight.

(C) The contract must identify the following by name, address, and telephone number:

(i) The seller.

(ii) The purchaser.

(iii) The contract beneficiary if the beneficiary is an individual other than the purchaser.

(D) The contract must contain the seller's certificate of authority number and the date of the contract.

(E) The contract must provide that if an item of the particular services or merchandise specified in the contract is unavailable at the time of delivery, the seller shall deliver services or merchandise similar in style, quality, and of equal value to the unavailable item in the place of the item.

(F) The contract must disclose the precise manner in which the contract is to be funded by:

(i) identifying the consideration for the contract;

(ii) identifying the name, number, if known, and issuer of any insurance policy used to fund the contract; and

(iii) including the identity and location of the trustee or escrow agent, acting as fiduciary, who is to hold the trust or escrow.

(G) The contract must disclose that the seller reserves the right to assess an extra charge for:

(i) transportation costs;

(ii) services or merchandise incurred in the transport of human remains a distance greater than twenty-five (25) miles from the seller's place of business; and

(iii) service charges necessarily incident to the transport of human remains and in excess of those service charges specified in the contract.

(H) The contract must disclose the following:

(i) The amount, if any, the seller has elected to receive under subsection (c)(1) or subsection (d)(6).

(ii) That a commission or fee may be paid to the seller or the seller's agent on a contract funded under subsection (b)(1)(B)(i).

(10) specify that a purchaser has the unrestricted right to designate one (1) or more successor sellers to whom the contract may be transferred under section 13 of this chapter, but that such a transfer is effective only with the consent of the newly designated seller and upon the fulfillment of the other requirements of section 13 of this chapter;

(11) specify that if cash advance items are funded in the contract, the seller agrees to deliver the cash advance items under one (1) of the following alternatives:

(A) Delivery is unconditionally guaranteed at the option of the seller.

(B) Delivery is conditionally guaranteed for a seller and will be equal in value to the total value of the trust or escrow account maintained for the purchaser multiplied by the percentage of the total original contract price represented by cash advance items;

(12) specify that a release from trust or escrow shall occur only upon the seller's delivery of services or merchandise, or both;

(13) permit, at the option of the seller, the incorporation of the trust or escrow language contained in subsection (c) or (d) directly into the contract;

(14) prohibit the seller from charging any service, transaction, or other type of fee or charge unless the fee is:

(A) authorized under subsections (c)(1) and (d)(6) and section 27 of this chapter; or

(B) included within the definitions contained in section 8 or 11.5 of this chapter.

(c) A trust account authorized and established under this chapter must do all of the following:

(1) Be irrevocable and require either of the following

(A) The seller deposit the insurance policy used to fund the contract into the trust account. However, for contracts funded after June 30, 1995, with a previously issued insurance policy, the seller may serve instead of a trustee if the seller is qualified to do so under section 11(c) of this chapter.

(B) The seller deposit the cash used to fund the contract into the trust account. However, as consideration for the sale of the contract and any expense incurred by the seller in conjunction with the sale of the contract, the contract must permit the seller to notify, within a ten (10) day period following the date the contract becomes irrevocable, the trustee of its election to receive only up to ten percent (10%) of the seller's original contract price for services or merchandise, or both.

(2) Designate the seller as the beneficiary of the trust.

(3) Designate a trustee qualified under this chapter and authorize the trustee to assess the charges authorized under section 18 of this chapter.

(4) Require that a separate account be maintained in the name of each purchaser.

(5) Require that any interest, dividend, or accumulation in the account be reinvested and added to the principal.

(6) Permit the assets of the several, separate accounts to be commingled for investment purposes.

(7) Require that on receipt of the seller's proof of delivery of services or merchandise the trustee shall remit to the seller the full amount in trust applicable to the purchaser's contract and all of the accumulated interest.

(8) Permit the seller to retain the remaining amount if the amount in the trust account is greater than the seller's total current retail price of all services and merchandise subject to the contract at the time of delivery of all services or merchandise subject to the contract. However, in the case of a contract funded under subsection (b)(1)(B)(ii), the seller may not retain the remaining amount but must pay the remaining amount to the entity or individual designated by the insured as the beneficiary of the death benefit proceeds not later than sixty (60) days after the receipt and deposit of the proceeds by the seller. The seller may not qualify as a beneficiary of the remaining amount or the insurance death benefit. In the case of all other contracts funded under this chapter, the seller may opt to return the remaining amount to the individual designated by the purchaser to receive the remainder or to the purchaser's estate.

(d) An escrow account authorized and established under this chapter must do all of the following:

(1) Be irrevocable and require that the seller deposit all cash or the insurance policy used to fund the contract into the escrow account.

(2) Designate the seller as the recipient of the escrow funds.

(3) Designate an escrow agent, acting as fiduciary, qualified under this chapter to act as escrow agent acting as fiduciary and authorize the escrow agent acting as fiduciary to assess the charges authorized under section 18 of this chapter.

(4) Require that the escrow account be maintained in the name of the seller and serve as a depository for all cash or insurance policies used to fund contracts sold by the seller.

(5) Permit the investment of and commingling of cash for investment purposes.

(6) Permit the seller to receive an administrative or service fee at the option of the seller. The seller may opt to receive the fee after the day following the date the contract becomes irrevocable. The amount of the fee may not exceed ten percent (10%) of the seller's total contract price for services or merchandise or both.

(7) Require that on delivery of services or merchandise, the escrow agent shall remit to the seller an amount equal to:

(A) the seller's original retail price as set forth in the contract for the services or merchandise delivered; minus

(B) the amount, if any, received by the seller under subdivision (6).

(8) Permit the seller to receive monthly payments of the interest earned and the appreciation in the value of the escrow assets to the extent that the total value of the escrow after a payment authorized under this subdivision is not less than:

(A) the original contract value of all services or merchandise under the contracts, or parts of the contracts that remain undelivered; minus

(B) the amounts, if any, received by the seller under subdivision (6).

(e) A trust account or an escrow account established under this section must contain a concise written description of all the provisions of this chapter that apply to the account.

(f) A seller's guarantee of delivery of all services or merchandise subject to a contract sold by the seller or transferred to a seller is unconditional except in the instance of one (1) of the following circumstances:

(1) An installment contract funded with cash or an insurance policy issued in conjunction with the contract is guaranteed to the extent of the cash paid or death benefits available at the time of death of the individual for whom services or merchandise are to be provided.

(2) A contract funded with an insurance policy issued previously and not in conjunction with the contract is guaranteed to the extent of the death benefit proceeds available at the time of the individual for whom services or merchandise are to be provided.

(3) A contract funded with an insurance policy issued in conjunction with the contract, but having a limited or qualified death benefit period, is guaranteed to the extent of the death benefit proceeds available at the time of the death of the individual for whom services or merchandise are to be provided.

(4) A transportation expense incurred by the seller while transporting human remains a distance greater than twenty-five (25) miles from the seller's place of business, plus any charge for services or merchandise necessarily incident to the transport of the human remains.

(5) The seller agrees to conditionally guarantee the delivery of cash advance items under subsection (b)(11)(B).

In the instance of unguaranteed delivery, the seller may reduce the value or number of the services or merchandise subject to the contract or cash advance items delivered or deliver the services or merchandise in full on the condition that the seller receives adequate consideration to compensate the seller for the unguaranteed part of the contract.

(g) The entire value of an escrow or trust established under this chapter may not be considered as a resource in determining a person's eligibility for Medicaid under IC 12-15-2-17.

(h) This chapter does not prohibit a purchaser from immediately making the trust or escrow required under this chapter irrevocable and assigning ownership of an insurance policy used to fund a contract to obtain favorable consideration for Medicaid, Supplemental Security Income, or another public assistance program under federal or state law.

(i) A seller may not accept or deposit into a trust or escrow account cash, an insurance policy, or any other property as consideration for services or merchandise to be provided in the future except in conjunction with a contract authorized by this chapter.

As added by P.L.114-1999, SEC.9. Amended by P.L.76-2000, SEC.1; P.L.61-2008, SEC.7.

IC 30-2-13-13 Designation of successor sellers

Sec. 13. (a) Notwithstanding section 10 of this chapter, as used in this section, "seller" means an individual, a person doing business as a sole proprietor, a firm, a corporation, an association, a limited liability company, or a partnership:

(1) contracting to provide prepaid or at-need services or merchandise, or both, to a named individual; and

(2) holding a certificate of authority under this chapter.

(b) A purchaser has the option to designate one (1) or more successor sellers to provide:

(1) prepaid services or merchandise; or

(2) at-need services or merchandise.

A purchaser who exercises the purchaser's option to designate a successor seller shall give written notice of the designation to the currently designated seller, successor seller, and trustee or escrow agent. Only a purchaser may exercise the option to designate a new seller. However, the designation is ineffective unless the newly designated seller consents to the designation.

(c) If a purchaser designates a successor seller, and the successor seller consents to the designation, not less than thirty (30) days after receiving notice under subsection (b), the seller who was previously designated shall:

(1) relinquish and transfer all rights under the contract;

(2) transfer to the successor the contract; and

(3) release from trust or escrow for subsequent deposit to the successor seller's trust or escrow all property being held as consideration for the contract, together with an itemized statement disclosing all services or merchandise delivered as of the date of transfer.

However, a seller who was previously designated to provide the services or merchandise shall comply with section 30 of this chapter. The seller and the successor sellers shall cooperate to ensure that there is no forfeiture or loss of a right or benefit under the contract and that all contract terms are fulfilled. If similar prepaid or at-need services or merchandise are purchased from one (1) or more sellers, the contract that is first in time prevails and is valid.

(d) The trustee shall confirm the transfer to the seller, successor seller, and purchaser by written notice confirming the identity and value of the property transferred.

(e) It is a violation of this chapter for a seller to knowingly induce a purchaser to breach an existing contract that provides for prepaid or at-need services or merchandise.

(f) This section does not abrogate the requirements of IC 25-15-4 concerning contracting for or delivering at-need services and merchandise.

(g) It is a violation of this chapter for a seller to knowingly:

(1) induce a purchaser who has the right to designate a successor seller under subsection (b) to:

(A) make a designation of a successor seller;

(B) breach an existing contract for prepaid or at-need services or merchandise; or

(C) enter into an at-need or prepaid contract calling for the delivery of similar services or merchandise; or

(2) offer a monetary inducement or the exchange or substitution of free or discounted services or merchandise in an effort to induce a purchaser to effect a change in the designation of a seller of prepaid or at-need services or merchandise.

(h) It is a violation of this chapter for a seller to provide free or discounted burial rights:

(1) as an inducement or as consideration for the transfer of a contract; or

(2) in an effort to induce a purchaser to effect a change in the designation of a seller of prepaid or at-need services or merchandise.

As added by P.L.200-1991, SEC.1. Amended by P.L.207-1993, SEC.30; P.L.120-1994, SEC.4; P.L.241-1995, SEC.8; P.L.114-1999, SEC.10; P.L.76-2000, SEC.2; P.L.61-2008, SEC.8.

IC 30-2-13-14 Conversion of trust or escrow agreement; change in method of funding; new or successor trustee or escrow agent

Sec. 14. (a) A trust or an escrow agreement created under:

(1) IC 23-14-49-1;

(2) IC 30-2-9; or

(3) IC 30-2-10;

may not be converted to a trust or an escrow agreement required by section 12 or 12.5 of this chapter.

(b) A contract that has been funded with cash may not subsequently be changed to be funded with an insurance policy.

(c) A contract that has been funded with an insurance policy may not subsequently be changed to be funded with cash.

(d) Unless a transaction occurs under section 15(a)(4) of this chapter or the provisions of the contract permit otherwise, a new or successor trustee or escrow agent may not qualify and serve as trustee or escrow agent without the written consent of the purchaser and the seller designated to provide services or merchandise subject to a contract under this chapter.

As added by P.L.200-1991, SEC.1. Amended by P.L.241-1995, SEC.9; P.L.52-1997, SEC.53; P.L.114-1999, SEC.11.

IC 30-2-13-15 Loss of certificate of authority or license by seller; notice to purchaser; selection of new seller; transfer of unperformed contracts and funds to successor owner

Sec. 15. (a) If a seller:

(1) ceases to have a certificate of authority or loses a professional license required to provide services under this chapter;

(2) ceases to exist or operate;

(3) is incapable of performing the seller's obligations under an unperformed contract for any reason; or

(4) sells or leases the seller's business, facilities, or assets;

the seller shall give notice to the board and to each purchaser for whom funds are held in a trust or escrow under this chapter. The notice shall specify the reason for the issuance of the notice.

(b) The seller's written notice under subsection (a) must be:

(1) addressed to the purchaser's last known address; and

(2) mailed within fifteen (15) days after the seller becomes incapable of performing the obligations under the contract.

(c) A purchaser who receives a notice under subsection (a) has thirty (30) days after the date the notice was mailed by the seller to select and designate a new seller under section 13 of this chapter to become the beneficiary of the trust or the designated recipient of the escrow funds. The first seller shall send written notice of the designation of a new seller to the newly designated seller or to the trustee.

(d) A seller shall transfer all unperformed contracts and funds held in trust or escrow under this chapter to the seller who is the successor

owner or lessee of the transferring seller. The successor seller shall perform all contracts transferred under this subsection.

(e) If:

(1) the seller fails to comply with sections (a)(1), (a)(2), or (a)(3); or

(2) a purchaser fails to designate a new seller;

the designation shall be made by the board.

As added by P.L.200-1991, SEC.1. Amended by P.L.241-1995, SEC.10; P.L.114-1999, SEC.12: P.L.177-2009, SEC.60.

IC 30-2-13-16 Sale, consolidation, merger, disposal, or lease of assets in bulk; designation of successor

Sec. 16. (a) Except for sales of stock or merchandise in the ordinary course of the seller's business, a seller who has deposited money or an insurance policy under section 12 or 12.5 of this chapter may not:

(1) sell, consolidate, merge, or dispose of assets; or

(2) lease the seller's business, facilities, or assets;

without providing, as an integral part of the transaction or occurrence, for the designation of a successor seller of the money or insurance policy placed in trust. For purposes of this section, a change in control determines the seller's obligation.

(b) If a seller acting as a trustee of an insurance policy fails to designate a qualified successor seller, the board shall make the designation. However, the designated successor must be willing to accept the designation.

(c) This section does not restrict a purchaser's right to designate a new seller in accordance with section 13 of this chapter.

As added by P.L.200-1991, SEC.1. Amended by P.L.241-1995, SEC.11; P.L.114-1999, SEC.13.

IC 30-2-13-17 Successors to seller; obligations

Sec. 17. A seller may not sell the seller's stock, business, or assets, transfer assets, merge or consolidate, in whole or in part, or sell, transfer, or consolidate contracts unless:

(1) the purchaser of the stock, business, or assets or the successor in interest is liable for shortages in a trust under this chapter existing before or after the sale, however, the purchaser or successor in interest has no obligation to cure a shortage in a contract between the seller and the purchaser that is not performed by the purchaser or successor in interest; or

(2) the purchaser of the stock, business, or assets or the successor in interest will perform all obligations imposed under this chapter, all obligations imposed under contracts between the seller and the purchaser, and any other related obligations.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-18 Compensation and expenses of trustee; withdrawal of tax liability

Sec. 18. A trustee or an escrow agent may be reimbursed for necessary expenses and be paid reasonable compensation for those services from the trust or escrow. A trustee or an escrow agent shall also be permitted to withdraw from trust or escrow any federal or state tax liability assessed against the purchasers' interest in the trust or escrow.

As added by P.L.200-1991, SEC.1. Amended by P.L.114-1999, SEC.14.

IC 30-2-13-19 Common trust fund

Sec. 19. (a) A trustee may place trust money in a common or commingled trust fund under a single trust instrument.

(b) A trustee shall maintain a separate accounting record for each seller who deposits funds in a trust.

(c) Except for trusts established under IC 30-2-10, records maintained under this section do not need to be segregated on a purchaser by purchaser basis.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-20 Funeral service contracts; ratification by funeral director

Sec. 20. If an agent and a purchaser execute a contract covering funeral services (as defined in IC 25-15), the contract is valid only if the contract is ratified by a funeral director licensed under IC 25-15 who is directly affiliated with the seller as an agent when the contract is made. A contract ratified by an unaffiliated licensed funeral director is void.

As added by P.L.200-1991, SEC.1. Amended by P.L.114-1999, SEC.15.

IC 30-2-13-21 Agents of seller; seller liability; written statement

Sec. 21. A seller who solicits for or enters into a contract under this chapter must satisfy the following conditions:

(1) An agent who acts on behalf of a seller must be directly affiliated with the seller for whom the agent is acting.

(2) The contract must state that the seller is responsible and liable for the veracity and competency of the agent.

(3) An agent must provide to the purchaser a written statement containing the following:

(A) The capacity of the person to act and whether the person is acting for the seller as an agent.

(B) Notice that the seller is the only person or entity authorized to provide the services or merchandise called for by the contract.

(C) The name, address, and telephone number of the seller.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-22 Seller bond or permit

Sec. 22. A bond or permit is not required of a seller except as specifically required in this chapter.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-23 Contracts; invalid provisions; unenforceable contracts

Sec. 23. (a) A contract is invalid if the contract allows the purchaser the right to:

(1) convert, substitute, or exchange the purchase of burial rights for the purchase of services or merchandise;

(2) free services or merchandise in exchange for the purchase of other services or merchandise; or

(3) receive cash or gifts, other than burial rights and services and merchandise, with a value of more than fifty dollars ($50) as an inducement to purchase a contract.

(b) A contract is unenforceable if:

(1) the contract obligates the seller to provide prepaid services or merchandise for a named individual in conjunction with the death, burial, or final disposition of the individual;

(2) the purchaser under the contract is described in section 9(b)(4) of this chapter;

(3) the death of the named individual appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(4) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that the purchaser referred to in subdivision (2) committed the offense.

The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the seller of the determination of the purchaser described in subdivision (4).

As added by P.L.200-1991, SEC.1. Amended by P.L.241-1995, SEC.12; P.L.102-2007, SEC.4.

IC 30-2-13-24 Seller or agent; prohibited acts

Sec. 24. A seller or an agent may not knowingly do the following:
(1) Except on request of a prospective purchaser, contact prospective purchasers in hospitals, health facilities, or similar institutions for the purpose of soliciting the sale of prepaid services or merchandise.
(2) Solicit relatives of a person whose death is apparently pending for the purpose of selling prepaid services or merchandise.
(3) Except where the arrangement is the subject of a contract allowed under this chapter, solicit, accept, or pay any consideration for recommending or causing a deceased person to be provided services or merchandise by specific sellers.
(4) Advertise prepaid services or merchandise in a false or misleading manner.
As added by P.L.200-1991, SEC.1. Amended by P.L.1-1992, SEC.160.

IC 30-2-13-25 Solicitation of sales; conditions
Sec. 25. Solicitation of a sale of prepaid services or merchandise is permitted by a seller or an agent of a seller if the following exist:
(1) The conditions set forth in sections 21 and 24 of this chapter are observed.
(2) The following are clearly identified:
(A) The seller or agent.
(B) The seller with whom the agent is affiliated.
(3) The purpose of the call or visit is explained.
(4) An appointment is made with the prospective purchaser.
As added by P.L.200-1991, SEC.1.

IC 30-2-13-26 Confidentiality of contracts
Sec. 26. During the lifetime of the purchaser the contract executed under this chapter is confidential and neither the seller nor the trustee may disclose to a third party the identity of the purchaser or the terms of the contract. This section does not prohibit normal commercial activities by a seller with regard to an account receivable from a purchaser or compliance with a court order.
As added by P.L.200-1991, SEC.1.

IC 30-2-13-27 Payments to board
Sec. 27. Each seller of a prepaid contract under this chapter shall pay to the board on a form provided by it not later than March 1 of each year from money not deposited in a trust or escrow the following amounts for each contract written during the preceding calendar year:
(1) Two dollars and fifty cents ($2.50) for each contract having a value of less than five hundred dollars ($500).
(2) Five dollars ($5) for each contract having a value of at least five hundred dollars ($500) and less than one thousand five hundred dollars ($1,500).
(3) Ten dollars ($10) for each contract having a value of one thousand five hundred dollars ($1,500) or more.
However, no fee is due and payable on contracts funded with a previously issued life insurance policy. The payment may be charged to the purchaser or, at the option of the seller, paid by the seller. A trustee shall quarterly report to the board all payments received by the trustee from all sellers during the preceding quarter. The report must identify the name and address of each seller from whom the trustee received payments and the total amount of the payments. The payments are administered under section 28 of this chapter.
As added by P.L.200-1991, SEC.1. Amended by P.L.207-1993, SEC.31; P.L.195-1997, SEC.2; P.L.114-1999, SEC.16.

IC 30-2-13-28 Preneed consumer protection fund; establishment; funding
Sec. 28. (a) The preneed consumer protection fund is established. The board shall deposit receipts under section 27 of this chapter in the preneed consumer protection fund.
(b) The expenses of administering the fund shall be paid from money in the fund.
(c) The money in the fund and the interest accruing to the fund remain in the fund and do not revert to the state general fund.
As added by P.L.200-1991, SEC.1.

IC 30-2-13-29 Use of money in fund
Sec. 29. (a) Money in the fund may be used to provide restitution to a seller who performs a defaulted contract, to a purchaser, or to a purchaser's estate for pecuniary loss arising from a trust or an escrow required by:
(1) this chapter;
(2) IC 23-14-49-1;
(3) IC 30-2-9; or
(4) IC 30-2-10.
The repeal of a statute cited in this subsection does not terminate the ability of a party to a contract made under the repealed statute to receive restitution under this chapter.
(b) The purchaser, seller, or other interested person must request restitution by filing a verified complaint with the board.
(c) The board may investigate any verified complaint. Within sixty (60) days after a verified complaint is filed, the board shall determine if a seller has defaulted on a contract. If the seller's obligation to perform under the contract cannot be collected from the seller, the board shall order the auditor of state to make restitution from the fund.
(d) The amount of restitution may not exceed the gross amount of the original contract plus interest, compounded annually, on the gross amount that is figured, for each year or part of a year for which restitution is owed, using the lesser of:
(1) the rate set forth in IC 24-4.6-1-101 in effect on January 1 of each year; or
(2) the monthly average yield on United States Treasury Securities for the month of January of each year, adjusted to a constant maturity of one (1) year, as published by the Federal Reserve.
The fund may not be charged with court costs or the payment of legal or other fees. In computing the amount of restitution, the board shall give credit for:
(1) merchandise delivered; and
(2) resources still existing in trust.
(e) When restitution is paid from the fund, the fund is subrogated to the amount of the restitution, and the board shall ask the attorney general to take all reasonable steps to collect the subrogated amount from the seller. Any amount collected shall be deposited in the fund.
(f) Money in the fund may only be used for a purpose that is specified in this section.
(g) The payment of restitution from the fund is not a right, and a purchaser does not have a vested right in the fund as a beneficiary of the fund.
(h) The status of the fund shall be annually reviewed by the board. If the board determines during its annual review that the fund balance equals or exceeds two million five hundred thousand dollars ($2,500,000), the board shall suspend payments to the fund until after the next annual review that the board determines that the fund balance is less than two million five hundred thousand dollars ($2,500,000).
As added by P.L.200-1991, SEC.1. Amended by P.L.120-1994, SEC.5; P.L.52-1997, SEC.54; P.L.114-1999, SEC.17; P.L.65-2007, SEC.5.

IC 30-2-13-30 Seller records and books
Sec. 30. (a) The seller shall maintain accurate records, books, and accounts for each contract sold under this chapter containing the following:
(1) Copies of all contracts.
(2) The dates of all contracts.
(3) The amounts paid and received under each contract.

(4) The complete name, address, and identification of all parties to each contract.

(b) The seller shall maintain at the seller's principal Indiana business address complete records of all transactions under this chapter that involve the seller. The records may be audited and examined by the board at any reasonable time.

(c) The seller shall maintain all records required by this section for the longer of:

(1) ten (10) years; or

(2) three (3) years after the date of full performance of a contract.

The records are business records and customer lists within the meaning of IC 24-2-3.

(d) The requirements of this section apply to a seller, a successor seller, and a seller who was previously designated to provide services or merchandise to a purchaser.

As added by P.L.200-1991, SEC.1. Amended by P.L.61-2008, SEC.9.

IC 30-2-13-31 Annual report

Sec. 31. (a) A seller who is required to register under this article, a cemetery under IC 25-15-9-17, a funeral home under IC 25-15, and a perpetual care fund under IC 23-14-48 shall file an annual report with the board that provides the following information:

(1) The name and location of each seller, cemetery, funeral home, and perpetual care fund.

(2) The name and business address of the owner and the names and business addresses of the resident agent and chief officer if the owner is not a natural person.

(3) If a cemetery, the amount of funds received by the owner during the previous fiscal year that are subject to trust requirements set forth in IC 23-14-48 and the amount required to be placed in trust, the amount of funds actually placed in trust to satisfy the requirements of IC 23-14-48, the name and address of the trustee, and if the funds are not held in trust by a corporate trustee, the name of the corporate surety and the amount of the trustee's fidelity bond as required by IC 23-14-51-4.

(4) The amount of money or identity of other property received subject to the trust or escrow requirements of this chapter, the amount required to be placed in trust or escrow, the amount actually placed in trust or escrow, and the name and address of the trustee.

(5) For a holder of a certificate of authority under section 33 of this chapter, the information that is listed in section 33(b)(2) through 33(b)(4) of this chapter.

(b) The annual report required by this section must meet the following requirements:

(1) Be made on a form prescribed and furnished by the board.

(2) Be signed by the owner if an individual or by the president or vice president and the treasurer or secretary if the owner is not an individual.

(3) Be notarized and affirmed under penalties of perjury by the individuals signing the annual report.

(4) Be filed in the office of the board by the seller not later than ninety (90) days after the end of the seller's fiscal year.

(5) Be accompanied by an annual fee of ten dollars ($10) if the seller is a funeral home or cemetery.

(6) Be accompanied by the fee required by section 27 of this chapter.

(c) Each geographic location of a seller is a separate and distinct business and requires a separate report.

(d) The board may suspend the certificate of authority of a seller who fails to file the seller's annual report within the period required under this section.

As added by P.L.200-1991, SEC.1. Amended by P.L.207-1993, SEC.32; P.L.241-1995, SEC.13; P.L.52-1997, SEC.55; P.L.195-1997, SEC.3; P.L.253-1997(ss), SEC.28.

IC 30-2-13-32 General price list

Sec. 32. A seller of:

(1) prepaid services or merchandise; or

(2) at-need services or merchandise;

shall maintain for display or on request at the seller's place of business and in the possession of an agent appointed by the seller a fully detailed general price list of all prepaid and at-need services or merchandise offered by the seller. The seller shall make this list available to any individual requesting price information.

As added by P.L.200-1991, SEC.1. Amended by P.L.207-1993, SEC.33; P.L.241-1995, SEC.14.

IC 30-2-13-33 Certificates of authority

Sec. 33. (a) A seller may not sell or provide prepaid services or merchandise or a contract designed to provide a funding mechanism to be used in conjunction with the purchase of prepaid services or merchandise under this chapter without first obtaining a certificate of authority from the board. However, an employee of a seller is exempt from subsections (b) and (c).

(b) A seller who seeks a certificate of authority must submit a statement to the board that includes the following:

(1) The seller's name and the address of the place of business.

(2) Information considered necessary by the board to show evidence of the seller's good moral character, reputation for fair dealing in business matters, and lack of a criminal record.

(3) The name, address, and Social Security number of each person authorized to directly represent the seller as an agent.

(4) A statement by the seller notarized and affirmed under the penalties for perjury that all payments required under section 27 of this chapter have been made.

(c) Upon issuance, the certificate of authority shall be posted conspicuously in the seller's place of business.

(d) A seller holding a certificate of authority or an agent of a seller who engages in door-to-door solicitation shall present a copy of the certificate of authority upon entry onto the premises of a prospective purchaser.

(e) A certificate of authority issued under this chapter expires annually on March 1.

(f) The board may renew a certificate of authority upon receipt of an application for renewal that includes the information listed in subsection (b).

As added by P.L.200-1991, SEC.1. Amended by P.L.207-1993, SEC.34; P.L.173-1996, SEC.16; P.L.195-1997, SEC.4; P.L.84-1998, SEC.27.

IC 30-2-13-34 Rules

Sec. 34. The board may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-35 Seller misrepresentation

Sec. 35. It is a violation of this chapter for a seller to misrepresent the character, quality, durability, or suitability for a specific or an intended purpose of services or merchandise offered for sale to a purchaser.

As added by P.L.200-1991, SEC.1.

IC 30-2-13-36 Suspension of certificates of authority; fines

Sec. 36. The board may suspend the certificate of authority of a seller who violates a provision of this chapter. The board may suspend the certificate of authority of a seller who intentionally violates section 12.5 of this chapter for at least one (1) year. The board may assess a seller a fine of not more than ten thousand dollars ($10,000) for each violation of section 12.5, 13, 15, 21, 23, 24, or 25 of this chapter to be added to the fund established under section 28 of this chapter.

As added by P.L.200-1991, SEC.1. Amended by P.L.114-1999, SEC.18.

IC 30-2-13-37 Repealed
(*Repealed by P.L.207-1993, SEC.35.)*

IC 30-2-13-38 Uncured deceptive acts; violations; injunctive relief; private right of action
Sec. 38. (a) A seller who violates a provision of this chapter commits an uncured deceptive act (as defined in IC 24-5-0.5-2).
(b) A person doing business as a sole proprietor, a firm, a limited liability company, a corporation, an association, or a partnership, but not acting as a seller that:
(1) sells or advertises prepaid services or merchandise or services or merchandise (as defined in section 8 of this chapter) and fails to obtain the certificate of authority required by section 33 of this chapter; or
(2) sells or advertises prepaid services or merchandise or services or merchandise (as defined in section 8 of this chapter) after the entity's certificate of authority has:
(A) expired; or
(B) been rescinded, revoked, or suspended by the board;
commits a Class A misdemeanor. Each act committed in violation of this subsection constitutes a separate offense.
(c) The following may maintain an action to enjoin an individual or entity from continuing to violate this section:
(1) The board.
(2) The attorney general.
(3) The prosecuting attorney of a county in which a violation occurs.
(d) A purchaser has a private right of action against a seller who commits an uncured deceptive act.
(e) A trustee or escrow agent, acting as a fiduciary, that disburses funds in a trust or escrow account established under this chapter without verifying that the seller has delivered the services or merchandise for which the funds were deposited through the use of documentation required under rules adopted by the state board of funeral and cemetery service established by IC 25-15-9-1 commits a Class A infraction.
(f) A person who knowingly or intentionally uses or disburses funds in a trust or escrow account established under this chapter for purposes other than the purposes required under this chapter commits a Class C felony.
As added by P.L.114-1999, SEC.19. As amended by P.L.61-2008, SEC.10; P.L.143-2009, SEC.18.

IC 30-2-13-39
Sec. 39. (a) This section does not apply to a trust funded by the method described in section 11(c) of this chapter.
(b) A seller may not be an affiliate, a parent, or a subsidiary organization of the trustee or escrow agent, acting as a fiduciary, of a trust or escrow account established after June 30, 2008, to hold consideration paid for services or merchandise subject to a contract entered into under this chapter by the seller and a purchaser.
As added by P.L.61-2008, SEC.11.

INDIANA CODE § 23-14

ARTICLE 14. CEMETERY ASSOCIATIONS

INDIANA CODE § 23-14-1 thru 23-14-30

Chapters 1 - 30. Repealed

INDIANA CODE § 23-14-31

Chapter 31. Cremation

IC 23-14-31-1 "Alternative container" defined
Sec. 1. As used in this chapter, "alternative container" means a rigid or nonrigid receptacle or other enclosure that:
(1) is made of a nonmetallic material;
(2) does not have ornamentation or an inner lining;
(3) may be closed adequately to provide a complete covering for human remains;
(4) is resistant to leakage or spillage;
(5) is rigid enough for handling with ease; and
(6) provides protection for the health, safety, and personal integrity of crematory personnel.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-2 "Authorizing agent" defined
Sec. 2. As used in this chapter, "authorizing agent" means a person legally entitled to order the cremation and final disposition of specific human remains.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-3 "Board" defined
Sec. 3. As used in this chapter, "board" means the state board of funeral and cemetery service established by IC 25-15-9-1.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-4 "Body part" defined
Sec. 4. As used in this chapter, "body part" means:
(1) a limb or other part of the human anatomy that is removed for medical purposes, treatment, surgery, biopsy, autopsy, or medical research; or
(2) a human body or a portion of a human body that has been donated to science for medical research purposes.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-5 "Burial transit permit" defined
Sec. 5. As used in this chapter, "burial transit permit" means a permit for the transportation and disposition of a dead human body required under IC 16-37-3-10 or IC 16-37-3-12.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-6 "Casket" defined
Sec. 6. As used in this chapter, "casket" means a rigid enclosure that:
(1) is made of wood, metal, or other material;
(2) is ornamented;
(3) has a fixed or nonfixed inner lining; and
(4) is designed to encase human remains.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-7 "Cremated remains" defined
Sec. 7. As used in this chapter, "cremated remains" means all human remains recovered after the completion of the cremation of a human body or body part, including the residue of any foreign materials, nonmetallic casket material, dental work, or eyeglasses that were cremated with the human remains but excluding any prosthetic or medical device.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-8 "Cremation" defined

Sec. 8. As used in this chapter, "cremation" means the incineration of the body of a deceased person or a body part of a nondeceased person and the mechanical or manual reduction of identifiable bone fragments to unidentifiable bone fragments.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-9 "Cremation chamber" defined
Sec. 9. As used in this chapter, "cremation chamber" means the enclosed space where the cremation takes place.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-10 "Cremation room" defined
Sec. 10. As used in this chapter, "cremation room" means the room where the cremation chamber is located.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-11 "Crematory" defined
Sec. 11. As used in this chapter, "crematory" means a building or structure, including a holding facility where human remains are or are intended to be cremated.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-12 "Crematory authority" defined
Sec. 12. As used in this chapter, "crematory authority" means the legal entity or the entity's authorized representative that is registered by the board to operate a crematory and to perform cremations.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-13 "Disposition" defined
Sec. 13. As used in this chapter, "disposition" means the cremation or other disposition of a dead human body or a part of a dead human body.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-14 "Funeral home" defined
Sec. 14. As used in this chapter, "funeral home" means a place that is licensed under IC 25-15 where:
(1) human remains are prepared for a funeral or disposition;
(2) human remains are held for disposition; and
(3) funerals are conducted or provided.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-15 "Holding facility" defined
Sec. 15. As used in this chapter, "holding facility" means an area that:
(1) is designated for the retention of human remains before cremation, including a cremation room;
(2) complies with all applicable public health laws; and
(3) preserves the health and safety of the crematory authority personnel.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-16 "Human remains" defined
Sec. 16. As used in this chapter, "human remains" means the body or a part of the body of an individual, including human remains that have been cremated.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-17 "Niche" defined
Sec. 17. As used in this chapter, "niche" means a space in a columbarium that is used or intended to be used for the interment of cremated human remains of one (1) or more deceased individuals.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-18 "Scattering" defined
Sec. 18. As used in this chapter, "scattering" means the final disposition of cremated human remains under section 44(a)(3) of this chapter.
As added by P.L.231-1995, SEC.2. Amended by P.L.173-1996, SEC.1.

IC 23-14-31-19 "Scattering area" defined
Sec. 19. As used in this chapter, "scattering area" means a designated area on dedicated cemetery property where cremated remains that have been removed from their container can be mixed with or placed on top of the soil or ground cover.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-20 "Temporary container" defined
Sec. 20. As used in this chapter, "temporary container" means a receptacle:
(1) for cremated remains;
(2) that is composed of cardboard, plastic, or similar material;
(3) that can be secured to prevent leakage or spillage of the cremated remains or the entrance of foreign material; and
(4) that is a single container of sufficient size to hold the cremated remains.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-21 "Urn" defined
Sec. 21. As used in this chapter, "urn" means a receptacle designed to encase cremated remains.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-22 Operating crematories; registration application
Sec. 22. (a) A person, a corporation, a limited liability company, a partnership, or any other business entity that is registered under this section may erect, maintain, and operate a crematory.
(b) To register to erect, maintain, or operate a crematory, an applicant must complete an application for registration as a crematory authority on a form furnished by the board that contains the following information:
(1) The name and address of the applicant as follows:
(A) If the applicant is an individual, the full name and address, including both residential and business addresses, of the applicant.
(B) If the applicant is a partnership, the full name and address of each partner.
(C) If the applicant is a limited liability company, the full name and address of each manager and member.
(D) If the applicant is a corporation, the name and address of each officer, director, and shareholder holding at least twenty-five percent (25%) of the corporation's stock.
(2) The address and location of the crematory.
(3) Any other information the board may reasonably require.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-23 Licenses and permits; construction of crematories
Sec. 23. (a) A crematory shall obtain all necessary licenses and permits from appropriate local, state, or federal agencies.
(b) A crematory may be constructed on or adjacent to a cemetery, a funeral home, or another location if allowed by local zoning ordinances.
As added by P.L.231-1995, SEC.2.

IC 23-14-31-24 Annual report
Sec. 24. (a) Each crematory authority shall file an annual report with the board. The report must include any changes in the information required under section 22 of this chapter or a statement indicating that no changes have occurred.

(b) Except as provided in subsection (c), the annual report must be filed not later than ninety (90) days after the end of the fiscal year of the crematory authority.

(c) If the fiscal year of a crematory authority is not the calendar year, the crematory authority shall file the annual report within seventy-five (75) days after the end of the crematory authority's fiscal year.

(d) If a crematory authority files a written request for an extension and demonstrates good cause for the extension, the board shall grant an extension of not more than sixty (60) days for filing the annual report.

(e) If a crematory authority fails to submit an annual report to the board within the time specified in subsection (c) or (d), the board may take any of the actions allowed by IC 25-15-9.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-25 Inspection of records

Sec. 25. Upon reasonable notice, the board may inspect all records relating to the registration and annual report of the crematory authority required to be filed under this chapter.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-26 Authorizing agent; persons prohibited from being an authorizing agent

Sec. 26. (a) Except as provided in subsection (c), the following persons, in the priority listed, have the right to serve as an authorizing agent:

(1) A person:

(A) granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19; or

(B) named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

(2) An individual specifically granted the authority to serve in a power of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The individual who was the spouse of the decedent at the time of the decedent's death, except when:

(A) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or

(B) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(4) The decedent's surviving adult child or, if more than one (1) adult child is surviving, the majority of the adult children. However, less than half of the surviving adult children have the rights under this subdivision if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(5) The decedent's surviving parent or parents. If one (1) of the parents is absent, the parent who is present has authority under this subdivision if the parent who is present has used reasonable efforts to notify the absent parent.

(6) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this subdivision if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

(7) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree is surviving, the majority of those who are of the same degree. However, less than half of the individuals who ~~have~~ are of the same degree of kinship have the rights under this subdivision if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who are of the same degree of kinship.

(8) If none of the persons described in subdivisions (1) through (7) are available, any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home that:

(A) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent's remains; and

(B) attests in writing that a good faith effort has been made to contact any living individuals described in subdivisions (1) through (7).

(9) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following may serve as the authorizing agent:

(A) If none of the persons identified in subdivisions (1) through (8) are available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

(10) In the absence of any person under subdivisions (1) through (9), any person willing to assume the responsibility as the authorizing agent, as specified in this article.

(b) When a body part of a nondeceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent.

(c) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not serve as the authorizing agent.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the crematory authority of the determination referred to in subsection (c)(2).

(e) If a person vested with a right under subsection (a) does not exercise that right not later than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains, and the right to determine final disposition passes to the next person described in subsection (a).

(f) A crematory authority owner has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals of the same degree of kinship have been notified of the final disposition instructions.

(g) If there is a dispute concerning the disposition of a decedent's remains, a crematory authority is not liable for refusing to accept the remains of the decedent until the crematory authority receives:

(1) a court order; or

(2) a written agreement signed by the disputing parties;

that determines the final disposition of the decedent's remains. If a crematory authority agrees to shelter the remains of the decedent while the parties are in dispute, the crematory authority may collect any applicable fees for storing the remains, including legal fees that are incurred.

(h) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(i) A spouse seeking a judicial determination under subsection (a)(3)(A) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by filing the petition under the same cause number as the dissolution or separation proceeding. A spouse who files a petition under this subsection is not required to pay a filing fee.

As added by P.L.231-1995, SEC.2. Amended by P.L.102-2007, SEC.1; P.L.143-2009, SEC.5; P.L. 6-2012, SEC. 26.

IC 23-14-31-27 Authorization procedure; immunity from liability; exceptions

Sec. 27. (a) Except as provided in subsection (c), a crematory authority shall not cremate human remains until the authority has received the following:

(1) A cremation authorization form provided by the crematory authority, signed by an authorizing agent, containing the following information:

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

(B) The name of the funeral director who obtained the cremation authorization.

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

(D) A statement by the authorizing agent that the authorizing agent:

(i) has the right to authorize the cremation of the decedent;

(ii) is not aware of any person who has a superior priority right to that of the authorizing agent; or

(iii) if the authorizing agent is aware that there is another person who has a superior priority right to that of the authorizing agent, a statement that the authorizing agent has made all reasonable efforts to contact the person, has been unable to contact the person, and has no reason to believe that the person would object to the cremation of the decedent.

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

(F) A statement that the human remains do not contain a pacemaker or any other material or implant or radiation producing device that may be potentially hazardous or cause damage to the cremation chamber or the individual performing the cremation. The authorization form may state that the funeral director is not liable for damages caused by a pacemaker or other implanted device that was not disclosed to the funeral director or of which the funeral director could not reasonably be aware.

(G) The name of the funeral director authorized to receive the cremated remains from the crematory authority or, if the crematory is on cemetery property, the cemetery authorized to receive cremated remains.

(H) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, niche, or scattering area, the form may indicate that the cremated remains will be held by the crematory authority for not longer than thirty (30) days from the date of cremation before the remains are released. The form may indicate that the crematory authority shall return cremated remains that have not been disposed of within thirty (30) days to the funeral director or funeral home of record who shall hold them for not longer than sixty (60) days from the date of cremation before disposing of the cremated remains either as previously authorized or, if there is no authorization, in any legal manner. The funeral home has no liability for:

(i) disposing of cremated remains in any manner permitted by law if the remains have been held; or

(ii) holding the cremated remains;

in excess of the sixty (60) days permitted under this clause if the authorizing agent fails to claim the remains during the sixty (60) day period. The funeral home must first send written notice by certified mail return receipt requested to the authorizing agent explaining the intentions of the funeral home regarding the disposal of or holding of the cremated remains in order for the funeral home to be immune from liability under this clause.

(I) A statement confirming the identity of the valuables belonging to the decedent previously taken and being held by the funeral director or the funeral home.

(J) A statement prohibiting the crematory from selling nonorganic material recovered from the human remains.

(K) A statement that the authorizing agent has made specific arrangements for any viewing of the decedent before cremation, or for a service with the decedent present before cremation. If a viewing or service is planned, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form.

(2) A completed and executed burial transit permit provided by the local health officer to the funeral director indicating that the human remains are to be cremated.

(3) A copy of:

(A) the completed and executed certificate of death; or

(B) a release for cremation by the coroner if an investigation of the circumstances of the deceased person's death came under the authority of the coroner, but the release does not constitute an authorization as required by this chapter.

(b) The cremation authorization form required under subsection (a)(1) must be signed by the funeral director who obtained the cremation authorization. The funeral director shall execute the cremation authorization form as a witness and is not responsible for the representations made by the authorizing agent unless the funeral director has actual knowledge of a false or inaccurate representation. The funeral director shall certify to the crematory that the human remains delivered to the crematory authority are the human remains identified by the authorizing agent on the cremation authorization form.

(c) Notwithstanding subsection (a)(3)(A), a death certificate is not required for the cremation of the remains of a person:

(1) who died in another state; and

(2) whose remains are transported to Indiana by:

(A) a licensed funeral director; or

(B) the agent of a licensed funeral director;

for the purpose of cremation at an Indiana crematory;

if the funeral director or funeral director's agent obtains the documents required for cremation by the state in which the death occurred. However, if final disposition of the human remains is to occur in Indiana, the provisions of subsection (a)(3)(A) shall apply.

As added by P.L.231-1995, SEC.2. Amended by P.L.174-1996, SEC.1; P.L.52-1997, SEC.5; P.L.169-2003, SEC.1.

IC 23-14-31-28 Delegation of authority; immunity for reliance on cremation authorization form

Sec. 28. (a) If the authorizing agent is not available to execute a cremation authorization form in person, the authorizing agent may delegate the authority to another person in writing, including a facsimile transmission, telegram, or other electronic transmission.

(b) A written delegation of authority of an authorizing agent must include:

(1) the name, address, and relationship of the authorizing agent to the decedent; and

(2) the name and address of the person to whom authority is delegated.

(c) A person authorized under subsections (a) and (b) may serve as the authorizing agent and execute the cremation authorization form.

(d) A crematory authority is not liable for relying on a cremation authorization form executed in compliance with this section.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-29 Effect of signing cremation authorization form; responsibility for final disposition

Sec. 29. (a) Except for the information required under section 27(a)(1)(F) of this chapter, an authorizing agent who signs a cremation authorization form certifies that the facts on the cremation authorization form are true and that the authorizing agent has authority to order the cremation.

(b) An authorizing agent who signs a cremation authorization form is personally liable for damages resulting from authorizing the cremation.

(c) The authorizing agent is responsible for the final disposition of a decedent's cremated remains. The crematory authority may hold the cremated remains for not longer than the thirty (30) day period under section 45 of this chapter.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-30 Crematory authority; liability for cremation or disposition

Sec. 30. (a) Except as provided in section 36 of this chapter, a crematory authority may cremate human remains upon receipt of a cremation authorization form signed by an authorizing agent.

(b) In the absence of gross negligence or noncompliance with this chapter, a crematory authority is not liable for:

(1) cremating human remains according to an authorization; or

(2) releasing or disposing of the cremated remains according to an authorization form.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-31 Cancellation by authorizing agent and instructions for alternative disposition

Sec. 31. After an authorizing agent has executed a cremation authorization form, the authorizing agent may revoke the authorization and instruct the crematory authority to cancel the cremation and to release or deliver the human remains to another crematory authority or funeral home. The instructions must be provided to the crematory authority in writing. A crematory authority must comply with instructions given to the authority by an authorizing agent under this section if the crematory authority receives the instructions before beginning the cremation of the human remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-32 Receipts provided by crematory authority

Sec. 32. (a) The crematory authority shall furnish a receipt to the funeral director or the funeral director's representative who delivers human remains to the crematory authority. The receipt must:

(1) be signed by both the crematory authority and the funeral director or the funeral director's representative who delivers the human remains; and

(2) contain the following information:

(A) The date and time of the delivery.

(B) The type of casket or alternative container that was delivered.

(C) The name of the person from whom the human remains were received and the name of the funeral home or other entity with whom the person is affiliated.

(D) The name of the person who received the human remains on behalf of the crematory authority.

(E) The name of the decedent.

(b) Upon the release of cremated remains, the crematory authority shall furnish a receipt to the person who receives the cremated remains from the crematory authority. The receipt must be signed by both the crematory authority and the person who receives the cremated remains and must contain the following information:

(1) The date and time of the release.

(2) The name of the person who received the cremated remains and the name of the funeral home, cemetery, or other entity with whom the person is affiliated.

(3) The name of the person who released the cremated remains on behalf of the crematory authority.

(4) The name of the decedent.

(c) The crematory authority shall retain a copy of each receipt under this section in the authority's permanent records.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-33 Crematory authority records

Sec. 33. (a) A crematory authority shall maintain at the authority's place of business a permanent record of each cremation that took place at the facility. The record must contain the name of the decedent and the date of the cremation.

(b) The crematory authority shall maintain a record of all cremated remains disposed of by the crematory authority under section 49 of this chapter.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-34 Cemetery records

Sec. 34. Each cemetery shall maintain a record of all cremated remains:

(1) that are disposed of on the cemetery's property;

(2) that have been properly transferred to the cemetery; and

(3) for which the cemetery has issued a receipt acknowledging the transfer of the cremated remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-35 Casket requirements; acceptance of human remains

Sec. 35. (a) A crematory authority shall not require that human remains be placed in a casket before cremation or that human remains be cremated in a casket.

(b) A crematory authority shall not accept human remains unless the remains are delivered to the crematory authority in a casket or an alternative container. However, a crematory authority may not require that the human remains be delivered in a casket.

(c) A crematory authority shall not refuse to accept human remains for cremation because the human remains are not embalmed.

(d) A crematory authority shall not accept a casket or an alternative container if there is evidence of the leakage of body fluids.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-36 Time; human remains containing hazardous materials; exceptions

Sec. 36. (a) Except:

(1) when waived in writing by the city or county health officer where the death occurred; or

(2) as provided in subsection (d);

human remains shall not be cremated less than forty-eight (48) hours after the time of death as indicated on the medical certificate of death or the coroner's certificate.

(b) Except as provided in subsection (a), unless the crematory authority has received specific instructions to the contrary on the cremation authorization form, a crematory authority may schedule the actual cremation to be performed at the authority's convenience at any time after the human remains have been delivered to the crematory authority.

(c) A crematory authority shall not cremate human remains when the authority has actual knowledge that the human remains contain a pacemaker or other material or implant that may be potentially hazardous to the individual performing the cremation.

(d) The mandatory delay of forty-eight (48) hours imposed by subsection (a) does not apply to the cremation of the remains of a person:

(1) who died in another state; and

(2) whose remains are transported to Indiana by:

(A) a licensed funeral director; or

(B) the agent of a licensed funeral director;

for the purpose of cremation at an Indiana crematory;

if the funeral director or funeral director's agent obtains the documents required for cremation by the state in which the death occurred.

As added by P.L.231-1995, SEC.2. Amended by P.L.52-1997, SEC.6.

IC 23-14-31-37 Use of holding facilities

Sec. 37. When a crematory authority is unable to or unauthorized to cremate human remains immediately upon taking custody of the remains, the crematory authority shall place the human remains in a holding facility.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-38 Destruction or cremation of casket or alternative container

Sec. 38. The casket or the alternative container containing the human remains must be cremated with the human remains or destroyed unless the crematory authority has notified the authorizing agent to the contrary on the cremation authorization form and obtained the written consent of the authorizing agent.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-39 Simultaneous cremations

Sec. 39. (a) A crematory authority shall not perform the simultaneous cremation of the human remains of more than one (1) individual within the same cremation chamber unless it has obtained the prior written consent of the authorizing agents.

(b) Subsection (a) does not prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory authority from multiple sources, or the use of cremation equipment that contains more than one (1) cremation chamber.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-40 Removal of recoverable residue

Sec. 40. After each cremation, all the recoverable residue of the cremation process that it is practical to recover must be removed from the cremation chamber.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-41 Additional containers for cremated remains

Sec. 41. If all of the recovered cremated remains will not fit in the receptacle that has been selected, the remainder of the cremated remains must be placed in a separate, additional container and returned to the funeral home or funeral director for return to the authorizing agent.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-42 Shipment of cremated remains

Sec. 42. (a) Cremated remains may only be shipped by a method that has an internal tracing system that provides a receipt signed by the person accepting delivery.

(b) A crematory authority shall maintain an identification system that ensures that the authority can identify the human remains in the authority's possession throughout all phases of the cremation process.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-43 Responsibility for final disposition

Sec. 43. The authorizing agent is responsible for the decision concerning final disposition of the cremated remains in accordance with sections 44 and 45 of this chapter. The funeral director is not liable for an act of the authorizing agent.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-44 Legal control and disposition; forms concerning disposal

Sec. 44. (a) Cremated remains may be retained by the person having legal control over the remains or may be disposed of in any of the following manners:

(1) Placing the remains in a grave, niche, or crypt.

(2) Scattering the remains in a scattering area.

(3) Disposing of the remains in any manner if:

(A) the remains are reduced to a particle size of one-eighth (1/8) inch or less; and

(B) the disposal is made on the property of a consenting owner, on uninhabited public land, or on a waterway.

(b) The state department of health shall adopt forms for recording the following information concerning the disposal of cremated human remains on the property of a consenting owner:

(1) The date and manner of the disposal of the remains.

(2) The legal description of the property where the remains were disposed of.

The owner of the property where the cremated remains were disposed of and the person having legal control over the remains shall attest to the accuracy of the information supplied on the forms. The owner of the property where the cremated remains were disposed of shall record the forms with the county recorder of the county in which the property is located and shall return the form and the burial transit permit described in IC 16-37-3, within ten (10) days after the remains are disposed of.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-45 Disposition of cremated remains where no instructions exist

Sec. 45. (a) After completion of the cremation process, if a crematory authority existing on cemetery property has not been instructed to arrange for the interment, entombment, inurnment, or scattering of the cremated remains, the crematory authority shall deliver the cremated remains to the funeral director of record not later than thirty (30) days after the date of cremation. The delivery may be made in person or by registered mail. After delivery of the cremated remains, the crematory authority is discharged from any legal obligation or liability concerning the disposition of the cremated remains.

(b) A funeral director may hold remains returned by a crematory authority for not longer than sixty (60) days from the date of cremation and may dispose of the remains as previously arranged, or if no arrangement has been made, at the end of sixty (60) days, in any legal manner.

(c) A funeral director and crematory authority shall observe religious practices or preferences specified by the authorizing agent.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-46 Commingling of cremated remains

Sec. 46. Except with the express written permission of the authorizing agent, a person shall not do the following:

(1) Dispose of cremated remains in a manner or location that commingles the cremated remains with the cremated remains of another individual. This prohibition does not apply to the scattering of cremated remains at sea or in the air.

(2) Place the cremated remains of more than one (1) individual in the same temporary container or urn.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-47 Liability for cremation designated by authorization

Sec. 47. A crematory authority that has received an executed cremation authorization form and any additional documentation required under section 27 of this chapter is not liable for civil damages arising from the cremation of the human remains designated by the cremation authorization form if the cremation is performed in accordance with this chapter.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-48 Liability for nonacceptance or nonperformance

Sec. 48. (a) A crematory authority is not liable for civil damages for refusing to accept human remains or refusing to perform a cremation until the crematory authority receives a court order or other suitable confirmation that a dispute has been settled, if the authority:

(1) is aware of a dispute concerning the cremation of the human remains;

(2) has a reasonable basis for questioning any of the representations made by the authorizing agent; or

(3) refuses to accept the human remains for any other lawful reason.

(b) A crematory authority is not required to accept human remains for cremation.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-49 Disputes concerning cremated remains; liability for refusing release

Sec. 49. (a) If a crematory authority is aware of a dispute concerning the release or disposition of cremated remains, the crematory authority shall release the remains to the funeral director or funeral home until the dispute has been resolved.

(b) A crematory authority is not liable for refusing to release or dispose of cremated remains in accordance with this section.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-50 Responsibility for prosthetic devices or valuables; resale of caskets or medical devices

Sec. 50. A crematory authority is not responsible or liable for prosthetic devices or valuables delivered to the crematory authority with or integral to human remains, unless the crematory authority has received written instructions under section 27(a)(1)(I) or 27(a)(1)(J) of this chapter. A crematory authority shall not resell caskets or prosthetic or medical devices obtained as a result of cremation or from cremated remains.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-51 Liability of cemeteries

Sec. 51. A cemetery is not liable for cremated remains that are dumped, scattered, or otherwise deposited at the cemetery in violation of this chapter if the action is taken without the cemetery's consent.

As added by P.L.231-1995, SEC.2.

IC 23-14-31-52 Violations; offenses

Sec. 52. (a) Except as provided in subsections (b), (c), and (d), a person that knowingly or intentionally violates this chapter commits a Class B misdemeanor.

(b) A person that knowingly or intentionally:

(1) performs a cremation without receipt of a cremation authorization form signed by an authorizing agent;

(2) signs a cremation authorization form that the individual knows contains false or incorrect information; or

(3) violates a cremation procedure under sections 36 through 42 of this chapter;

commits a Class D felony.

(c) A crematory authority that knowingly represents to an authorizing agent or the agent's designee that a temporary container or urn contains the cremated remains of a specific decedent when the container or urn does not commits a Class D felony.

(d) A person:

(1) who:

(A) professes to the public to be a crematory authority; or

(B) operates a building or structure in Indiana as a crematory;

without being registered under section 22 of this chapter; or

(2) who fails to file an annual report required under section 24 of this chapter;

commits a Class A misdemeanor.

As added by P.L.231-1995, SEC.2. Amended by P.L.169-2003, SEC.2.

IC 23-14-31-53 Injunction actions

Sec. 53. If a crematory authority:

(1) refuses to file or neglects to file an annual report under section 24 of this chapter;

(2) fails to comply with the registration requirements under section 22 of this chapter; or

(3) refuses to comply with the record inspection requirements under section 25 of this chapter;

the board may maintain an action in the name of the state of Indiana to enjoin the crematory authority from performing cremations.

As added by P.L.231-1995, SEC.2.

INDIANA CODE § 23-14-32

Chapter 32. Curfews

IC 23-14-32-1 Curfews to memorialize the dead

Sec. 1. A county, city, or town may impose a curfew specific to cemeteries or other facilities used to memorialize the dead under IC 31-37-3-5.

As added by P.L.103-1996, SEC.3. Amended by P.L.1-1997, SEC.108.

INDIANA CODE § 23-14-33

Chapter 33. Application and Definitions of Cemetery Law

IC 23-14-33-1 Citation of chapters

Sec. 1. This chapter through IC 23-14-76 may be referred to as the Indiana general cemetery law.

As added by P.L.52-1997, SEC.7.

IC 23-14-33-2 Application of provisions

Sec. 2. The provisions of this chapter through IC 23-14-76 apply to all:

(1) cemeteries;

(2) community or public mausoleums;

(3) community or public garden crypts; and

(4) columbaria;

located within Indiana, except as otherwise provided in this chapter through IC 23-14-76.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-3 Rules of cemetery owner
Sec. 3. (a) Notwithstanding any provision of IC 23-14-33 through IC 23-14-76 to the contrary, but subject to subsection (b):
(1) a cemetery that is owned by:
(A) a church or other religious organization; or
(B) a fraternal beneficiary society; and
(2) all burial rights held in the cemetery;
are subject in all things to the rules and regulations of the owner of the cemetery that are enacted by the governing head or body of the cemetery.
(b) A cemetery described in subsection (a) is subject to all the provisions of this chapter through IC 23-14-76 that do not conflict with the rules or regulations of the cemetery owner.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-4 Application of definitions
Sec. 4. The definitions set forth in this chapter apply to this chapter through IC 23-14-76.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-5 "Burial"
Sec. 5. "Burial" means the opening and closing of a grave, grave space, burial space, crypt, or niche for purposes of:
(1) interment;
(2) entombment; or
(3) inurnment.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-6 "Burial right"
Sec. 6. "Burial right" means a right of interment, entombment, or inurnment granted by the owner of a cemetery and unless otherwise stated in the deed, certificate, or license given by the owner of the cemetery, is an easement for the specific purpose of burial.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-7 "Cemetery"
Sec. 7. "Cemetery" means any land or structure in Indiana that is:
(1) dedicated to; and
(2) used for, or intended to be used for;
the interment, entombment, or inurnment of human remains.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-8 "Cemetery owner" or "owner of a cemetery"
Sec. 8. "Cemetery owner" or "owner of a cemetery" means the person that:
(1) owns; or
(2) operates and conducts the business of;
a cemetery.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-9 "Cemetery purposes"
Sec. 9. "Cemetery purposes" means all things necessary for or incident or convenient to the establishment, maintenance, management, operation, improvement, and conduct of a cemetery, the preparation of cemetery property for interment, entombment, or inurnment and the interment, entombment, or inurnment of the human dead, and the care, preservation, and embellishment of cemetery property.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-10 "Columbarium"
Sec. 10. "Columbarium" means a structure or room or space in a building or structure used or intended to be used for the inurnment of cremated human remains.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-11 "Community columbarium"
Sec. 11. "Community columbarium" means a columbarium in which inurnment rights are or have been offered for sale to the general public.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-12 "Community garden crypt"
Sec. 12. "Community garden crypt" means a garden crypt in which entombment or inurnment rights are or have been offered for sale to the general public.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-13 "Community mausoleum"
Sec. 13. "Community mausoleum" means a mausoleum in which entombment or inurnment rights are or have been offered for sale to the general public.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-14 "Cremation"
Sec. 14. "Cremation" means:
(1) the incineration of:
(A) the body of a deceased individual; or
(B) a body part of a nondeceased individual; and
(2) the mechanical or manual reduction of identifiable bone fragments to unidentifiable bone fragments.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-15 "Crematory"
Sec. 15. "Crematory" means a building or structure, including a holding facility, within which the remains of deceased individuals:
(1) are; or
(2) are intended to be;
cremated.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-16 "Crypt"
Sec. 16. "Crypt" means a chamber in a mausoleum or garden crypt that is of sufficient size to entomb the uncremated remains of a deceased individual.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-17 "Disinterment"
Sec. 17. "Disinterment" means the recovery of human remains by exhumation, disentombment, or disinurnment. The term does not include:
(1) the raising and lowering of human remains to accommodate two
(2) interments within a single grave: or
(2) the repositioning of human remains or the repositioning of an outside burial container or vault that encroaches on an adjoining grave, grave space, or burial space.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-18 "Entombment"
Sec. 18. "Entombment" means any lawful disposition of the remains of a deceased individual in a mausoleum or garden crypt as provided by IC 23-14-54.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-19 "Financial institution"

Sec. 19. "Financial institution" means a state or national:
(1) bank;
(2) bank and trust company;
(3) trust company;
(4) savings bank; or
(5) savings association;
that maintains a principal place of business in Indiana and is qualified to serve as a trustee.
As added by P.L.52-1997, SEC.7. Amended by P.L.79-1998, SEC.25.

IC 23-14-33-20 "Garden crypt"
Sec. 20. (a) "Garden crypt" means a structure or building that is:
(1) used; or
(2) intended to be used;
for the entombment or inurnment of human remains in crypts, vaults, or niches, in which entombment or inurnment is done from the exterior of the structure or building.
(b) The term includes a columbarium within a garden crypt.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-21 "Human remains" or "remains"
Sec. 21. (a) "Human remains" or "remains" means the body of a deceased individual.
(b) The term includes:
(1) the body in any stage of decomposition; and
(2) cremated remains.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-22 "Interment"
Sec. 22. "Interment" means any lawful disposition in the earth of the remains of a deceased individual as provided by IC 23-14-54.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-23 "Inurnment"
Sec. 23. "Inurnment" means any lawful disposition of the cremated remains of a deceased individual in a mausoleum, garden crypt, niche, or scattering garden area as provided by IC 23-14-54.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-24 "Lawn crypt"
Sec. 24. "Lawn crypt" means a vault that is:
(1) preset into the earth; and
(2) sold as a part of the sale of the lot, plot, burial space, or grave.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-25 "Lot", "plot", "burial space", or "section"
Sec. 25. (a) "Lot", "plot", "burial space", or "section" means any space within a cemetery that is:
(1) used; or
(2) intended to be used;
for interment, entombment, or inurnment, irrespective of where the space is located.
(b) The term includes a crypt, a niche, and a grave space.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-26 "Lot owner", "lot holder", "plot owner", "plot holder", "burial right owner", "burial right holder", "burial space owner", or "burial space holder"
Sec. 26. "Lot owner", "lot holder", "plot owner", "plot holder", "burial right owner", "burial right holder", "burial space owner", or "burial space holder" means a person:
(1) under whose name a burial space is listed; or
(2) who is identified as the owner or holder of a burial space;
in the records of the office of the cemetery owner.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-27 "Mausoleum"
Sec. 27. (a) "Mausoleum" means a structure or building that:
(1) is used; or
(2) is intended to be used;
for the entombment or inurnment of human remains in crypts, vaults, or niches, in which entombment or inurnment is done from the interior of the building or structure.
(b) The term includes a columbarium within a mausoleum.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-28 "Niche"
Sec. 28. "Niche" is a space in a columbarium that is:
(1) used; or
(2) intended to be used;
for the inurnment of the cremated remains of one (1) or more deceased individuals.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-29 "Owner"
Sec. 29. (a) "Owner", when used in reference to a:
(1) lot owner;
(2) lot holder;
(3) plot owner;
(4) plot holder;
(5) burial right owner;
(6) burial right holder;
(7) burial space owner; or
(8) burial space holder;
includes a holder of a lot, plot, burial right, or burial space.
(b) "Owner", when used in reference to a:
(1) lot owner;
(2) lot holder;
(3) plot owner;
(4) plot holder;
(5) burial right owner;
(6) burial right holder;
(7) burial space owner; or
(8) burial space holder;
does not include a cemetery owner or an owner of a cemetery.
As added by P.L.52-1997, SEC.7.

IC 23-14-33-30 "Perpetual care" or "endowment care"
Sec. 30. (a) "Perpetual care" or "endowment care" means, within the limits permitted by the net income received from the perpetual care fund or endowment care fund required by IC 23-14-48 and from other care funds or endowments, the maintenance of the cemetery grounds and graves in keeping with a properly maintained cemetery, including the following:
(1) Cutting the grass on cemetery plots at reasonable intervals.
(2) Raking and cleaning of cemetery plots at reasonable intervals.
(3) Pruning of shrubs and trees.
(4) Procuring, maintaining, and keeping in workable condition the machinery, tools, and equipment needed for maintenance purposes, and replacing the machinery, tools, and equipment when necessary.
(5) Keeping in repair and preserving the drains, water lines, roads, buildings, fences, and other structures, including cemetery owned statues and embellishments of a general character applicable to the cemetery as a whole or a particular area.
(6) The administration of the cemetery, including:
(A) the payment of insurance premiums;
(B) the payment of pensions; and

(C) maintaining the necessary records of lot ownership or holdership, burial right ownership or holdership, burials, and other necessary information, and making the records available to the public authorities and interested persons.

(b) When used in connection with a mausoleum, garden crypt, columbarium, crematory, or other structure, the term "perpetual care" or "endowment care" means, in addition to the meaning set forth in subsection (a):

(1) the general upkeep of the structure and the ground surrounding the structure;

(2) the repair, replacement, and improvement of the structure;

(3) the procuring, maintaining, and keeping in reasonable condition the machinery, tools, and equipment needed for the purposes set forth in subdivisions (1) through (2); and

(4) replacing the machinery, tools, and equipment when necessary.

As added by P.L.52-1997, SEC.7.

IC 23-14-33-31 "Person"

Sec. 31. "Person" means an individual, an association, a limited liability company, a corporation, a firm, or another legal entity.

As added by P.L.52-1997, SEC.7.

IC 23-14-33-32 "Religious cemetery"

Sec. 32. "Religious cemetery" means a cemetery that is owned, operated, controlled, or managed by:

(1) any recognized church, religious society, association, or denomination; or

(2) any cemetery authority or corporation:

(A) that administers; or

(B) through which is administered;

the temporalities of any recognized church, religious society, association, or denomination.

As added by P.L.52-1997, SEC.7.

IC 23-14-33-33 "Vault"

Sec. 33. (a) "Vault" means:

(1) an outer burial container that is designed for placement in a burial space or grave around a casket or alternative container; or

(2) the container that forms the chamber of a crypt.

(b) The term includes a burial vault, grave box, or grave liner.

As added by P.L.52-1997, SEC.7.

INDIANA CODE § 23-14-34

Chapter 34. Mandatory Recording of Survey and Plat

IC 23-14-34-1 Mandatory recording of survey and plat for certain cemeteries

Sec. 1. Before granting or selling any burial right in any part of a cemetery developed and platted after March 6, 1953, the owner of the cemetery shall cause to be recorded in the recorder's office of the county in which the cemetery is located an accurate survey and plat of that part of its property in which it proposes to grant or sell burial rights.

As added by P.L.52-1997, SEC.8.

IC 23-14-34-2 Duties after violations; Class C infraction

Sec. 2. (a) The owner of a cemetery that has violated section 1 of this chapter shall, not later than January 1, 1998, record in the office of the recorder of the county in which the cemetery is located:

(1) the original plat of the cemetery; and

(2) the plats of all additions to the cemetery.

(b) The plats recorded under subsection (a) must:

(1) be referenced with respect to the section lines of the cemetery (if section lines have been established); and

(2) show a sufficient number of permanent monuments so there would be no difficulty in making resurveys.

(c) A cemetery owner who violates this section commits a Class C infraction. If the cemetery owner is required by this chapter to record a plat, each period of thirty (30) days after the time allowed by this chapter for the recording of the plat during which the plat remains unrecorded constitutes a separate infraction.

As added by P.L.52-1997, SEC.8.

IC 23-14-34-3 Transfers to include reference to recorded plat

Sec. 3. Each transfer of interment, entombment, or inurnment rights issued by the cemetery owner under this chapter must include a reference to the recorded plat.

As added by P.L.52-1997, SEC.8.

IC 23-14-34-4 Issuance of deeds, certificates, or licenses

Sec. 4. The owner of a cemetery shall issue a deed, certificate, or license to each purchaser of a burial right in the cemetery. Each deed, certificate, or license issued under this section must be properly signed and acknowledged before a notary public.

As added by P.L.52-1997, SEC.8.

IC 23-14-34-5 Requirements for recorded surveys and plats

Sec. 5. A survey and plat recorded under this chapter must:

(1) show all lots, walks, and drives in the cemetery, all with descriptive names and numbers; and

(2) include a proper instrument in writing, duly executed and acknowledged by the owner, dedicating the property to cemetery purposes.

As added by P.L.52-1997, SEC.8.

IC 23-14-34-6 Use of property after recording

Sec. 6. Except as provided in section 7 of this chapter, the property described in a survey and plat recorded under this chapter shall be held, occupied, and used exclusively for cemetery purposes after the recording of the survey and plat.

As added by P.L.52-1997, SEC.8.

IC 23-14-34-7 Vacation or alteration of recorded plat

Sec. 7. (a) Subject to subsection (b), the owner of property described in a survey and plat recorded under this chapter by an instrument properly executed, acknowledged, and recorded may vacate the recorded plat and make and file a new or altered plat and survey of:

(1) the property described in a survey and plat; or

(2) a part of the property described in the survey and plat.

(b) The vacation or alteration of a recorded plat under subsection (a) is not valid if it affects burial rights previously granted in the property described in the plat, unless each owner of affected burial rights has consented to the vacation or alteration.

As added by P.L.52-1997, SEC.8.

IC 23-14-34-8 Defective or incomplete surveys or plats

Sec. 8. If:

(1) the owner of a cemetery has recorded an accurate survey and plat of a part of its property in which it has:

(A) granted or sold burial rights for at least thirty (30) years; and

(B) actually managed and controlled the land as a cemetery for at least thirty (30) years; but

(2) the survey or plat is defective and incomplete because of a failure to comply with the formalities required by law in force at the time of the recording;

the recorded survey and plat are considered to comply fully with the law as of July 1, 1997.
As added by P.L.52-1997, SEC.8.

IC 23-14-34-9 Violation of chapter; Class B misdemeanor
Sec. 9. A person who knowingly violates:
(1) section 1;
(2) section 3; or
(3) section 4;
of this chapter commits a Class B misdemeanor.
As added by P.L.52-1997, SEC.8.

INDIANA CODE § 23-14-35

Chapter 35. Requirements Applying to Cemetery Plats

IC 23-14-35-1 Lost or destroyed plats
Sec. 1. If:
(1) the original plat of a cemetery; or
(2) the plat of an addition to a cemetery;
has been lost or destroyed, the cemetery owner required to record the plat shall have a new plat made by a competent engineer to correspond in every way to the original plat.
As added by P.L.52-1997, SEC.9.

IC 23-14-35-2
Replacement plats
Sec. 2. A replacement plat made under section 1 of this chapter must designate:
(1) the exact location, length, and width of all vehicle drives, paths, walks, sections and lots; and
(2) the number of each lot in the cemetery.
As added by P.L.52-1997, SEC.9.

INDIANA CODE § 23-14-36

Chapter 36. Commencement of the Sale of Burial Rights

IC 23-14-36-1 Sale or grant of burial rights
Sec. 1. After recording the plat under IC 23-14-34-1, the owner of the cemetery may sell and grant burial rights in the cemetery.
As added by P.L.52-1997, SEC.10.

IC 23-14-36-2 Requirements for transfer or assignment of burial rights
Sec. 2. Burial rights sold or granted under section 1 of this chapter shall not be transferred or assigned without the written consent of the owner of the cemetery.
As added by P.L.52-1997, SEC.10.

IC 23-14-36-3 Violation of chapter; Class B misdemeanor
Sec. 3. A person who knowingly violates this chapter commits a Class B misdemeanor.
As added by P.L.52-1997, SEC.10.

INDIANA CODE § 23-14-37

Chapter 37. Unlawful Inducements in the Sale of Burial Rights

IC 23-14-37-1 Unlawful inducements for purchase of burial rights
Sec. 1. Except as provided in section 2 of this chapter, it is unlawful for a person, as inducement for the purchase of burial rights in a cemetery, to directly or indirectly do the following:
(1) Offer, promise, or agree to resell or repurchase the burial rights.
(2) Pay or offer to pay any sum of money as interest or as a premium for the privilege of reselling or repurchasing the burial rights.
As added by P.L.52-1997, SEC.11.

IC 23-14-37-2 Repurchase of burial rights under lot exchange plan
Sec. 2. A cemetery owner may offer or agree to repurchase burial rights under a lot exchange plan that:
(1) is entered into with other cemetery owners or through an association of cemetery owners; and
(2) provides for the repurchase of burial rights in case the purchaser should change legal residence to another community and purchases burial rights in a cemetery located in the community of the purchaser's new place of residence.
As added by P.L.52-1997, SEC.11.

IC 23-14-37-3 Violation of chapter; Class B misdemeanor
Sec. 3. A person who knowingly violates this chapter commits a Class B misdemeanor.
As added by P.L.52-1997, SEC.11.

INDIANA CODE § 23-14-38

Chapter 38. Construction of Mausoleums and Vaults

IC 23-14-38-1 Construction of crypts; ventilation
Sec. 1. (a) A crypt placed in a mausoleum, vault, or other structure shall be so constructed that all parts of it may be readily examined by the state department of health or any other health officer.
(b) All ventilation from a crypt constructed after March 15, 1945, may be released at a height of the lowest roof level.
As added by P.L.52-1997, SEC.12.

IC 23-14-38-2 Removal and reinterment of bodies from burial structure declared to be public nuisance; removal of mausoleum or vault; costs
Sec. 2. (a) This section applies if:
(1) a person fails to maintain a mausoleum, garden crypt, vault, or other burial structure in a good state of repair; and
(2) by reason of the failure referred to in subdivision (1), a court of competent jurisdiction declares the mausoleum, garden crypt, vault, or other burial structure to be a public nuisance.
(b) The deceased body or bodies interred in the mausoleum, garden crypt, vault, or other burial structure shall be removed and properly interred:
(1) within thirty (30) days after the judgment declaring the mausoleum, garden crypt, vault, or other burial structure to be a nuisance, if the judgment is not appealed; or
(2) if the judgment is appealed, within thirty (30) days after the judgment is upheld on appeal.
(c) The mausoleum, garden crypt, vault, or other burial structure shall be removed:
(1) within one hundred eighty (180) days after the judgment declaring the mausoleum, garden crypt, vault, or other burial structure to be a nuisance, if the judgment is not appealed; or
(2) if the judgment is appealed, within one hundred eighty (180) days after the judgment is upheld on appeal.
(d) The cost of reinterring the bodies under subsection (b) and removing the mausoleum, garden crypt, vault, or other burial structure under subsection (c) shall be paid:

(1) by the person who owns the mausoleum, garden crypt, vault, or other burial structure; or
(2) if the person who owns the mausoleum, garden crypt, vault, or other burial structure is not found, by the county in which the mausoleum, garden crypt, vault, or structure is located.
As added by P.L.52-1997, SEC.12.

IC 23-14-38-3 Violation of chapter; Class B misdemeanor
Sec. 3. A person who recklessly fails to comply with this chapter commits a Class B misdemeanor.
As added by P.L.52-1997, SEC.12.

INDIANA CODE § 23-14-39

Chapter 39. Burial Rights in Multi-Space Plots

IC 23-14-39-1 Application of chapter
Sec. 1. This chapter applies to:
(1) all burial rights in cemeteries organized or created after June 14, 1939; and
(2) cemeteries that:
(A) were in existence on June 14, 1939; and
(B) do not have a rule or regulation in conflict with this chapter.
As added by P.L.52-1997, SEC.13.

IC 23-14-39-2 Individual property rights
Sec. 2. Except as provided in section 3 of this chapter, the burial rights in a lot, plot, burial space, crypt, or niche granted to an individual are the sole and separate property of the individual named as grantee in the instrument of grant.
As added by P.L.52-1997, SEC.13.

IC 23-14-39-3 Vested rights of spouse of grantee; effect of dissolution of marriage
Sec. 3. (a) If the grantee of a burial plot containing more than one (1) interment, entombment, or inurnment space is married at the time of the grant of the burial plot, the spouse of the grantee has a vested right of interment, entombment, or inurnment of the spouse's remains in the burial plot, unless the terms of the grant are inconsistent with burial rights of the grantee's spouse.
(b) If:
(1) a burial plot containing more than one (1) interment, entombment, or inurnment space is granted; and
(2) the grantee becomes married after the grant of the burial plot;
the grantee's spouse has a vested right of interment, entombment, or inurnment in the plot if more than one (1) interment, entombment, or inurnment space in the plot remains unoccupied when the individual becomes the spouse of the grantee.
(c) No transfer or other action of a grantee referred to in subsection (a) or (b) divests the grantee's spouse of the vested right of interment, entombment, or inurnment recognized in subsection (a) or (b) unless:
(1) the spouse joins in the transfer or other action; or
(2) the written consent of the spouse is endorsed on or attached to the transfer or other action.
(d) A final dissolution of marriage decree between a grantee referred to in subsection (a) or (b) and the grantee's spouse terminates the spouse's vested right of interment, entombment, or inurnment recognized in subsection (a) or (b) unless the dissolution of marriage decree provides otherwise.
As added by P.L.52-1997, SEC.13.

INDIANA CODE § 23-14-40

Chapter 40. Joint Burial Rights in Multi-Space Plots

IC 23-14-40-1 Application of chapter
Sec. 1. This chapter applies to:
(1) all burial rights in cemeteries organized or created after June 14, 1939; and
(2) cemeteries that:
(A) were in existence on June 14, 1939; and
(B) do not have a rule or regulation in conflict with this chapter.
As added by P.L.52-1997, SEC.14.

IC 23-14-40-2 Application of chapter; multi-space plots
Sec. 2. This chapter applies to burial rights in a burial plot containing more than one (1) interment, entombment, or inurnment space.
As added by P.L.52-1997, SEC.14.

IC 23-14-40-3 Certain burial rights owned with right of survivorship
Sec. 3. Any burial rights that are held in joint tenancy by two (2) or more persons who are not husband and wife are owned with the right of survivorship.
As added by P.L.52-1997, SEC.14.

IC 23-14-40-4 Burial rights held in joint tenancy by husband and wife
Sec. 4. If the owners of burial rights held in joint tenancy are husband and wife, the title shall be recognized as a tenancy by the entirety, and the right of interment, entombment, or inurnment shall be vested and controlled equally by both while living, or, after the death of one (1) spouse, by the surviving spouse or the surviving spouse's successor in interest.
As added by P.L.52-1997, SEC.14.

IC 23-14-40-5 Burial rights of joint tenants
Sec. 5. In a grant of burial rights to two (2) or more persons as joint tenants, each joint tenant has a vested right of interment, entombment, or inurnment of the joint tenant's remains in the burial plot. Upon the death of a joint tenant, the title to the burial rights previously held in joint tenancy immediately vests in the survivor or survivors, subject to the vested right of interment, entombment, inurnment for the remains of the deceased joint tenant owner.
As added by P.L.52-1997, SEC.14.

IC 23-14-40-6 Rights of surviving joint tenant
Sec. 6. If an affidavit by a competent person that:
(1) sets forth the fact of the death of one (1) joint tenant; and
(2) establishes the identity of the surviving joint tenant, who is named in the instrument of grant of burial right in a cemetery plot;
is filed with the cemetery in which the plot is located, the affidavit is complete authority to the cemetery to permit the use of the unoccupied portion of the plot in accordance with the direction of the surviving joint tenant or the successor in interest of the surviving joint tenant.
As added by P.L.52-1997, SEC.14.

IC 23-14-40-7 Waiver or termination of burial rights
Sec. 7. If an individual has a vested right of interment, entombment, or inurnment of the remains of the individual in a particular plot under this chapter, the right:
(1) may be waived by the individual in a written instrument; or
(2) is terminated upon the interment, entombment, or inurnment of the remains of the individual in a location other than the plot.
As added by P.L.52-1997, SEC.14.

IC 23-14-40-8 Restrictions on burial rights

Sec. 8. A vested right of interment, entombment, or inurnment under this chapter does not give any individual the right to:

(1) have the individual's remains interred, entombed, or inurned in any interment, entombment, or inurnment space in which the remains of a deceased individual having a prior vested right of interment, entombment, or inurnment have been deposited; or

(2) have the remains of more than one (1) deceased individual interred, entombed, or inurned in a single interment or entombment space or niche in violation of the rules and regulations of the cemetery in which the interment or entombment space or inurnment niche is located.

As added by P.L.52-1997, SEC.14.

INDIANA CODE § 23-14-41

Chapter 41. Family Burial Lots

IC 23-14-41-1 Application of chapter

Sec. 1. This chapter applies to all burial rights in:

(1) cemeteries organized or created after June 14, 1939; and

(2) cemeteries that:

(A) were in existence on June 14, 1939; and

(B) do not have a rule or regulation in conflict with this chapter.

As added by P.L.52-1997, SEC.15.

IC 23-14-41-2 "Burial plot" defined

Sec. 2. As used in this chapter, "burial plot" means the unit of space, consisting of one (1) or more:

(1) grave spaces;

(2) mausoleum crypts;

(3) garden crypts; or

(4) niches;

originally conveyed by the cemetery and remaining after any transfers made by the record owner during the record owner's life.

As added by P.L.52-1997, SEC.15.

IC 23-14-41-3 Holding of family burial plot

Sec. 3. Upon the death of the record owner of the burial rights in a burial plot, the burial plot shall be held as the family burial plot of the deceased owner, if:

(1) the remains of the record owner have been interred, entombed, inurned, or disposed of;

(2) the record owner did not dispose of the burial rights by a specific devise in the owner's last will and testament or by a written designation or transfer of ownership recorded with the cemetery under IC 23-14-42; and

(3) there is at least one (1) interment, entombment, or inurnment in the burial plot.

As added by P.L.52-1997, SEC.15.

IC 23-14-41-4 Use of family burial plot

Sec. 4. (a) In a family burial plot:

(1) one (1) grave, crypt, or niche may be used for the record owner's interment, entombment, or inurnment;

(2) after the record owner's interment, entombment, or inurnment, one (1) grave, crypt, or niche may be used for the surviving spouse of the record owner; and

(3) in the spaces remaining, if any, the parents and children of the deceased record owner, in order of need, may be interred, entombed, or inurned without the consent of any person claiming an interest in the family burial plot.

(b) If there is no parent or child who survives the deceased record owner, the right of interment, entombment, or inurnment in a family burial plot shall go in order of need to:

(1) the heirs at law of the deceased record owner, or the spouse of the heir if the heir is already interred, entombed, or inurned, as specified by the statutes of descent; or

(2) the spouse of any heir at law of the deceased record owner.

As added by P.L.52-1997, SEC.15. Amended by P.L.113-2007, SEC.1.

IC 23-14-41-5 Waiver of burial rights

Sec. 5. (a) A:

(1) surviving spouse; or

(2) parent, child, or heir;

of the deceased record owner of a family burial plot who has a right of interment, entombment, or inurnment in the plot may waive that right in favor of another relative or spouse of the deceased record owner through a written instrument that is recorded with the cemetery.

(b) After a written waiver is recorded under subsection (a), the body of the individual in whose favor the waiver is made may be interred, entombed, or inurned in the family burial plot.

As added by P.L.52-1997, SEC.15.

IC 23-14-41-6 Affidavit permitting use of family burial plot

Sec. 6. An affidavit that sets forth:

(1) the fact of the death of the record owner of the burial rights in a family burial plot; and

(2) the name of the individual or individuals who are entitled to use the family burial plot in accordance with this chapter;

is complete authority to the cemetery to permit the use of the unoccupied portions of the family burial plot by the individual or individuals who are shown by the affidavit to be entitled to use the family burial plot.

As added by P.L.52-1997, SEC.15.

IC 23-14-41-7 Termination and transfer of family burial plot

Sec. 7. If a family burial plot has been established under section 3 of this chapter and all the living children and parents of the deceased record owner consent in writing, the status as a family burial plot may be terminated and the remaining lots may be transferred, conveyed, or sold to the cemetery owner or any other person designated in the agreement.

As added by P.L.113-2007, SEC.2.

INDIANA CODE § 23-14-42

Chapter 42. Burial Rights by Designation, Bequest, or Descent, and Rights of Co-Owners

IC 23-14-42-1 "Burial plot" defined

Sec. 1. As used in this chapter, "burial plot" means the unit of space consisting of one (1) or more:

(1) grave spaces;

(2) mausoleum crypts;

(3) garden crypts; or

(4) niches;

that was originally conveyed by the cemetery and remaining after any transfers made by the record owner during the record owner's life.

As added by P.L.52-1997, SEC.16.

IC 23-14-42-2 Designation of remains permitted to be interred

Sec. 2. The owner of the burial rights in any burial plot has the right by a proper instrument recorded with the cemetery to designate specifically whose remains only shall be interred, entombed, or inurned in the burial plot after the owner's death.

As added by P.L.52-1997, SEC.16.

IC 23-14-42-3 Transfer of burial rights

Sec. 3. The owner of the burial rights in any burial plot may, during the life of the owner, transfer all rights and interest in the burial plot to any other person through sale or another method. However, a transfer under this section:

(1) must be recorded with the cemetery to be valid; and

(2) is subject to the rules and regulations of the cemetery owner.

As added by P.L.52-1997, SEC.16.

IC 23-14-42-4 Burial rights passing as part of estate

Sec. 4. Upon the death of the record owner of the burial rights in a burial plot, the burial rights pass as part of the estate of the owner if:

(1) the record owner did not dispose of the burial rights by:

(A) a specific devise in the last will and testament of the record owner; or

(B) a written designation or transfer of ownership recorded with the cemetery under section 2 or 3 of this chapter;

(2) the burial rights have not become vested in another individual under IC 23-14-39 or IC 23-14-40;

(3) the burial plot does not become a family burial plot under IC 23-14-41 before the instrument referred to in subdivision (4) is recorded with the cemetery; and

(4) an instrument that:

(A) is prepared in accordance with IC 29-1; and

(B) documents the person or persons entitled to become the new record owner or owners of the burial plot and to receive the burial rights as part of the deceased record owner's estate;

is recorded with the cemetery.

As added by P.L.52-1997, SEC.16.

IC 23-14-42-5 Liability of cemetery acting upon request of registered co-owner of burial rights

Sec. 5. (a) If there are several owners of burial rights in a burial plot, the owners may:

(1) designate in writing one (1) or more persons to represent them; and

(2) file the written designation with the owner of the cemetery in which the plot is located.

(b) In the absence of:

(1) the filing of a written designation of one (1) or more representatives under subsection (a); or

(2) a written objection to the interment, entombment, or inurnment;

a cemetery is not liable to any owner of burial rights in a burial plot for interring, entombing, or inurning, or permitting an interment, entombment, or inurnment in the burial plot upon the request or direction of a registered co-owner of the burial rights.

As added by P.L.52-1997, SEC.16.

INDIANA CODE § 23-14-43

Chapter 43. Assessments to Improve Cemetery Roads

IC 23-14-43-1 Improvements to approaches or roads

Sec. 1. The officers, owners, or directors in charge of a public or private cemetery that is organized and incorporated under Indiana law may use any funds arising from:

(1) the sale of; or

(2) assessments upon;

lots in the cemetery to improve the approaches or roads to the cemetery.

As added by P.L.52-1997, SEC.17.

IC 23-14-43-2 Restrictions on improvements

Sec. 2. The part of an approach or road that is improved under section 1 of this chapter may not exceed a distance of one-half (1/2) mile from the cemetery.

As added by P.L.52-1997, SEC.17.

INDIANA CODE § 23-14-44

Chapter 44. Prohibition on Road and Utility Construction in Cemeteries

IC 23-14-44-1 Restrictions on road or utility construction

Sec. 1. (a) This section applies to a cemetery from the time interment, entombment, or inurnment spaces in the cemetery are ready for immediate use and bona fide sales have been made.

(b) A railroad, street, road, alley, pipeline, pole line, or other public thoroughfare or utility shall not be laid out through, over, or across any part of the cemetery within one hundred (100) feet of:

(1) a space in which burial rights have been transferred;

(2) a mausoleum in the cemetery;

(3) a garden crypt in the cemetery; or

(4) a columbarium in a cemetery;

without the consent of the owner of the cemetery.

As added by P.L.52-1997, SEC.18.

IC 23-14-44-2 Injunctions

Sec. 2. Upon the complaint of any person, a permanent injunction shall be issued to prevent any other person from locating or constructing a railroad, street, road, alley, pipeline, pole line, or other public thoroughfare or utility on any ground that is:

(1) held, used, or occupied as a cemetery; or

(2) held for cemetery purposes.

As added by P.L.52-1997, SEC.18.

IC 23-14-44-3 Violation of chapter; Class B misdemeanor

Sec. 3. A person who knowingly violates this chapter commits a Class B misdemeanor.

As added by P.L.52-1997, SEC.18.

INDIANA CODE § 23-14-45

Chapter 45. Construction of Railroads on Cemetery Property Prohibited

IC 23-14-45-1 Construction of railroad on cemetery property prohibited

Sec. 1. A person shall not locate or construct a railroad on any real estate held, used, or occupied as a cemetery.

As added by P.L.52-1997, SEC.19.

IC 23-14-45-2 Injunctions

Sec. 2. Upon the complaint of any person, another person shall be perpetually enjoined from locating or constructing a railroad on any ground that is:

(1) held, used, or occupied as a cemetery; or

(2) held for cemetery purposes.

As added by P.L.52-1997, SEC.19.

IC 23-14-45-3 Violation of chapter; Class C infraction

Sec. 3. A person who violates this chapter commits a Class C infraction.
As added by P.L.52-1997, SEC.19.

INDIANA CODE § 23-14-46

Chapter 46. Cemetery Rules and Regulations and Exclusive Rights

IC 23-14-46-1 Powers of owner

Sec. 1. (a) Subject to subsection (b), the owner of a cemetery:
(1) may make, adopt, and enforce rules and regulations:
(A) for the use, care, control, management, restriction, and protection of all parts and subdivisions of the cemetery;
(B) for restricting, limiting, and regulating the use of all property within the cemetery;
(C) for regulating the care of plants or shrubs within the grounds and preventing the introduction of certain types of plants or shrubs;
(D) for regulating the conduct of persons and preventing improper assemblages in the cemetery; and
(E) for all other purposes considered necessary by the owner of the cemetery for the proper conduct of the business of the cemetery and the protection and safeguarding of the premises and the principles, plans, and ideals on which the cemetery was organized; and
(2) may periodically amend, add to, revise, change, modify, or abolish the rules and regulations.
(b) A cemetery to which this chapter applies may not adopt a rule or regulation in conflict with IC 23-14-33 through IC 23-14-57, except as expressly permitted by IC 23-14-39, IC 23-14-40, or IC 23-14-41.
As added by P.L.52-1997, SEC.20.

IC 23-14-46-2 Penalties for rule violation

Sec. 2. The owner of a cemetery may:
(1) prescribe penalties for the violation of a rule or regulation adopted under section 1 of this chapter; and
(2) recover penalties prescribed under subdivision (1) in a civil action.
As added by P.L.52-1997, SEC.20.

IC 23-14-46-3 Requirements

Sec. 3. Rules and regulations adopted by a cemetery under section 1 of this chapter shall be:
(1) plainly printed or typewritten; and
(2) kept available for inspection and copying at the usual place for transacting the regular business of the cemetery.
As added by P.L.52-1997, SEC.20.

IC 23-14-46-4 Restrictions on imposition of monetary penalty

Sec. 4. The owner of a cemetery may not, because of the nonpayment of periodic care charges, impose a monetary penalty that attaches against a burial space if:
(1) the burial space was conveyed by the cemetery after June 14, 1939, and the conveyance was subject to IC 23-14-48 or IC 23-14-1-12 (before its repeal); or
(2) the owner of the burial space or the owner's heirs or representatives can document previous payment of perpetual care or endowed care charges.
As added by P.L.52-1997, SEC.20.

IC 23-14-46-5 Restrictions on public notice

Sec. 5. A public notice, including a notice of nonpayment, may not be attached to any lot, grave, gravestone, marker, or memorial upon a lot for the purpose of enforcing a penalty for the nonpayment of perpetual care charges.
As added by P.L.52-1997, SEC.20.

IC 23-14-46-6 Powers and duties of person in charge of cemetery

Sec. 6. The sexton, superintendent, manager, director, or other person in charge of a cemetery has the same powers, functions, duties, and authority granted by law to a peace officer within the jurisdiction in which the cemetery is located for the purpose of:
(1) maintaining order; and
(2) enforcing:
(A) the rules and regulations of the cemetery;
(B) the laws of Indiana; and
(C) the ordinances of the city or town in which the cemetery is situated;
within the cemetery and within an area immediately outside the cemetery as large as necessary to protect the property of the cemetery.
As added by P.L.52-1997, SEC.20.

IC 23-14-46-7 Exclusive rights of owner

Sec. 7. Because the owner of a cemetery is responsible for the performance of the care and maintenance of the cemetery, a cemetery owner has the exclusive right to:
(1) open and close a grave or grave space, burial space, crypt, or niche in the cemetery;
(2) set or install a:
(A) marker;
(B) monument; or
(C) any type of memorial;
in the cemetery; and
(3) install any kind of foundation or other type of base for the marker, monument, or any type of memorial in the cemetery.
This exclusive right may also be exercised by the authorized representative of the owner of the cemetery.
As added by P.L.52-1997, SEC.20.

IC 23-14-46-8 Violation of chapter; Class B misdemeanor

Sec. 8. A person who knowingly violates this chapter commits a Class B misdemeanor.
As added by P.L.52-1997, SEC.20.

INDIANA CODE § 23-14-47

Chapter 47. Use, Sale, and Installation of Monuments and Other Commodities

IC 23-14-47-1 Establishment of rules and regulations

Sec. 1. A cemetery owner has the right to establish reasonable rules and regulations regarding the:
(1) type;
(2) material;
(3) design;
(4) composition; and
(5) finish;
of any commodity to be used or installed in the cemetery.
As added by P.L.52-1997, SEC.21.

IC 23-14-47-2 Duties of owner

Sec. 2. A cemetery owner shall not prevent the use of or installation in the cemetery of any commodity purchased from any source if the commodity meets the rules and regulations established under section 1 of this chapter.

As added by P.L.52-1997, SEC.21.

IC 23-14-47-3 Fees for services

Sec. 3. The fee that a cemetery owner charges for services in connection with the installation or use of commodities in the cemetery shall be the same to all regardless of who furnishes the commodities.
As added by P.L.52-1997, SEC.21. Amended by P.L.113-2007, SEC.3.

IC 23-14-47-4 Schedule of charges

Sec. 4. At the usual place for transacting the regular business of each cemetery, the cemetery owner shall maintain a complete schedule of all charges that the cemetery imposes for services in connection with the installation or use of commodities in the cemetery. The schedule must be:

(1) plainly printed or typewritten; and
(2) subject to inspection and copying.

As added by P.L.52-1997, SEC.21.

IC 23-14-47-5 Violation of chapter; Class B misdemeanor

Sec. 5. A person who knowingly violates this chapter commits a Class B misdemeanor.
As added by P.L.52-1997, SEC.21.

INDIANA CODE § 23-14-48

Chapter 48. Cemetery Perpetual Care Fund

IC 23-14-48-1 Application of chapter

Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to:

(1) a cemetery owned by a municipal corporation or other governmental unit;
(2) a religious cemetery; or
(3) a cemetery:
  (A) that is ten (10) acres or less in size;
  (B) that is owned and operated entirely and exclusively by a nonprofit mutual association in existence on June 14, 1939; and
  (C) in which burials have taken place before June 14, 1939.

(b) If a cemetery described in subsection (a)(3) directly or indirectly:

(1) constructs or permits to be constructed any structure, above or below ground, and offers interment rights in the structure for sale to the general public; or
(2) acquires:
  (A) additional land; or
  (B) an interest in additional land;
causing the cemetery to exceed ten (10) acres in size;

this chapter applies to the whole of the cemetery.
As added by P.L.52-1997, SEC.22.

IC 23-14-48-2 Duties of owner

Sec. 2. (a) The owner of each cemetery shall provide for the creation and establishment of an irrevocable perpetual care fund.

(b) The principal of a perpetual care fund established under this section shall permanently remain intact, except as provided in this chapter. The principal shall be known as the "perpetual care fund" or "endowment care fund" of the cemetery.

(c) Fifty percent (50%) of any appreciation of the principal of the fund may be withdrawn annually not more than forty-five (45) days after the end of the fund's fiscal year.

(d) Any income earned by the fund during the fiscal year may be withdrawn quarterly during the fund's fiscal year.

(e) The income from a fund established under this section and any withdrawal of the appreciation of the principal under subsection (c) shall be devoted to the perpetual care of the cemetery.

(f) The fund established by this chapter is not subject to attachment by a creditor unless the underlying debt was incurred for the perpetual care or endowment care (as defined in IC 23-14-33-30) of the cemetery for which the fund was established.
As added by P.L.52-1997, SEC.22. Amended by P.L.66-1999, SEC.1.

IC 23-14-48-3 Establishment; payment; fund segregated

Sec. 3. (a) A perpetual care fund shall be established under this chapter as follows:

(1) In the case of a cemetery for earth burials, by the application and payment to the perpetual care fund of an amount at least equal to:
  (A) fifteen percent (15%) of the sale price; or
  (B) eighty cents ($0.80) per square foot of area;
of each burial plot sold or transferred, whichever is greater.
(2) In the case of a community or public mausoleum, or community or public garden crypt, by the application and payment to the perpetual care fund of an amount at least equal to:
  (A) eight percent (8%) of the sale price; or
  (B) one hundred dollars ($100) per crypt sold or transferred;
whichever is greater.
(3) In the case of a community columbarium, by the application and payment to the perpetual care fund of an amount at least equal to twenty dollars ($20) per niche sold or transferred.

(b) From the sale price, any payment on the sale price, or in a nonmonetary transfer, the owner shall pay an amount in proportion to the requirements of subsection (a)(1) through (a)(3) to the care fund. The payment must be in cash and shall be deposited with the trustee of the fund:

(1) not more than thirty (30) days after the end of the month in which payments on the sale are received; or
(2) not more than thirty (30) days after the end of the month in which there was a transfer which did not involve a sale.

(c) The payments required by this section are required to be paid only on the original sale or transfer and not again for any subsequent resale or transfer of the same ground interment rights, crypt, or niche.

(d) The trustee of a fund established under this chapter must keep the fund segregated from any other fund or account belonging to the owner of the cemetery.
As added by P.L.52-1997, SEC.22. Amended by P.L.66-1999, SEC.2; P.L.65-2007, SEC.1; P.L.61-2008, SEC.1.

IC 23-14-48-4 Duties of cemetery organized after March 6, 1953, and before July 1, 1997

Sec. 4. (a) In addition to meeting the requirements of sections 1 through 3 of this chapter, a cemetery that:

(1) is organized after March 6, 1953, and before July 1, 1997, by incorporation, association, individually, or any other means; or
(2) has its first burial after March 6, 1953, and before July 1, 1997;

shall, before disposing of a burial lot or right, making a sale of a burial lot or right, or making its first burial, cause to be deposited in a financial institution the sum of twenty-five thousand dollars ($25,000) in cash in the perpetual care fund or endowment care fund established under this chapter for the maintenance of the cemetery.

(b) The cemetery owner shall designate the financial institution as trustee of the fund. The financial institution must execute an affidavit stating that it has accepted the trusteeship of the fund and that the twenty-five thousand dollars ($25,000) has been deposited in the fund. The cemetery shall:

(1) exhibit the affidavit in the principal office of the cemetery;
(2) keep the affidavit available at all times for examination; and

(3) record the affidavit in the miscellaneous records in the office of the recorder in the county in which the cemetery is located.

(c) When the cemetery has deposited in the perpetual care fund or endowment care fund, as required by this section, fifty thousand dollars ($50,000):

(1) the cemetery shall submit proof of this fact to its trustee; and

(2) the trustee shall pay over to the cemetery the amount of twenty-five thousand dollars ($25,000) that the cemetery deposited in the fund under subsection (a).

As added by P.L.52-1997, SEC.22. Amended by P.L.66-1999, SEC.3; P.L.3-2008, SEC.168.

IC 23-14-48-5 Duties of cemetery organized after June 30, 1997

Sec. 5. (a) In addition to meeting the requirements of sections 1 through 3 of this chapter, a cemetery that:

(1) is organized after June 30, 1997, by incorporation, or any other means; or

(2) has its first burial, entombment, or inurnment after June 30, 1997;

shall, before disposing of a burial lot or right, making a sale of a burial lot or right, or making its first burial, entombment, or inurnment cause to be deposited in a financial institution one hundred thousand dollars ($100,000) in cash in the perpetual care fund or endowment care fund established under this chapter for the maintenance of the cemetery.

(b) The cemetery owner shall designate the financial institution as trustee of the fund. The financial institution must execute an affidavit stating that it has accepted the trusteeship of the fund and that the one hundred thousand dollars ($100,000) has been deposited in the fund. The cemetery shall:

(1) exhibit the affidavit in the principal office of the cemetery;

(2) keep the affidavit available at all times for examination; and

(3) record the affidavit in the miscellaneous records in the office of the recorder of the county in which the cemetery is located.

(c) When the cemetery has deposited in the perpetual care fund or endowment care fund, as required by this section, two hundred thousand dollars ($200,000):

(1) the cemetery shall submit proof of this fact to its trustee; and

(2) the trustee shall pay over to the cemetery one hundred thousand dollars ($100,000) that the cemetery deposited in the fund under subsection (a).

As added by P.L.52-1997, SEC.22. Amended by P.L.66-1999, SEC.4; P.L.3-2008, SEC.169.

IC 23-14-48-6 Increases

Sec. 6. A perpetual care or endowment care fund may be increased by adding to the fund surplus money or property that the cemetery receives by will, deed, gift, or otherwise.

As added by P.L.52-1997, SEC.22.

IC 23-14-48-7 Accounting and report; audit

Sec. 7. (a) Not more than ninety (90) days after the end of the fiscal year of a cemetery to which this chapter applies, the custodian or trustee of the perpetual care fund of the cemetery shall prepare and file with the owner of the cemetery a detailed accounting and report of the perpetual care fund for the preceding fiscal year. The report:

(1) must include, among other things, a properly itemized listing of the securities in which the funds are invested; and

(2) shall be available for inspection and copying at all times by any owner of or holder of a burial right in the cemetery at the usual place at which the regular business of the cemetery is transacted.

(b) Not more than one hundred five (105) days after the end of the fiscal year of a cemetery to which this chapter applies, the trustee of the perpetual care fund of the cemetery shall file the report required under subsection (a) with the state board of funeral and cemetery service.

(c) The state board of funeral and cemetery service may audit or order an audit of the perpetual care fund of a cemetery if the state board of funeral and cemetery service determines that the trustee of the perpetual care fund is not complying with the requirements set forth in subsections (a) and (b). The cemetery that is the subject of the audit shall pay all costs associated with the audit.

(d) The owner of a cemetery shall maintain a report required by this section for the longer of:

(1) ten (10) years; or

(2) three (3) years after the date the owner sells or otherwise transfers the cemetery.

As added by P.L.52-1997, SEC.22. Amended by P.L.65-2007, SEC.2; P.L.61-2008, SEC.2..

IC 23-14-48-8 Separate and distinct cemeteries

Sec. 8. Each geographic location used as a cemetery constitutes a separate and distinct cemetery for the purpose of this chapter.

As added by P.L.52-1997, SEC.22.

IC 23-14-48-9 Violation of chapter

Sec. 9. (a) Except as provided in subsections (b) and (c), a person who knowingly violates this chapter commits a Class A misdemeanor.

(b) A person who makes a false or fraudulent representation as to the existence, amount, investment, control, or condition of a perpetual care fund of a cemetery for the purpose of inducing another to purchase any burial right commits a Class C infraction.

(c) A person who knowingly or intentionally uses funds in a perpetual care fund or an endowment care fund established under this chapter for purposes other than the perpetual care of the cemetery for which the perpetual care fund or endowment fund was established commits a Class C felony.

As added by P.L.52-1997, SEC.22. Amended by P.L.113-2007, SEC.4.

IC 23-14-48-10 Formation of association for management, care, and supervision of cemetery

Sec. 10. (a) This section applies to a corporation that:

(1) is organized under Indiana law for the purpose of establishing and maintaining a cemetery; or

(2) is organized for another purpose but has established and maintains a cemetery.

(b) If:

(1) a corporation described in subsection (a) has not provided a general perpetual care fund after having sold all of the lots in a cemetery; and

(2) at least twenty-five (25) owners of lots in the cemetery or next of kin of owners of lots in the cemetery:

(A) form an association for the purpose of taking over the management, care, and general supervision of the cemetery; and

(B) sign and submit to the corporation a petition seeking authority for the management, care, and general supervision of the cemetery;

the corporation shall turn over to the association the complete authority for the management, care, and supervision of the cemetery.

(c) An association to which subsection (b) applies shall assume all responsibility and liability for the proper care and management of the cemetery, subject to the following:

(1) If a cemetery has been under the control of a certain religious denomination, sect, or creed that has observed certain religious customs or rules with reference to the burying of the dead in the cemetery, the association shall observe those religious customs or rules.

(2) The transfer of authority under this section does not affect the reversion of the title to the lands occupied by the cemetery if the land ever ceases to be used as a cemetery or burial place for the dead.
As added by P.L.52-1997, SEC.22.

INDIANA CODE § 23-14-48.5

Chapter 48.5 Consumer Protection Fund for Cemetery Maintenance

IC 23-14-48.5-1 Application
Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to:
(1) a cemetery owned by a municipal corporation or other governmental unit;
(2) a religious cemetery; or
(3) a cemetery:
(A) that is ten (10) acres or less in size;
(B) that is owned and operated entirely and exclusively by a nonprofit mutual association in existence on June 14, 1939; and
(C) in which burials took place before June 14, 1939.
(b) This chapter applies to the whole of a cemetery described in subsection (a)(3) if, directly or indirectly:
(1) any structure is constructed above or below ground in the cemetery and interment rights in the structure are offered for sale to the general public; or
(2) the acquisition of:
(A) additional land; or
(B) an interest in additional land;
causes the cemetery to exceed ten (10) acres in size.
As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-2 "Board"
Sec. 2. As used in this chapter, "board" means the state board of funeral and cemetery service established by IC 25-15-9-1.
As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-3 "Fund"
Sec. 3. As used in this chapter, "fund" refers to the consumer protection fund for cemetery maintenance established by section 4 of this chapter.
As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-4 Consumer protection fund for cemetery maintenance; establishment; funding; continuously appropriated
Sec. 4. (a) The consumer protection fund for cemetery maintenance is established. The board shall administer the fund and shall deposit contributions remitted under section 5 of this chapter in the fund.
(b) The expenses of administering the fund shall be paid from money in the fund.
(c) The money in the fund and the interest accruing to the fund remain in the fund and do not revert to the state general fund.
(d) Money in the fund is continuously appropriated for the purposes of this chapter.
As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-5 Duties of cemetery owner; payment
Sec. 5. (a) The owner of a cemetery shall contribute the following to the fund:
(1) In the case of a cemetery for earth burials, an amount equal to one percent (1%) of the sale price of each burial plot sold or transferred.
(2) In the case of a community or public mausoleum or a community or public garden crypt, an amount equal to one percent (1%) of the sale price of each sale of entombment or inurnment rights.
(3) In the case of a community columbarium, an amount equal to two dollars ($2) per niche sold or transferred.
The owner shall remit the contributions required under this subsection to the board for deposit in the fund.
(b) In the case of a payment to a cemetery owner of part of the sale price for a burial plot, entombment or inurnment rights, or a niche, the cemetery owner shall pay to the fund an amount proportional to the amount required by subsection (a)(1) through (a)(3). In the case of a nonmonetary transfer in the sale of a burial plot, entombment or inurnment rights, or a niche, the cemetery owner shall pay to the fund the cash equivalent of the amount that would be required by subsection (a)(1) through (a)(3) if the sale were for cash. The payment by the cemetery owner under this section must be in cash and shall be remitted to the board:
(1) not later than March 1 of each year for payments received in the preceding calendar year; or
(2) not later than March 1 of each year for nonmonetary transfers in the preceding calendar year.
(c) Payments are required under this section only on the original sale or transfer and are not required for any subsequent resale or transfer of the same plot, rights, or niche.
As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-6 Use of money in fund
Sec. 6. Money in the fund may be used to provide cemetery maintenance when the board finds that:
(1) the owner of a cemetery is unable to maintain the cemetery;
(2) money in the perpetual care fund of the cemetery is depleted, subject to a dispute that prevents distribution of the money, or otherwise unavailable for the purposes of the perpetual care fund; and
(3) interested persons are unable to take over the management, care, and general supervision of the cemetery under IC 23-14-48-10.
As added by P.L.65-2007, SEC.3.

IC 23-14-48.5-7 Filing verified complaint for maintenance assistance; investigation; contracting for maintenance; recovering funds; annual review
Sec. 7. (a) The:
(1) owner of a cemetery; or
(2) if the owner of a cemetery is unable to be determined:
(A) the owner of a lot in the cemetery;
(B) the next of kin of an owner of a lot in the cemetery; or
(C) another interested person;
may request maintenance assistance from the fund by filing a verified complaint with the board.
(b) The board shall investigate each verified complaint. Within thirty (30) days after a verified complaint is filed, the board shall complete its investigation and issue findings of fact. If the board makes the findings required under section 6 of this chapter concerning a cemetery, the board may enter into a contract with any suitable person to provide maintenance at the cemetery until a responsible person is able to provide care and maintenance for the cemetery.
(c) If the cost of maintaining a cemetery is paid from the fund, the fund is entitled to recover the amount paid from the owner of the cemetery, and the board shall ask the attorney general to take all reasonable steps to collect that amount from the cemetery owner. Any amount collected from a cemetery owner under this subsection shall be deposited in the fund.
(d) The board shall annually review the status of the fund. If the board determines during its annual review that the fund balance equals or

exceeds two hundred fifty thousand dollars ($250,000), the board shall suspend the requirement to make payments to the fund under section 5 of this chapter until after the next annual review in which the board determines that the fund balance is less than two hundred fifty thousand dollars ($250,000).
As added by P.L.65-2007, SEC.3.

INDIANA CODE § 23-14-49

Chapter 49. Cemetery Escrow or Trust Accounts

IC 23-14-49-1 Application of chapter; placement of certain proceeds
Sec. 1. (a) This chapter does not apply to the proceeds from the sales of burial spaces.
(b) All proceeds received by anyone selling floral tributes, vaults, memorials of any type, or services that:
(1) are to be installed in or provided in a cemetery; but
(2) are not to be delivered or provided until the death of the person or persons for whom the vault, memorial, floral tribute, or service is to be used or provided;
shall be placed in escrow or trust in a separate account and held for the specific purpose intended until the time of burial or completion of the services.
As added by P.L.52-1997, SEC.23.

IC 23-14-49-2 Powers of owner
Sec. 2. The owner of a cemetery may:
(1) take and hold any property devised, bequeathed, granted, or given to the owner in trust; and
(2) apply:
(A) the property; or
(B) the proceeds or income from the property;
according to the terms of the devise, bequest, grant, or gift.
As added by P.L.52-1997, SEC.23.

IC 23-14-49-3 Violation of chapter; Class A misdemeanor
Sec. 3. A person who knowingly violates this chapter commits a Class A misdemeanor.
As added by P.L.52-1997, SEC.23.

INDIANA CODE § 23-14-50

Chapter 50. The Nature of Cemetery Funds

IC 23-14-50-1 Application of chapter
Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to:
(1) a cemetery owned by a municipal corporation or other governmental unit;
(2) a religious cemetery; or
(3) a cemetery:
(A) that is ten (10) acres or less in size;
(B) that is owned and operated entirely and exclusively by a nonprofit mutual association in existence on June 14, 1939; and
(C) in which burials have taken place before June 14, 1939.
(b) If a cemetery described in subsection (a)(3) directly or indirectly:
(1) constructs or permits to be constructed any structure, above or below ground, and offers interment rights in the structure for sale to the general public; or
(2) acquires:
(A) additional land; or
(B) an interest in additional land;
causing the cemetery to exceed ten (10) acres in size;
this chapter applies to the whole of the cemetery.
As added by P.L.52-1997, SEC.24.

IC 23-14-50-2 Charitable and eleemosynary purpose of funds
Sec. 2. (a) The accumulation and holding of:
(1) the funds authorized by IC 23-14-48 and IC 23-14-49-2; and
(2) contributions to those funds;
are expressly permitted and shall be considered to be for a charitable and eleemosynary purpose.
(b) The funds and contributions referred to in subsection (a) are considered to be a provision:
(1) for the discharge of a duty due from the person or persons contributing to the fund to the person or persons whose remains are or will be interred in the cemetery; and
(2) for the benefit and protection of the public by preserving, beautifying, and keeping cemeteries from becoming places of reproach and desolation in the communities in which they are situated.
(c) A fund referred to in subsection (a) or a payment, gift, grant, bequest, or other contribution to the fund:
(1) is not invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the fund; and
(2) is not invalid as violating any law against perpetuities or suspension of the power of alienation of title to property.
As added by P.L.52-1997, SEC.24.

IC 23-14-50-3 Trustee's relief from duties
Sec. 3. If:
(1) any gift, grant, bequest, donation, or other property held by the owner of a cemetery for cemetery purposes is held by the cemetery owner as a trust of any kind; or
(2) the owner of a cemetery is a beneficiary of any trust estate for cemetery purposes;
the trustee of the trust is relieved of the duties otherwise imposed upon the trustee by IC 30-4-5-12 through IC 30-4-5-15.
As added by P.L.52-1997, SEC.24.

INDIANA CODE § 23-14-51

Chapter 51. The Investment and Use of Cemetery Funds

IC 23-14-51-1 Application of chapter
Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to:
(1) a cemetery owned by a municipal corporation or other governmental unit;
(2) a religious cemetery; or
(3) a cemetery:
(A) that is ten (10) acres or less in size;
(B) that is owned and operated entirely and exclusively by a nonprofit mutual association in existence on June 14, 1939; and
(C) in which burials have taken place before June 14, 1939.
(b) If a cemetery described in subsection (a)(3) directly or indirectly:
(1) constructs or permits to be constructed any structure, above or below ground, and offers interment rights in the structure for sale to the general public; or
(2) acquires:
(A) additional land; or
(B) an interest in additional land;
causing the cemetery to exceed ten (10) acres in size;
this chapter applies to the whole of the cemetery.

As added by P.L.52-1997, SEC.25.

IC 23-14-51-2 Investment and reinvestment of money and assets

Sec. 2. After June 14, 1939, a cemetery to which IC 23-14-48 applies shall invest and reinvest:

(1) all money in the perpetual care fund of the cemetery; and

(2) all other assets held in trust by the cemetery;

in property or securities that qualify for trust investments under IC 30-4-3-3(c).

As added by P.L.52-1997, SEC.25.

IC 23-14-51-3 Loans from perpetual care fund prohibited

Sec. 3. No loans or pledges of money or property shall be made from the perpetual care fund of a cemetery:

(1) to or for the benefit of the owner of the cemetery; or

(2) to any shareholder, officer, director, or employee of the cemetery.

As added by P.L.52-1997, SEC.25.

IC 23-14-51-4 Fidelity bond

Sec. 4. (a) This section applies to a cemetery if a perpetual care fund or other trust account of the cemetery is not held in trust for the cemetery by a corporate trustee.

(b) The treasurer of the cemetery or other person or persons having custody of the fund or account shall furnish to a cemetery to which this section applies a fidelity bond that is:

(1) issued by a corporate surety; and

(2) payable to the cemetery in a penal sum at least equal to one hundred twenty-five percent (125%) of the value of the principal of the trust estate at the beginning of each calendar year.

(c) The bond required by this section shall be deposited with the auditor of the county in which the cemetery is located. The auditor shall do the following:

(1) Examine the bond and ascertain that it complies with this chapter.

(2) Annually examine the sufficiency of the bond and report to the prosecuting attorney of the county any failure of the cemetery owner to comply with this chapter.

(d) For the services provided under subsection (c), the auditor shall receive from each cemetery owner five dollars ($5) per year. Money that the auditor receives under this subsection is the property of the office of the auditor.

As added by P.L.52-1997, SEC.25.

IC 23-14-51-5 Violation of chapter; Class A misdemeanor

Sec. 5. A person who knowingly violates this chapter commits a Class A misdemeanor.

As added by P.L.52-1997, SEC.25.

INDIANA CODE § 23-14-52

Chapter 52. Conditions Applying to the Sale of a Cemetery

IC 23-14-52-1 Application and exceptions to conditions

Sec. 1. (a) Except as provided in subsection (b), the sale of:

(1) a cemetery;

(2) any part of a cemetery; or

(3) any personal property related to a cemetery;

by a cemetery owner to a purchaser is subject to the conditions set forth in section 2 of this chapter.

(b) The sale of burial rights, services, or merchandise to an individual for the interment of the individual or members of the individual's family is not subject to the conditions set forth in section 2 of this chapter.

As added by P.L.52-1997, SEC.26.

IC 23-14-52-2 Liability and duties of purchaser

Sec. 2. The following conditions apply to a sale referred to in section 1(a) of this chapter:

(1) The purchaser is liable for any shortages existing before or after the sale in the perpetual care fund required by IC 23-14-48 or in an escrow fund or trust account required by IC 23-14-49-1.

(2) The purchaser shall perform:

(A) all obligations imposed on cemetery owners under this article;

(B) all obligations imposed on the cemetery owner under contracts made by the selling cemetery owner or any prior cemetery owner relating to:

(i) burial or interment rights; or

(ii) the sale of the personal property or services described in IC 23-14-49-1; and

(C) any other related obligation.

As added by P.L.52-1997, SEC.26.

INDIANA CODE § 23-14-53

Chapter 53. Bequests for Care

IC 23-14-53-1 Receipt of deposit or legacy of money

Sec. 1. (a) Any church, corporation, or association that owns a cemetery may receive from any person a deposit or legacy of money to be held in trust:

(1) in perpetuity; or

(2) for a period that the donor or testator designates in writing.

(b) The earnings of the deposit or legacy shall be used for the purpose of keeping in good condition any lot or lots, monument, vault, or gravestone in the cemetery that is designated by the donor or testator.

As added by P.L.52-1997, SEC.27.

IC 23-14-53-2 Duties upon receipt of deposit or legacy of money

Sec. 2. (a) A church, corporation, or association that receives a deposit or legacy of money to be held in trust under section 1 of this chapter shall:

(1) adopt rules concerning the investment and safekeeping of any deposit or bequest; and

(2) designate a financial institution as the depository of the funds.

(b) The depository designated under subsection (a) must:

(1) agree upon the rate of interest it will pay on the funds; and

(2) pay interest on the funds to the church, corporation, or association:

(A) on a basis agreed upon by the depository and the church, corporation, or association; but

(B) not less frequently than quarterly;

for the purpose of taking care of the particular lot or lots, monument, vault, or gravestone for which the money was given or donated.

(c) The money on deposit in the depository under this section shall not be used for any purpose other than taking care of the particular lot or lots, monument, vault, or gravestone, and only the interest earned on the deposit or legacy may be used.

(d) The:

(1) deposit or legacy placed on deposit; and

(2) interest earned on the deposited funds;

are exempt from taxation under IC 6. However, this chapter does not repeal or modify IC 23-14-65.

As added by P.L.52-1997, SEC.27.

INDIANA CODE § 23-14-54

Chapter 54. Disposition of Dead Human Bodies

IC 23-14-54-1 Time period for disposition

Sec. 1. Subject to the rights of transportation and removal of dead human bodies or other disposition of dead human bodies, as provided by law, the remains of all individuals who die in Indiana or are shipped into Indiana shall be deposited:

(1) in the earth in an established cemetery;
(2) in a mausoleum;
(3) in a garden crypt; or
(4) in a columbarium;

within a reasonable time after death, except as ordered by the state department of health.

As added by P.L.52-1997, SEC.28.

IC 23-14-54-2 Depth of cover

Sec. 2. All dead human bodies interred in the earth shall have a cover of at least two (2) feet of earth at the shallowest point over the outer receptacle in which the body is placed.

As added by P.L.52-1997, SEC.28.

IC 23-14-54-3 Ventilation of mausoleums

Sec. 3. All private or family mausoleums shall be constructed in such manner as to admit proper ventilation.

As added by P.L.52-1997, SEC.28.

IC 23-14-54-4 Cremated remains

Sec. 4. The remains of dead human bodies that have been cremated may be deposited in mausoleums, garden crypts, or columbaria or deposited in or on the earth.

As added by P.L.52-1997, SEC.28.

IC 23-14-54-5 Violation of chapter; Class B misdemeanor

Sec. 5. A person who knowingly violates this chapter commits a Class B misdemeanor.

As added by P.L.52-1997, SEC.28.

INDIANA CODE § 23-14-55

Chapter 55. Authorization for Interment, Entombment, or Inurnment

IC 23-14-55-1 Warranty and liability of individual signing authorization

Sec. 1. (a) An individual who signs an authorization for the cremation, interment, entombment, or inurnment of any human remains:

(1) is considered to warrant the truthfulness of:
(A) any fact set forth in the authorization;
(B) the identity of the person for whose remains cremation, interment, entombment, or inurnment is sought; and
(C) the individual's authority to order the cremation, interment, entombment, or inurnment; and
(2) is personally and individually liable to pay damages in compensation for harm that:
(A) is caused by; or
(B) results from;

the signing of the authorization for cremation, interment, entombment, or inurnment.

(b) A cemetery or crematory that relies in good faith on a signed authorization for the cremation, interment, entombment, or inurnment of human remains is not civilly or criminally liable or subject to disciplinary actions for carrying out the disposition of the decedent's remains in accordance with the instructions in the authorization.

As added by P.L.52-1997, SEC.29; Amended by P.L.6-2012, SEC 2.

IC 23-14-55-2 Authority and liability of cemetery owner upon receipt of written authorization; persons prohibited from being an authorized agent

Sec. 2. (a) Except as provided in subsection (c), the owner of a cemetery is authorized to inter, entomb, or inurn the body or cremated remains of a deceased human upon the receipt of a written authorization of an individual who professes either of the following:

(1) To be (in the priority listed) one (1) of the following:

(A) An individual granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

(B) An individual specifically granted the authority in a power of attorney or a health care power of attorney executed by the decedent under IC 30-5-5-16.

(C) The individual who was the spouse of the decedent at the time of the decedent's death, except when:

(i) a petition to dissolve the marriage or for legal separation of the decedent and spouse is pending with a court at the time of the decedent's death, unless a court finds that the decedent and spouse were reconciled before the decedent's death; or

(ii) a court determines the decedent and spouse were physically and emotionally separated at the time of death and the separation was for an extended time that clearly demonstrates an absence of due affection, trust, and regard for the decedent.

(D) The decedent's surviving adult child or, if more than one (1) adult child is surviving, the majority of the adult children. However, less than half of the surviving adult children have the rights under this clause if the adult children have used reasonable efforts to notify the other surviving adult children of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving adult children.

(E) The decedent's surviving parent or parents. If one (1) of the parents is absent, the parent who is present has authority under this clause if the parent who is present has used reasonable efforts to notify the absent parent.

(F) The decedent's surviving sibling or, if more than one (1) sibling is surviving, the majority of the surviving siblings. However, less than half of the surviving siblings have the rights under this clause if the siblings have used reasonable efforts to notify the other surviving siblings of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the surviving siblings.

(G) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent or, if more than one (1) individual of the same degree of kinship is surviving, the majority of those who are of the same degree. However, less than half of the individuals who are of the same degree of kinship have the rights under this clause if they have used reasonable efforts to notify the other individuals who are of the same degree of kinship of their intentions and are not aware of any opposition to the final disposition instructions by more than half of the individuals who ~~have~~ are of the same degree of kinship.

(H) If none of the persons described in clauses (A) through (G) are available, any other person willing to act and arrange for the final disposition of the decedent's remains, including a funeral home that:

(i) has a valid prepaid funeral plan executed under IC 30-2-13 that makes arrangements for the disposition of the decedent's remains; and

(ii) attests in writing that a good faith effort has been made to contact any living individuals described in clauses (A) through (G).

(2) To have acquired by court order the right to control the disposition of the deceased human body or cremated remains.

The owner of a cemetery may accept the authorization of an individual only if all other individuals of the same priority or a higher priority (according to the priority listing in this subsection) are deceased, are barred from authorizing the disposition of the deceased human body or cremated remains under subsection (c), or are physically or mentally incapacitated from exercising the authorization, and the incapacity is certified to by a qualified medical doctor.

(b) An action may not be brought against the owner of a cemetery relating to the remains of a human that have been left in the possession of the cemetery owner without permanent interment, entombment, or inurnment for a period of three (3) years, unless the cemetery owner has entered into a written contract for the care of the remains.

(c) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense; the person referred to in subdivision (2) may not authorize the disposition of the decedent's body or cremated remains.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner of the determination referred to in subsection (c)(2).

(e) If a person vested with a right under subsection (a) does not exercise that right not less than seventy-two (72) hours after the person receives notification of the death of the decedent, the person forfeits the person's right to determine the final disposition of the decedent's remains and the right to determine final disposition passes to the next person described in subsection (a).

(f) A cemetery owner has the right to rely, in good faith, on the representations of a person listed in subsection (a) that any other individuals ~~on~~ of the same degree of kinship have been notified of the final disposition instructions.

(g) If there is a dispute concerning the disposition of a decedent's remains, a cemetery owner is not liable for refusing to accept the remains of the decedent until the cemetery owner receives:

(1) a court order; or

(2) a written agreement signed by the disputing parties;

that determines the final disposition of the decedent's remains. If a cemetery agrees to shelter the remains of the decedent while the parties are in dispute, the cemetery may collect any applicable fees for storing the remains, including legal fees that are incurred.

(h) Any cause of action filed under this section must be filed in the probate court in the county where the decedent resided, unless the decedent was not a resident of Indiana.

(i) A spouse seeking a judicial determination under subsection (a)(1)(C)(i) that the decedent and spouse were reconciled before the decedent's death may petition the court having jurisdiction over the dissolution or separation proceeding to make this determination by filing the petition under the same cause number as the dissolution or separation proceeding. A spouse who files a petition under this subsection is not required to pay a filing fee.

As added by P.L.52-1997, SEC.29. Amended by P.L.102-2007, SEC.2; P.L.3-2008, SEC.170; P.L.143-2009, SEC.6; Amended by P.L.6-2012, SEC 3.

INDIANA CODE § 23-14-56

Chapter 56. Record Keeping

IC 23-14-56-1 Duties

Sec. 1. A cemetery owner shall keep a record of each interment, entombment, and inurnment in the cemetery. The record must:

(1) show:

(A) the date on which the body was received;

(B) the date of interment, entombment, or inurnment;

(C) the name and marital status of the person whose remains are interred, entombed, or inurned; and

(D) the plot and the grave in which the interment or inurnment was made or the location within the building or structure in which the entombment or inurnment was made; and

(2) include the permit for burial issued by the division of public health of Indiana.

As added by P.L.52-1997, SEC.30.

IC 23-14-56-2 Permanent preservation of record

Sec. 2. The cemetery in which an interment, entombment, or inurnment takes place shall permanently preserve the record required by this chapter either:

(1) in the form of the original record; or

(2) in alternative form such as microfilm, microfiche, computer disk, or compact disk.

As added by P.L.52-1997, SEC.30.

IC 23-14-56-3 Violation of chapter; Class B misdemeanor

Sec. 3. A person who knowingly violates this chapter commits a Class B misdemeanor.

As added by P.L.52-1997, SEC.30.

INDIANA CODE § 23-14-57

Chapter 57. Disinterment, Disentombment, and Disinurnment

IC 23-14-57-1 Requirements for disinterment

Sec. 1. (a) As used in this section, "removal" or "removed" refers to the disinterment, disentombment, or disinurnment of the remains of a deceased human.

(b) Except as provided in subsection (e) and sections 4 and 5 of this chapter, the remains, either cremated or uncremated, of a deceased human shall not be removed from a cemetery without:

(1) a written order:

(A) that is issued by the state department of health; and

(B) that authorizes the removal of the deceased's remains;

(2) the written consent of:

(A) the owner of the cemetery; or

(B) the owner's representative; and

(3) the written consent of a person or persons referred to in one (1) of the following clauses, which are listed according to priority:

(A) The individual who was the spouse of the deceased at the time of the deceased's death.

(B) The surviving adult child of the deceased. If there is more than one (1) surviving adult child of the deceased, the requirement for written consent under this subdivision is satisfied if:

(i) any one (1) of the surviving adult children provides written consent to the removal of the deceased's remains;

(ii) the consent provided under item (i) confirms that all other surviving adult children of the deceased have been notified of the proposed removal of the deceased's remains; and

(iii) the state department of health does not receive a written objection to the proposed removal from any of the deceased's surviving adult children.

(C) The surviving parent of the deceased. If the deceased is survived by both parents, the requirement for written consent under this subdivision is satisfied if:

(i) either surviving parent provides written consent to the removal of the deceased's remains; and

(ii) the state department of health does not receive a written objection to the proposed removal from the other surviving parent.

(D) The individual in the next degree of kinship to the deceased under IC 29-1-2-1. If more than one (1) individual of the same degree of kinship is surviving, the requirement for written consent under this subdivision is satisfied if:

(i) any individual of that degree of kinship provides written consent to the removal of the deceased's remains; and

(ii) the state department of health does not receive a written objection to the proposed removal from any other surviving individual in the same degree of kinship.

(c) Before issuing a written authorization under subsection (b), the state department of health shall do the following:

(1) Obtain written evidence that a licensed funeral director has agreed to:

(A) be present at the removal and at the reinterment, reentombment, or reinurnment of the remains; and

(B) cause the completed order of the state department of health to be recorded in the office of the county recorder of the county where the removal occurs.

(2) Obtain a copy of:

(A) the written consent required under subsection (b)(3); or

(B) a court order obtained by a person under subsection (d).

(d) If the written consent of an individual authorized under subsection (b)(3) to give consent is not available, a person who has made a request under this section to the state department of health may petition a court to determine whether to waive the consent requirement of subsection (b)(3). In determining whether to waive the requirement, the court shall consider the viewpoint of any issue (as defined in IC 29-1-1-3) of the deceased. In a proceeding under this subsection, the court may not order the disinterment, disentombment, or disinurnment of the remains of a deceased human.

(e) This subsection applies only if the human remains are on property owned or leased by a coal company. The remains, either cremated or uncremated, of a deceased human may be removed from a cemetery by a coal company if the coal company obtains a court order authorizing the disinterment, disentombment, or disinurnment. Before issuing a court order under this subsection, a court must conduct a hearing and be satisfied as to the following:

(1) That the property is owned or leased by the coal company.

(2) That the coal company has obtained the written consent of an individual authorized to give consent under subsection (b)(3). If the consent of an individual authorized to give consent under subsection (b)(3) is not available, the court may waive the requirement after considering the viewpoint of any issue (as defined in IC 29-1-1-3) of the deceased.

(3) That the department of natural resources, division of historic preservation and archeology, has received at least five (5) days written notice of the time, date, and place of any hearing under this subsection. The notice must describe the proposed place from which the remains will be removed.

(4) That a licensed funeral director has agreed to:

(A) be present at the removal and at the reinterment, reentombment, or reinurnment of the remains; and

(B) cause the completed order of the state department of health to be recorded in the office of the county recorder of the county where the removal occurs.

(5) That the coal company has caused a notice of the proposed removal to be published at least five (5) days before the hearing in a newspaper of general circulation in the county where the removal will occur.

(6) That the coal company will notify the department of natural resources, division of historic preservation and archeology, after the hearing of the proposed time and date when the remains will be removed.

(f) A:

(1) licensed funeral director; or

(2) cemetery owner;

is not liable in an action brought by any person because of the removal of a deceased's remains under a written consent described in subsection (b)(3) or (e)(2) unless the licensed funeral director or the cemetery owner had actual notice before or at the time of the removal that a representation made in the consent described in subsection (b)(3) or (e)(2) was untrue.

(g) The state department of health may adopt rules under IC 4-22-2 to implement this section.

As added by P.L.52-1997, SEC.31. Amended by P.L.155-2002, SEC.11; P.L.113-2007, SEC.5.

IC 23-14-57-2 Orders authorizing removal of human remains

Sec. 2. (a) When the state department of health issues a written order authorizing the removal of human remains from a cemetery, it shall issue the order in duplicate.

(b) The state department of health shall deliver one (1) copy of the order to the cemetery from which the human remains are removed and the other copy of the order to the cemetery to which the human remains are delivered for reinterment, reentombment, or reinurnment.

(c) Each cemetery to which a copy of an order is delivered under subsection (b) shall retain the copy of the order permanently.

As added by P.L.52-1997, SEC.31.

IC 23-14-57-3 Removal of human remains for nonpayment; liability of owner

Sec. 3. (a) This chapter does not prohibit:

(1) the removal of human remains by a cemetery owner from a plot, building, or structure for which the purchase price is past due and unpaid; and

(2) the reinterment, reentombment, or reinurnment of the remains in some other suitable plot in the cemetery.

(b) For a removal and reinterment, reentombment, or reinurnment (at the discretion of the cemetery owner) referred to in subsection (a), the cemetery owner is not liable in any action unless the owner fails to exercise reasonable care in the removal or reinterment, reentombment, or reinurnment. There is a rebuttable presumption that the owner exercised reasonable care in the removal or reinterment, reentombment, or reinurnment.

As added by P.L.52-1997, SEC.31.

IC 23-14-57-4 Coroner's order for disinterment

Sec. 4. This chapter does not apply to the following:

(1) The disinterment, disentombment, or disurnment of remains upon the written order of the coroner of the county in which the cemetery is situated.

(2) The removal of human remains under a plan approved by the division of historic preservation and archeology under IC 14-21-1.

As added by P.L.52-1997, SEC.31. Amended by P.L.26-2008, SEC.18.

IC 23-14-57-5 Removal for autopsy or reinterment

Sec. 5. (a) The remains of a deceased human interred, entombed, or inurned in a plot in a cemetery may be removed from the plot for the purpose of autopsy or reinterment, reentombment, or reinurnment in another cemetery with:

(1) the consent of the owner of the cemetery; and

(2) the written consent of an individual authorized to give consent under section 1(b)(3) of this chapter.

(b) If the consent of:

(1) the owner of the cemetery; or

(2) a person from whom consent is required under subsection (a)(2);

cannot be obtained, the remains of a deceased human can be removed for the purpose of autopsy or reinterment, reentombment, or reinurnment in another cemetery only under a judgment of the circuit or superior court with jurisdiction in the county in which the cemetery is located.

As added by P.L.52-1997, SEC.31. Amended by P.L.113-2007, SEC.6.

IC 23-14-57-6 Payment of costs and expenses

Sec. 6. Before any disinterment, disentombment, or disinurnment may take place under this chapter, the reasonable costs and expenses of the disinterment, disentombment, or disinurnment, including attorney's fees, must be paid by the person or persons applying for the disinterment, disentombment, or disinurnment.

As added by P.L.52-1997, SEC.31.

IC 23-14-57-7 Violation of chapter; Class B misdemeanor

Sec. 7. A person who knowingly violates this chapter commits a Class B misdemeanor.

As added by P.L.52-1997, SEC.31.

IC 23-14-57-8 Liability of cemetery owner

Sec. 8. The owner of a cemetery is not liable in any action for a removal or reinterment, reentombment, or reinurnment described in this chapter unless the owner fails to exercise reasonable care in the removal or reinterment, reentombment, or reinurnment. There is a rebuttable presumption that the owner exercised reasonable care in the removal or reinterment, reentombment, or reinurnment.

As added by P.L.52-1997, SEC.31.

INDIANA CODE § 23-14-58

Chapter 58. Abandonment and Reburial

IC 23-14-58-1 Authority to abandon certain cemeteries; removal of bodies

Sec. 1. If a cemetery in Indiana:

(1) is under the ownership or control of any church or religious society;

(2) is located within a city or town;

(3) may have been, for at least twenty (20) years, abandoned as a place of burial of the dead; and

(4) has become, in the judgment of the members or governing body of the church or religious society, impracticable and undesirable to maintain due to the growth of the city or town in which it is located;

the church or religious society may abandon the cemetery and cause the bodies buried within the cemetery to be removed under the conditions set forth in this chapter.

As added by P.L.52-1997, SEC.32.

IC 23-14-58-2 Abandonment of cemetery; removal and interment of bodies in suitable cemetery

Sec. 2. If:

(1) a church or religious society has the ownership or control of a cemetery; and

(2) it is determined, in accordance with the rules, regulations, and usages of the church or religious society, that it is impracticable and undesirable for the church or religious society to maintain the cemetery or burial ground;

the church or religious society may abandon the cemetery and cause the bodies buried in the cemetery to be removed and interred in a suitable cemetery.

As added by P.L.52-1997, SEC.32.

IC 23-14-58-3 Reinterment

Sec. 3. A church or religious society that takes action under section 1 or 2 of this chapter shall, at its own expense:

(1) provide the place for the reinterment of all bodies in the abandoned cemetery;

(2) cause the reinterment in a cemetery of all the bodies removed from the abandoned cemetery that can practically be reburied; and

(3) preserve and cause to be replaced at the grave of each deceased person reinterred in another cemetery any gravestone or other marker found at the grave from which the body was removed.

As added by P.L.52-1997, SEC.32.

IC 23-14-58-4 Lawfulness of actions

Sec. 4. Actions taken under this chapter by any person acting under the direction of:

(1) a church or religious society; or

(2) the officers or governing body of a church or religious society;

are lawful.

As added by P.L.52-1997, SEC.32.

INDIANA CODE § 23-14-58.5

Chapter 58.5. Disposition of Abandoned Burial Spaces

IC 23-14-58.5-1 Termination of ownership rights in an unused and unimproved burial space

Sec. 1. (a) Subject to this chapter, if a burial space in a cemetery that is subject to IC 23-14-41 or any other Indiana law:

(1) has remained unused for a period of at least fifty (50) years from the date of sale or last recorded designation or transfer; and

(2) has no improvements on the burial space, including the placement of a monument, memorial, or other permanent appurtenance;

the person or entity having jurisdiction over the cemetery may terminate the rights and interests of the owner of the burial space.

(b) After July 1, 2007, a contract for the purchase of a burial space must include notice that the contract is subject to termination as provided in subsection (a).

As added by P.L.113-2007, SEC.7.

IC 23-14-58.5-2 Notice

Sec. 2. (a) If the person or entity having jurisdiction over the cemetery:

(1) desires to terminate the rights and interests of the owner of the burial space; and

(2) determines that the conditions specified in section 1 of this chapter have been met;

the person or entity must send to the owner a notice of the intent to terminate the owner's rights to the burial space.

(b) The notice required under subsection (a) must be sent by certified mail with return receipt requested to the owner's last known address.

As added by P.L.113-2007, SEC.7.

IC 23-14-58.5-3 Duties of owner; request for purchase

Sec. 3. (a) An owner who has received a termination notice under section 2 of this chapter may inform the person or entity having jurisdiction over the cemetery of the owner's continued intent to use the burial space. If the person or entity having jurisdiction over the cemetery has been informed of the owner's intent, the person or entity having jurisdiction over the cemetery may not terminate the rights and interests of the owner of the burial space.

(b) An owner who has received a termination notice under section 2 of this chapter may request the person or entity having jurisdiction over the cemetery to purchase the burial space for the amount originally paid for the burial space.

As added by P.L.113-2007, SEC.7.

IC 23-14-58.5-4 Failure to respond to notice; termination of owner's rights; remedies

Sec. 4. (a) If the person or entity having jurisdiction over the cemetery has not received a response from the owner of the burial space within sixty (60) days after sending the notice required in section 2 of this chapter, the person or entity having jurisdiction over the cemetery shall advertise in a newspaper of general circulation in the county of the owner's last known address seeking the owner's current address.

(b) If a new address for the owner of the burial space is obtained after the advertising required in subsection (a), the notice requirement under section 2 of this chapter must be repeated.

(c) If the person or entity having jurisdiction over the cemetery has not received a response regarding the owner of the burial space within sixty (60) days after placing the advertisement required in subsection (a), the owner's rights and interests in the burial space are terminated. After the rights and interests in a burial space are terminated under this chapter, the person or entity having jurisdiction over the cemetery may sell a burial space to a new owner.

(d) If the owner of a burial space contacts the person or entity having jurisdiction over the cemetery after the owner's rights and interests in the burial space are terminated under this chapter, the owner is entitled to select one (1) of the following remedies:

(1) The original burial space, if it has not been resold.

(2) If a person or an entity having jurisdiction over the cemetery has resold the burial space, reimbursement for the amount for which the burial space was resold minus the following:

(A) The costs paid by the person or entity having jurisdiction over the cemetery in providing notice and advertising as required under this chapter.

(B) The sales commission costs in the resale of the burial space.

(3) A comparable burial space in the cemetery.

As added by P.L.113-2007, SEC.7.

IC 23-14-58.5-5 Penalty

Sec. 5. A person who:

(1) knowingly terminates an owner's rights and interests in a burial space;

(2) knows or should have known the identity of the owner; and

(3) fails to give the owner notice as required under this chapter;

commits a Class A misdemeanor.

As added by P.L.113-2007, SEC.7.

INDIANA CODE § 23-14-59

Chapter 59. Potential Liability of Cemetery Owner

IC 23-14-59-1 Immunity from liability

Sec. 1. A cemetery owner or anyone acting on behalf of a cemetery owner is not liable in any action for:

(1) a burial, entombment, or inurnment in the wrong lot, grave, grave space, burial space, crypt, crypt space, or niche;

(2) a disinterment, disentombment, or disinurnment of the wrong deceased remains;

(3) a repositioning of the remains of a deceased that encroach upon an adjacent lot, space, grave, grave space, or burial space;

(4) setting or installing a marker, monument, any type of memorial, or an outer burial container on the wrong lot, space, grave, grave space, or burial space; or

(5) installing any kind of foundation or other type of base for a marker, monument, or any type of memorial on the wrong lot or burial space.

As added by P.L.52-1997, SEC.33.

IC 23-14-59-2 Duties of owner upon wrongful burial

Sec. 2. When a wrongful burial, entombment, inurnment, disinterment, disentombment, or disinurnment referred to in section 1(1), 1(2), 1(4), or 1(5) of this chapter occurs, the cemetery owner shall:

(1) at the expense of the cemetery owner, correct the wrongful burial, entombment, inurnment, disinterment, disentombment, or disinurnment as soon as practical after becoming aware of the error; and

(2) notify:

(A) the spouse, if living, of the deceased person whose remains were wrongfully buried, entombed, inurned, disinterred, disentombed, or disinurned, or whose outer burial container was wrongfully placed;

(B) the parents, if living, of a deceased minor child whose remains were wrongfully buried, entombed, inurned, disinterred, disentombed, or disinurned, or whose outer burial container was wrongfully placed;

(C) the person or persons whose marker, monument, memorial, foundation, or base was wrongfully placed; or

(D) the person or persons who authorized the original burial, entombment, inurnment, disinterment, disentombment, or disinurnment;

of the occurrence.

As added by P.L.52-1997, SEC.33.

IC 23-14-59-3 Errors caused by improper description

Sec. 3. A cemetery owner or anyone acting on behalf of a cemetery owner is not liable in any action for any error made by placing an improper description, including an incorrect name or date, on:

(1) a marker;

(2) a monument;

(3) any type of memorial; or

(4) the container for cremated remains.

As added by P.L.52-1997, SEC.33.

INDIANA CODE § 23-14-60

Chapter 60. Legalization of Defectively Formed Cemetery Associations and Corporations

IC 23-14-60-1 Defective cemetery associations and corporations; rights and powers

Sec. 1. (a) If:

(1) any number of persons have:

(A) acted together as an association or corporation;

(B) acquired, as an association or corporation, land for cemetery purposes;

(C) sold and granted to persons the right to bury the dead in lots located on the land; and

(D) actually managed and controlled the land as a cemetery for at least thirty (30) years; but

(2) the organization that the persons attempted to establish as a corporation or cemetery association is defective and incomplete because of a failure to comply with the formalities required by law in force at some time since the original parties first assumed to act as an association or corporation;

the owners of the right to bury the dead on lots in the cemetery and those who may acquire the right become and continue to be a cemetery association or corporation from March 14, 1913.

(b) The owners of the right to bury the dead on lots in a cemetery referred to in subsection (a) have all the rights and powers of a cemetery association or corporation organized under this article, IC 23-1, or IC 23-17.

As added by P.L.52-1997, SEC.34. Amended by P.L.2-2002, SEC.74; P.L.163-2006, SEC.2.

INDIANA CODE § 23-14-61

Chapter 61. Conflicts of Interests by Cemetery Employees

IC 23-14-61-1 Prohibition against acting as agent or representative; approval to act as agent or representative

Sec. 1. (a) This section applies to a sexton, superintendent, manager, director, grounds keeper, caretaker, or other employee of:

(1) a person, firm, association, limited liability company, or corporation that operates or maintains a cemetery for profit; or

(2) a nonprofit cemetery that is supported in whole or in part by the use of public funds.

(b) A sexton, superintendent, manager, director, grounds keeper, caretaker or other employee referred to in subsection (a) shall not:

(1) act as an agent or representative for a manufacturer or dealer of any commodity that is to be used or installed on cemetery property, including monuments or markers; and

(2) receive for those services any consideration, either cash or otherwise;

unless the representation is approved in writing by the governing board of the cemetery.

(c) The written approval given by the governing board of a cemetery under subsection (b) must be:

(1) made a matter of public record; and

(2) prominently displayed in a public place on the cemetery property where it can be easily seen by persons visiting the cemetery property.

As added by P.L.52-1997, SEC.35.

IC 23-14-61-2 Unlawful discrimination or unfair trade practice prohibited

Sec. 2. A sexton, superintendent, manager, director, grounds keeper, caretaker, or other employee who:

(1) is referred to in section 1(a) of this chapter; and

(2) acts as an agent or representative for a manufacturer or dealer of any commodity that is to be used or installed on cemetery property;

is prohibited from engaging in any unlawful discrimination or unfair trade practice in violation of this article or any other related law against a manufacturer or dealer of a commodity used or installed on cemetery property whom the employee does not represent.

As added by P.L.52-1997, SEC.35.

IC 23-14-61-3 Writs of prohibition

Sec. 3. (a) Upon proper proof of a violation of section 1 or section 2 of this chapter, a court of competent jurisdiction may issue writs of prohibition.

(b) After the issuance of writs of prohibition under subsection (a), a fiscal officer who disburses public money to any:

(1) person;

(2) firm;

(3) association;

(4) limited liability company; or

(5) corporation;

against whom or which a writ of prohibition is in effect is liable on the fiscal officer's bond.

As added by P.L.52-1997, SEC.35.

INDIANA CODE § 23-14-62

Chapter 62. Conveyance of County Cemeteries to Private Corporations

IC 23-14-62-1 Application of chapter

Sec. 1. This chapter applies whenever a majority of the heads of families of a county whose dead are buried in a cemetery owned by the county, either by themselves or with others, organize a corporation for the burial of the dead and the maintenance of a cemetery.

As added by P.L.52-1997, SEC.36.

IC 23-14-62-2 Petition for conveyance of cemetery

Sec. 2. The persons referred to in section 1 of this chapter may file with the board of commissioners of the county in which the cemetery is located a petition asking for the conveyance of the cemetery to the corporation.

As added by P.L.52-1997, SEC.36.

IC 23-14-62-3 Notice of filing of petition; agreement to care and manage cemetery

Sec. 3. (a) The persons filing the petition under section 2 of this chapter must give notice of the filing in accordance with IC 5-3-1-2 at least three (3) weeks before the filing by publishing a notice concerning the filing of the petition in a weekly newspaper published in the county in which the cemetery is located.

(b) The persons filing the petition under section 2 of this chapter must also file an agreement, with security to be approved by the board, that the corporation will keep the cemetery in good order and honestly and faithfully manage it.

As added by P.L.52-1997, SEC.36.

IC 23-14-62-4 Powers of board of commissioners

Sec. 4. The board of commissioners presented with a petition under section 2 of this chapter, if satisfied:

(1) as to the propriety of granting the request;

(2) as to the sufficiency of the surety;

(3) as to the good faith of the petitioners; and

(4) that a majority of the heads of families of the county are taking part;

may convey the cemetery to the cemetery corporation.

As added by P.L.52-1997, SEC.36.

IC 23-14-62-5 Powers of cemetery corporation

Sec. 5. After a petition is granted under section 4 of this chapter, the cemetery corporation formed by the petitioners may:

(1) control the cemetery;

(2) ornament, beautify, and improve the cemetery;

(3) purchase additions and sell lots in the cemetery;

(4) assess all lots for the care, improvement, and beautification of the cemetery; and

(5) exercise all the powers of a corporation organized under any statute for the purpose of maintaining or managing cemeteries.
As added by P.L.52-1997, SEC.36.

INDIANA CODE § 23-14-63

Chapter 63. Conveyance of Township Cemeteries to Private Corporations

IC 23-14-63-1 Application of chapter
Sec. 1. This chapter applies whenever ten (10) or more heads of families:
(1) who reside in:
(A) a township; or
(B) the immediate vicinity of a cemetery owned by a township; and
(2) who own lots in and whose dead relatives are buried in a cemetery owned by the township;
organize, either by themselves or with others, as a corporation for the burial of the dead and the maintenance of a cemetery.
As added by P.L.52-1997, SEC.37.

IC 23-14-63-2 Petition asking for conveyance; notice
Sec. 2. (a) The persons described in section 1 of this chapter may file with the township trustee a petition asking for the conveyance of the cemetery owned by the township to the corporation.
(b) The persons filing the petition under subsection (a) must give notice of the filing at least three (3) weeks before the filing in accordance with IC 5-3-1-2 by publishing a notice concerning the petition in a newspaper:
(1) that is published in the township; or
(2) if there is no newspaper published in the township, in the newspaper published nearest to the township.
As added by P.L.52-1997, SEC.37.

IC 23-14-63-3 Requirements of petitioners
Sec. 3. The persons filing a petition under section 2 of this chapter must:
(1) state in the petition that the corporation would have at the time of taking over the cemetery an endowment or perpetual care fund of at least one thousand dollars ($1,000);
(2) agree to increase the balance in the fund to an amount sufficient to produce enough interest to keep the cemetery in proper condition; and
(3) agree to:
(A) keep the cemetery in good order; and
(B) honestly and faithfully manage the cemetery.
As added by P.L.52-1997, SEC.37.

IC 23-14-63-4 Duties of township trustee
Sec. 4. The township trustee, if satisfied that the petition is signed by a majority of the owners of lots in the cemetery who are residents of the township or of the immediate vicinity of the cemetery, shall convey the cemetery to the corporation formed by the petitioners.
As added by P.L.52-1997, SEC.37.

IC 23-14-63-5 Powers and duties of corporation
Sec. 5. (a) A corporation to which a cemetery is conveyed under section 4 of this chapter:
(1) shall control the cemetery;
(2) shall ornament, beautify, and improve the cemetery;
(3) may purchase additions and sell lots in the cemetery;
(4) may assess all lots for the care, improvement, and beautification of the cemetery;
(5) may receive and hold in trust gifts, donations, and legacies to be devoted to the purposes referred to in subdivisions (1) through (4); and
(6) may exercise all the powers of a corporation organized under any statute for the purpose of owning, managing, and maintaining cemeteries.
(b) All actions that the corporation takes in accordance with statutes concerning cemeteries before the cemetery is conveyed by the township trustee to the corporation are valid and binding on all parties involved in the actions.
As added by P.L.52-1997, SEC.37.

INDIANA CODE § 23-14-64

Chapter 64. Conveyance of Cemetery Association Land to Townships

IC 23-14-64-1 Application of chapter
Sec. 1. This chapter applies whenever the board of directors of a cemetery association existing under any Indiana statute before March 9, 1939, determines by a majority vote to convey the real estate belonging to the association to the township in which the association's cemetery is located.
As added by P.L.52-1997, SEC.38.

IC 23-14-64-2 Public cemetery
Sec. 2. A township trustee may accept a conveyance of real estate described in section 1 of this chapter. After the conveyance, the township trustee shall maintain the cemetery as a public cemetery.
As added by P.L.52-1997, SEC.38.

IC 23-14-64-3 Payment and use of cash, securities, or other assets
Sec. 3. (a) If a cemetery association that conveys real estate to a township under this chapter has endowment funds, cash, securities, or other assets, the funds, cash, securities, or other assets shall be paid over to the township trustee when the real estate owned by the association is conveyed to the township.
(b) A township trustee who receives cash, securities, endowment funds, or other assets under subsection (a) may use them only:
(1) to purchase additional land for the cemetery;
(2) to make permanent improvements to the cemetery; or
(3) for the upkeep and maintenance of the cemetery.
As added by P.L.52-1997, SEC.38.

IC 23-14-64-4 Payment of administration expenses
Sec. 4. All expenses incurred by the trustee in administering this chapter shall be paid out of the township fund of the township.
As added by P.L.52-1997, SEC.38.

INDIANA CODE § 23-14-65

Chapter 65. City and Town Cemeteries

IC 23-14-65-1 "Cemetery board" defined
Sec. 1. As used in this chapter, "cemetery board" means:
(1) the board to which the power to govern cemeteries is transferred under this chapter; or
(2) if the power to govern cemeteries is not transferred under this chapter, the legislative body of a municipality.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-2 "Executive" defined

Sec. 2. As used in this chapter, "executive" means:
(1) the mayor of a city; or
(2) the president of the town council of a town.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-3 "Legislative body" defined
Sec. 3. As used in this chapter, "legislative body" means:
(1) the common council or city-county council of a city; or
(2) the town council of a town.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-4 "Municipality" defined
Sec. 4. As used in this chapter, "municipality" means a city or town.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-5 Application of chapter
Sec. 5. This chapter applies to all public cemeteries that are:
(1) owned by a municipality; and
(2) located within five (5) miles of the municipality.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-6 Powers and duties of legislative body
Sec. 6. (a) The legislative body of a municipality has control and management of a cemetery that is:
(1) owned by the municipality; and
(2) located within five (5) miles of the municipality.
(b) The powers and duties of the legislative body under this section include the following:
(1) The collection, preservation, and payment of all money, funds, securities, obligations, and property of any kind related to cemetery purposes.
(2) The protection of cemeteries and the sanctity of the dead.
(3) The regulation or prohibition of the interment of bodies.
(4) The authorization of the removal of buried bodies or whole cemeteries to some other place.
(c) The powers of the legislative body of a municipality under this section remain in effect by ordinance or resolution despite the repeal of Acts 1927, c. 7.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-7 Permanent maintenance fund
Sec. 7. (a) Part of the proceeds derived from the sale of lots within a cemetery to which this chapter applies may be set aside as a permanent maintenance fund.
(b) Not more than fifty percent (50%) of the proceeds from the sale of lots may be set aside as a permanent maintenance fund under this section.
(c) The income from a permanent maintenance fund established under this section shall remain in the fund, except as provided in subsection (d).
(d) If the revenue from the sale of lots and other income from a cemetery to which this chapter applies becomes insufficient to meet the expense of maintaining the cemetery, income derived from the fund and its accretions may be used in whole or in part as the needs of the cemetery require, after appropriation by the legislative body according to statute.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-8 Gifts, donations, bequests, or devises
Sec. 8. (a) The legislative body of a municipality may by ordinance or resolution accept gifts, donations, bequests, or devises of money or real or personal property for the use of the:
(1) cemetery; or
(2) permanent maintenance fund of the cemetery.
(b) Except as provided in subsection (c), a municipality shall use:
(1) gifts, donations, bequests, or devises accepted under subsection (a); and
(2) income or interest derived from the gifts, donations, bequests, or devises;
in the same manner as the municipality uses proceeds from the sale of lots.
(c) If a gift, donation, bequest, or devise of money or real or personal property is given or made for the use of a particular lot or plot of ground, the income from the gift, donation, bequest, or devise may be used only for the upkeep and maintenance of that particular lot or plot of ground.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-9 Transfer of control and management to public works or public works and safety board
Sec. 9. A city may, by ordinance, transfer the control and management of a cemetery to which this chapter applies to the:
(1) board of public works; or
(2) board of public works and safety;
of the city.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-10 Transfer of control and management to board of trustees
Sec. 10. (a) A city or a town may, by ordinance, transfer the control and management of a cemetery to which this chapter applies to a board of trustees.
(b) The ordinance transferring the control and management of a cemetery under
subsection (a) must prescribe:
(1) the organization of the board; and
(2) the duties of the officers and members of the board.
(c) Members of a board of trustees established under subsection (a) shall be appointed from the lot owners of the cemetery who are residents of the county in which the cemetery is located.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-11 Transfer of control and management to board of cemetery regents; board members
Sec. 11. (a) A city or town may, by ordinance, transfer the control and management of a cemetery to which this chapter applies to a board composed of four (4) residents of the municipality. Not more than two (2) of the residents appointed may be members of the same political party.
(b) Each board member appointed to the board established under subsection (a) must:
(1) own a lot in the cemetery or cemeteries to which this chapter applies; or
(2) be a freeholder of the municipality.
(c) The executive of the municipality shall appoint the members of the board established under subsection (a) to initial terms as follows:
(1) one (1) member for a term of one (1) year;
(2) one (1) member for a term of two (2) years;
(3) one (1) member for a term of three (3) years; and
(4) one (1) member for a term of four (4) years.
(d) Each member appointed under this section serves until the member's successor is appointed and qualified. After the initial term referred to in subsection (c), the member, if reappointed, or the member's successor serves for a term of four (4) years.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-12 Board of cemetery regents; members; vacancy; quorum; removal
Sec. 12. (a) A board appointed under section 11 of this chapter is known as "The Board of Cemetery Regents of the City (Town) of _____, Indiana".

(b) The officers of a board of cemetery regents consist of:
(1) a president;
(2) a vice president; and
(3) a secretary;
who shall be elected by the board members at the first meeting of the board and in each subsequent year.
(c) A vacancy on a board of cemetery regents shall be filled by appointment by the executive of the city or town. The person appointed serves until the expiration of the term of the member whom the appointee is appointed to replace.
(d) Each member of a board of cemetery regents:
(1) must take and subscribe to the usual oath of office before beginning the duties of office; and
(2) shall be issued a certificate of appointment, upon which the member's oath of office must be endorsed.
(e) A new member of a board of cemetery regents shall file the certificate of appointment with the clerk or clerk-treasurer of the municipality within thirty (30) days after the beginning of the new member's term. If an individual who is appointed to a board of cemetery regents violates this subsection, the individual is considered to have declined the appointment and, the office to which the individual was appointed is vacant.
(f) A majority of the members of a board of cemetery regents constitutes a quorum. An action of the board is binding only if:
(1) it is authorized by a vote taken at a regular or special meeting of the board; and
(2) a majority of all the members of the board vote in favor of the action.
(g) If there is a tie vote or equal division among the members of the board upon any motion, resolution, or action, the executive of the municipality is entitled to vote on the matter under consideration.
(h) The executive of a municipality may, at any time, remove a member of the board from office upon filing the reasons for the removal in writing with the clerk or clerk-treasurer of the municipality.
(i) The legislative body of the municipality may authorize compensation for actual expenses incurred by members of the cemetery board in performance of their official duties, including any additional compensation that the legislative body determines.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-13 Notice of proposed transfer of management and control; hearing
Sec. 13. (a) Before adopting an ordinance transferring its powers and duties over a cemetery under section 9, 10, or 11 of this chapter, the legislative body of a municipality must first give notice of its intention by notice published once each week for two (2) weeks in accordance with IC 5-3-1. The notice must announce a hearing at which the legislative body will hear any objections by any taxpayer or owner of a lot in the cemeteries.
(b) The hearing referred to in subsection (a) must:
(1) be set for a date at least two (2) weeks after the first publication of the notice;
(2) be held at a designated location; and
(3) provide all taxpayers or owners of lots in the cemeteries an opportunity to be heard.
(c) The legislative body shall give careful consideration to the views of the lot owners and taxpayers as expressed at the hearing referred to in subsection (a). Not less than five (5) days after the hearing, the legislative body shall adopt or defeat the ordinance under which its powers and duties over a cemetery would be transferred.
(d) If the ordinance referred to in subsection (c) is adopted, all papers and documents appropriate for the transfer of the management and control of the property or properties must be executed in behalf of the municipality by:
(1) the executive and clerk or clerk-treasurer of the municipality; and
(2) the agents of the cemetery.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-14 Bond
Sec. 14. Each officer and employee whose duty includes handling any funds in carrying out this chapter shall, in the manner prescribed by IC 5-4-1, execute an official bond before beginning the duties of office or employment.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-15 Powers of cemetery board
Sec. 15. A cemetery board may:
(1) make all necessary rules and regulations for the management of the cemetery or cemeteries over which it has control and management;
(2) sell lots or parts of lots at prices that the board considers reasonable; and
(3) require payment for sales:
(A) in cash; or
(B) partly in cash and the balance in deferred payments spread over a time the board considers reasonable.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-16 Execution of deed; requirements for deferred payment sales
Sec. 16. (a) In the case of cash sales of lots under section 15 of this chapter, a deed to the property sold shall be executed on behalf of the municipality by the cemetery board to the purchaser.
(b) The following requirements apply to sales of lots under section 15 of this chapter that are made on a deferred payment basis:
(1) The transaction shall be evidenced by a written contract of sale executed by and between the board and the purchaser.
(2) Title to the lot shall be reserved in the municipality until the purchase price is paid in full.
(3) If the purchaser dies before payment in full has been completed, but after at least fifty percent (50%) of the purchase price has been paid, the balance of the purchase price shall be canceled and a deed for the property shall be executed by the cemetery board on behalf of the municipality to the heirs of the purchaser.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-17 Employment of agents and employees; collection and receipt of money
Sec. 17. A cemetery board:
(1) may employ agents for the sale of cemetery lots or part of lots and pay the agents compensation for services that the board considers reasonable;
(2) may employ all necessary superintendents, attorneys, engineers, and other employees and discharge them at the board's pleasure;
(3) may collect and receive all money owed for:
(A) the sale of lots;
(B) the care of lots;
(C) the care of graves;
(D) the digging of graves; and
(E) all other services rendered; and
(4) shall use and disburse the money received for the preservation, care, and improvement of the cemetery or cemeteries over which it has control and management.
As added by P.L.52-1997, SEC.39.

IC 23-14-65-18 Purchase of property

Sec. 18. (a) A cemetery board may purchase on behalf of the municipality any other property for cemetery purposes that is located within five (5) miles from the corporate limits of the municipality.

(b) A cemetery board may purchase property that:

(1) adjoins; or

(2) is located conveniently near;

a cemetery that is under the control of the board for additions to the cemetery. The property must be used, held, and managed in the same manner as the adjoining or nearby cemetery or cemeteries, but is subject to the approval of the executive and legislative body of the municipality.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-19 Financial report; budget; expenditure of money

Sec. 19. (a) During January of each year, a cemetery board shall make a report to the legislative body of the municipality. The report must:

(1) provide information on:

(A) the financial condition of the cemetery board; and

(B) the business done by the cemetery board during the previous year; and

(2) include a statement showing the receipts and expenditures of the cemetery board for the year.

(b) A cemetery board shall annually prepare a budget for the cemetery or cemeteries under its control in the same manner as other offices and departments of the municipality prepare budgets. The budget of the cemetery board is subject to review under the budget statutes applying to municipalities.

(c) A cemetery board may not expend funds without prior appropriation by the legislative body of the municipality. If the revenues of the cemetery board are not sufficient to meet the:

(1) current operating expenses; and

(2) amounts to be paid for the purchase of cemetery lands or other property;

the deficiency in the revenues may be resolved through an appropriation from the general fund of the municipality.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-20 Awarding of contracts

Sec. 20. A cemetery board shall award contracts in accordance with IC 5-16-1 and IC 5-17-1.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-21 Eminent domain

Sec. 21. (a) A cemetery board may exercise the power of eminent domain:

(1) within the boundaries of the municipality; and

(2) also outside the municipality, within a distance of five (5) miles from the corporate limits of the municipality;

for the purpose of acquiring additional cemetery lands.

(b) A cemetery board may pay damages to landowners for the lands and property taken or injuriously affected, proceeding in accordance with the statutes applying to municipalities when exercising the power of eminent domain.

(c) A cemetery board may bring suit in the name of the cemetery board in eminent domain proceedings and in other matters whenever the action is necessary to protect the interests of the cemetery board in its conduct and discharge of its duties or obligations, rights, and privileges. A suit may be brought against the cemetery board in its own name.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-22 Delivery of money to controller or clerk-treasurer; payment of expenses

Sec. 22. (a) A cemetery board shall daily deliver all money, funds, and revenues it receives to the controller or clerk-treasurer of the municipality, who shall give the board a receipt. The amounts delivered by the cemetery board shall be credited to the account of the cemetery board and deposited in accordance with IC 5-13-6.

(b) All expenses incurred by the cemetery board shall be paid by claims allowed and signed by a majority of the cemetery board. The claims shall be delivered to the controller or clerk-treasurer of the municipality, and warrants in payment of the claims shall be drawn on the municipal treasury.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-23 Acceptance and receipt of real and personal property

Sec. 23. (a) A cemetery board may accept and receive real and personal property:

(1) through gift, legacy, or bequest; and

(2) upon terms, conditions, or trusts that the donor or testator designates;

for use concerning the operation, maintenance, and preservation of cemeteries or a part of a cemetery.

(b) The property received under subsection (a) is exempt from all taxation.

(c) If:

(1) a cemetery board receives money under subsection (a); and

(2) the money is not required currently to carry out the purpose or trusts upon which the money was received;

the cemetery board shall invest the money in accordance with IC 5-13-9. For investment purposes under this subsection, the cemetery board shall give preference to the purchase of bonds or securities issued and negotiated by the municipality.

(d) A cemetery board shall use the income from securities purchased under subsection (c) to carry out the trusts upon which the gift was made.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-24 Placement of bonds or other securities in safety deposit box

Sec. 24. To protect bonds or other securities held by a cemetery board, the cemetery board shall place them in a safety deposit box in the vault of a reliable financial institution located in the municipality. One (1) key to the box shall be retained by each of the following:

(1) A member of the cemetery board who is designated by the cemetery board.

(2) The controller or clerk-treasurer of the municipality.

(3) The financial institution.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-25 Improvement and development of cemetery; adoption of resolution

Sec. 25. (a) If the improvement and development of a cemetery will:

(1) provide relief for the unemployed;

(2) be a stimulus to the industry of the municipality;

(3) be a suitable project and eligible for financing as a self-liquidating project by:

(A) an agency of the federal government; or

(B) an individual, firm, limited liability company, or corporation; and

(4) result in no cost to the municipality;

the cemetery board that has or would have control and management of the cemetery may adopt a resolution expressing the determination of the board to proceed with the improvement and development of the cemetery.

(b) After adopting a resolution under subsection (a), the cemetery board may do anything necessary to secure the funds that are necessary to make the improvements and provide for the developments.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-26 Payment of preliminary expenses for preparation of grant application; powers of cemetery board in improvement and development of cemetery

Sec. 26. (a) In seeking funds for the improvement and development of a cemetery, a cemetery board may pay all preliminary expenses that the cemetery board incurs in preparing and presenting an application to a federal agency or other agency having authority to grant aid to self-liquidating projects. The expenses may be paid out of funds at the disposal of the cemetery board.

(b) Upon the adoption of its resolution of determination under section 25 of this chapter, the cemetery board shall follow the procedure established by statute for the establishment of a sewage disposal plant by the municipality.

(c) In the improvement and development of a cemetery, a cemetery board has the same powers as the board of public works or board of public works and safety of a city, including the power to do the following:

(1) Create the necessary sinking fund.

(2) Pledge the receipts of the cemetery board.

(3) Fix the rates and charges of the cemetery board at a level sufficient to pay the obligations and mortgage of the cemetery board.

(4) Otherwise obligate the property under the control of the cemetery board to secure the payment of the obligations of the cemetery board as they mature, including interest.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-27 Management and control of cemetery

Sec. 27. A cemetery board has exclusive management and control of a cemetery or cemeteries transferred to or acquired by the cemetery board, including:

(1) all of the property, whether real, personal, or mixed, acquired by the cemetery board for cemetery purposes; and

(2) the part of a public road or street that passes through the cemetery.

As added by P.L.52-1997, SEC.39.

IC 23-14-65-28 Rules; enforcement

Sec. 28. (a) A cemetery board may do the following:

(1) Make reasonable rules and regulations for the management, control, direction, care, and maintenance of the property under the control of the cemetery board.

(2) Make and enforce reasonable regulations respecting the placement and erection of markers, monuments, tombstones, and mausoleums that any person desires to place or erect in the cemetery.

(3) Seize and impound animals running at large in the cemetery and establish a suitable place for impounding them, assessing the reasonable costs to the owner.

(4) Vacate streets, alleys, roads, or highways, or parts of them, lying within lands under the control of the cemetery board in the same manner as is prescribed under the powers of street improvement authority of the municipality.

(5) Provide proper facilities for furnishing electric lighting, water, and sewer facilities in the cemetery, ordering a public utility to construct and install equipment that is necessary for these purposes.

(b) For the purposes of making rules and regulations for the management and control of property under subsection (a)(1), a cemetery board may request from the police authority of the municipality the manpower necessary to carry out and enforce the rules and regulations of the cemetery board. The police authority shall comply with the request to the extent that it is able to comply at the time the request is made, considering all other obligations and duties of the police authority. If the cemetery board and the police authority disagree over these matters, the controversy shall be settled by an order of the executive of the municipality.

As added by P.L.52-1997, SEC.39.

INDIANA CODE § 23-14-66

Chapter 66. Care of Cemeteries by Third Class Cities and Towns

IC 23-14-66-1 Petitions for additional care and maintenance for cemetery

Sec. 1. If:

(1) a petition is presented to the legislative body of a third class city or town at a regular meeting of the legislative body;

(2) the petition is signed by at least ten percent (10%) of the freeholders and taxpayers of the city or town; and

(3) the petition states that:

(A) a cemetery lies within one-half (1/2) mile of the corporate limits of the city or town;

(B) the cemetery is in need of additional care and maintenance;

(C) at least twenty-five percent (25%) of the burial lots in the cemetery are owned, maintained, and cared for, in whole or in part, by freeholders in the city or town; and

(D) it would be in the best interests of the city or town for the city or town to provide additional care and maintenance for the cemetery;

the legislative body shall investigate the accuracy of the petition.

As added by P.L.52-1997, SEC.40.

IC 23-14-66-2 Taxation for costs of additional care and maintenance

Sec. 2. (a) If the legislative body is satisfied with the accuracy of the petition, it shall:

(1) record its findings at that meeting or at any regular meeting; and

(2) subject to subsection (b), levy and collect an annual tax, as other taxes are levied and collected, in an amount that it considers reasonable, to provide additional care and maintenance for the cemetery.

(b) Taxes collected by a city or town for the care and maintenance of a cemetery lying entirely outside of the corporate limits of the city or town may not exceed three cents ($0.03) on each one hundred dollars ($100) of assessed valuation of property in the city or town.

As added by P.L.52-1997, SEC.40.

INDIANA CODE § 23-14-67

Chapter 67. Care of Cemeteries by Counties

IC 23-14-67-1 Application of chapter

Sec. 1. This chapter applies to cemeteries that:

(1) are without funds or sources of funds for reasonable maintenance;

(2) have suffered neglect and deterioration;

(3) may be the burial grounds for Indiana pioneer leaders or veterans of an American war, including the Revolutionary War; and

(4) were established before 1850.

As added by P.L.52-1997, SEC.41.

IC 23-14-67-2 County cemetery commission

Sec. 2. (a) The board of commissioners of a county may appoint a county cemetery commission consisting of five (5) residents of the county.

(b) The members of a county cemetery commission shall be appointed for a term of five (5) years. The board of county commissioners shall stagger the terms of the members to permit the appointment or a reappointment of one (1) commission member per year.

As added by P.L.52-1997, SEC.41.

IC 23-14-67-3 Annual tax for restoration and maintenance

Sec. 3. A county cemetery commission may request the levy of an annual tax for the purpose of restoring and maintaining one (1) or more cemeteries described in section 1 of this chapter that are located in the county. The tax may not exceed fifty cents ($0.50) on each one hundred dollars ($100) of assessed valuation of property in the county.

As added by P.L.52-1997, SEC.41.

IC 23-14-67-3.5 Annual reports filed with Indiana historical bureau

Sec. 3.5. (a) Before March 1 of each year, a county cemetery commission shall file an annual report with the Indiana historical bureau established by IC 4-23-7-3.

(b) An annual report filed under this section must include information on the following:

(1) The budget of the county cemetery commission for the preceding calendar year.

(2) Expenditures made by the county cemetery commission during the preceding calendar year.

(3) Activities of the county cemetery commission during the preceding calendar year.

(4) Plans of the county cemetery commission for the calendar year during which the report is filed.

(c) The Indiana historical bureau shall make reports filed under this section available for public inspection under IC 5-14-3.

As added by P.L.2-1998, SEC.64.

IC 23-14-67-4 Annual budget and annual report

Sec. 4. A county cemetery commission established under this chapter shall:

(1) present an annual plan and budget; and

(2) make an annual report;

to the board of county commissioners and the county council for approval.

As added by P.L.52-1997, SEC.41.

INDIANA CODE § 23-14-68

Chapter 68. Care of Cemeteries by Townships

IC 23-14-68-1 Application of chapter

Sec. 1. (a) This chapter applies to each cemetery that:

(1) is without funds for maintenance;

(2) was in existence on February 28, 1939; and

(3) is operated by a nonprofit organization or is not managed by any viable organization.

(b) This chapter does not apply to a cemetery located on land on which property taxes are assessed and paid under IC 6-1.1-4.

As added by P.L.52-1997, SEC.42.

IC 23-14-68-2 Township trustee locating and maintaining cemeteries

Sec. 2. The trustee of each township shall locate and maintain all the cemeteries described in section 1(a) of this chapter that are within the township. However, a cemetery association claiming assistance under this chapter shall furnish a verified statement of assets and liabilities to the township trustee.

As added by P.L.52-1997, SEC.42.

IC 23-14-68-3 Maintenance of cemeteries

Sec. 3. For the purposes of this chapter, the maintenance of a cemetery includes the following:

(1) Resetting and straightening all monuments.

(2) Leveling and seeding the ground.

(3) Constructing fences where there are none and repairing existing fences.

(4) Destroying and cleaning up detrimental plants (as defined in IC 15-16-8-1), noxious weeds, and rank vegetation.

As added by P.L.52-1997, SEC.42. Amended by P.L.2-2008, SEC.48.

IC 23-14-68-4 Appropriations for care and maintenance; cemetery tax

Sec. 4. (a) The township shall appropriate enough money to provide for the care, repair, and maintenance of each cemetery described in section 1(a) of this chapter that is located within the township. Funds shall be appropriated under this subsection in the same manner as other township appropriations.

(b) The township may levy a township cemetery tax to create a fund for maintenance of cemeteries under this chapter. If a fund has not been provided for maintenance of cemeteries under this chapter, part of the township fund may be used.

As added by P.L.52-1997, SEC.42.

IC 23-14-68-5 Trustee's failure to perform duties

Sec. 5. A township trustee who fails to perform the trustee's duties under this chapter commits a Class C infraction.

As added by P.L.52-1997, SEC.42.

INDIANA CODE § 23-14-69

Chapter 69. Establishment of Public Cemeteries by Townships

IC 23-14-69-1 Application of chapter

Sec. 1. This chapter applies to the following:

(1) A public cemetery that belongs to a township.

(2) An addition to a public cemetery that belongs to a township.

As added by P.L.52-1997, SEC.43.

IC 23-14-69-2 Nonapplicability of chapter

Sec. 2. This chapter does not apply to the following:

(1) A cemetery that is owned or controlled by a city, a town, or a voluntary association.

(2) A cemetery that is maintained by a township under IC 23-14-68.

As added by P.L.52-1997, SEC.43.

IC 23-14-69-3 Care and maintenance

Sec. 3. A township trustee shall care for and maintain each cemetery to which this chapter applies that is located in the township, keeping the cemeteries in a respectable condition by:

(1) destroying detrimental plants (as defined in IC 15-16-8-1), noxious weeds, and rank vegetation; and

(2) removing all unsightly accumulations and debris.

As added by P.L.52-1997, SEC.43. Amended by P.L.2-2008, SEC.49.

IC 23-14-69-4 Donated land

Sec. 4. (a) The township trustee may accept donations of land suitable for a public cemetery if the township trustee considers acceptance of the land to be in the best interests of the township.

(b) Donated land shall be:

(1) conveyed to the township;

(2) set apart by the trustee for a public cemetery; and

(3) kept in good condition and repair by the township trustee.

As added by P.L.52-1997, SEC.43.

IC 23-14-69-5 Purchase of land

Sec. 5. (a) If:

(1) no land suitable for a public cemetery is donated to a township; and
(2) if the township legislative body adopts a resolution approving the purchase;
the township executive may purchase land for the purpose of establishing a public cemetery.
(b) When land is purchased and conveyed to the township under subsection (a), the land must be set apart, kept in repair, and used as provided in section 6 of this chapter.
As added by P.L.52-1997, SEC.43.

IC 23-14-69-6 Use of cemetery
Sec. 6. A public cemetery of a township may be used by the inhabitants of the township for the interment of the dead. The township trustee may prescribe regulations governing the use of the cemetery.
As added by P.L.52-1997, SEC.43.

IC 23-14-69-7 Duties of township trustee
Sec. 7. (a) When a township acquires title to land by donation, purchase, or otherwise for a public cemetery, the trustee of the township shall:
(1) lay out the land in lots with streets and walks;
(2) plat the land; and
(3) record the plat in the office of the recorder of the county.
(b) For recording a plat under subsection (a), the recorder shall collect the same fees as are allowed for similar recordings.
(c) The lots laid out and platted under subsection (a) must be numbered. A specific part of the lots must be:
(1) set apart; and
(2) designated on the plat;
for a potter's field.
(d) After the plat has been recorded, the township trustee shall appoint:
(1) one (1) disinterested freeholder of the township; and
(2) one (1) disinterested appraiser licensed under IC 25-34.1;
who are residents of Indiana to appraise and fix the value of all the lots on the plat, except the part assigned to the potter's field under subsection (c). The appraisal shall be filed with and preserved by the township trustee.
As added by P.L.52-1997, SEC.43. As amended by P.L.113-2006, SEC.18.

IC 23-14-69-8 Private sale of lots
Sec. 8. (a) The township trustee may sell and convey the lots in a cemetery to which this chapter applies at a private sale to persons who desire to purchase them. The trustee shall not sell a lot under this subsection at less than the value fixed for the lot under section 7 of this chapter.
(b) The proceeds of the sale of lots in a cemetery under subsection (a) shall be used to pay the expenses that the township trustee may incur under this chapter for the cemetery. Any surplus shall be held as a fund for use in keeping the cemetery in repair.
(c) The township trustee shall keep an accurate account of:
(1) the money received by the township trustee for the purpose of keeping the cemetery in repair; and
(2) the sums that the township trustee has paid out, and for which the trustee has taken vouchers.
As added by P.L.52-1997, SEC.43.

IC 23-14-69-9 Payment of expenses
Sec. 9. All expenses incurred by the township trustee for administering this chapter shall be paid out of the township fund of the township.
As added by P.L.52-1997, SEC.43.

INDIANA CODE § 23-14-70

Chapter 70. Trusts for Cemetery Associations

IC 23-14-70-1 Power to receive deposit of money; use of interest
Sec. 1. (a) The board of commissioners of a county may receive from or on behalf of a:
(1) cemetery corporation;
(2) church;
(3) association; or
(4) organization;
that has been dissolved or is to be dissolved a deposit of money to be held in trust under terms that are designated in writing.
(b) Funds may be provided under section 1 of this chapter to the board of commissioners of:
(1) the county in which the cemetery of the cemetery corporation, church, association, or organization is located; or
(2) the county adjoining and nearest to the county described in subdivision (1).
(c) The interest on the funds received under subsection (a) shall be used to keep in good condition any:
(1) abandoned cemetery;
(2) public incorporated cemetery; or
(3) lots, monuments, mausoleums, vaults, or other burial structures in any cemetery.
(d) A board of commissioners may not expend more for the purpose set forth in subsection (c) than the interest earned from the loan or investment of the funds.
As added by P.L.52-1997, SEC.44.

IC 23-14-70-2 Investment of money
Sec. 2. All money received by a board of commissioners under section 1 of this chapter may be invested in compliance with IC 20-42-1-14.
As added by P.L.52-1997, SEC.44. As amended by P.L.2-2006, SEC.181.

IC 23-14-70-3 Distribution of accrued interest
Sec. 3. The county auditor shall distribute the interest accrued on any cemetery fund or funds received under section 1 of this chapter on the last Monday of January of each year to the following person or persons:
(1) The trustee of the township in which an abandoned or unincorporated cemetery is located.
(2) The trustee of the township lying on the east or south of the cemetery if the cemetery is located on a county boundary or a township boundary.
(3) The treasurer of the board of directors of an incorporated cemetery.
As added by P.L.52-1997, SEC.44.

IC 23-14-70-4 Receipts and vouchers
Sec. 4. (a) A township trustee or treasurer of the board of directors of an incorporated cemetery who receives a distribution under section 3 of this chapter shall make a receipt or voucher for any money paid out.
(b) A receipt or voucher made under subsection (a) must state:
(1) the amount paid out;
(2) the purpose for which the money was expended; and
(3) the fund from which the money came.
(c) The receipts and vouchers made under subsection (a) shall be:
(1) filed with the county auditor before January 2 of each year; and
(2) presented to the board of commissioners for examination and approval at the January meeting of the board of commissioners.
As added by P.L.52-1997, SEC.44.

IC 23-14-70-5 Liability of auditor or county

Sec. 5. (a) The auditor is liable on the auditor's bond for any neglect or failure of duty with respect to funds received under section 1 of this chapter in the same manner as with respect to the school fund.

(b) The county is also liable for the preservation of the principal and the payment of the interest on the funds received under section 1 of this chapter to the same extent that it is liable with respect to the principal and interest of the school fund.

As added by P.L.52-1997, SEC.44.

IC 23-14-70-6 Effect of chapter on certain bequests, legacies, or endowments; payment or return of money deposited

Sec. 6. (a) This chapter does not affect a bequest, legacy, or endowment that is under or comes under the control of:

(1) the board of directors of an incorporated cemetery; or

(2) the trustees or officers of a church, association, or other organization.

(b) This chapter does not affect a bequest, legacy, or endowment received under this chapter.

(c) If a cemetery is under the control of:

(1) an organized board of directors of an incorporated cemetery; or

(2) the trustees or officers of a church, association, or other organization;

the board of county commissioners may, on its own initiative or upon request of the proper officers of the cemetery, pay over or return to the treasurer of the cemetery any money deposited with the county under this chapter.

(d) Money paid over or returned under subsection (c) shall be held and managed by the cemetery corporation, church, association, or organization in compliance with the terms of the bequest, legacy, or endowment, and in compliance with applicable statutes.

As added by P.L.52-1997, SEC.44

INDIANA CODE § 23-14-71

Chapter 71. Union Chapel Cemetery Association

IC 23-14-71-1 "Association" defined

Sec. 1. As used in this chapter, "association" refers to the Union Chapel Cemetery Association.

As added by P.L.52-1997, SEC.45.

IC 23-14-71-2 Holding of title to real estate

Sec. 2. The Union Chapel Cemetery Association holds title to the real estate of the Union Chapel Cemetery in Washington Township, Marion County, Indiana, for the uses and purposes of a public cemetery.

As added by P.L.52-1997, SEC.45.

IC 23-14-71-3 Platting and acquisition of adjacent land for burial purposes

Sec. 3. The association may lay out and plat into lots all portions of the cemetery not platted and used and occupied for burial purposes on March 6, 1899, and may purchase, take, receive, and hold other real estate adjacent to the cemetery for burial purposes.

As added by P.L.52-1997, SEC.45.

IC 23-14-71-4 Powers of trustees of association

Sec. 4. The trustees of the association:

(1) have full and complete charge, care, and supervision of the cemetery; and

(2) may care for, supervise, and beautify the cemetery in the same manner and with the same powers provided by law for public cemeteries.

As added by P.L.52-1997, SEC.45.

INDIANA CODE § 23-14-72

Chapter 72. Annexation of Unincorporated Cemetery

IC 23-14-72-1 Application of chapter

Sec. 1. This chapter does not apply to a cemetery:

(1) in which the interment of dead bodies has been forbidden before May 31, 1917, by ordinance passed by a city in Indiana; or

(2) that has been condemned for use for the interment of dead bodies by the action of:

(A) the state department of health; or

(B) a local board of health.

As added by P.L.52-1997, SEC.46.

IC 23-14-72-2 Extension of incorporated cemetery boundaries

Sec. 2. If:

(1) the grounds of a cemetery that is platted but not incorporated adjoin or are contiguous to the grounds of a cemetery that is incorporated under Indiana law; and

(2) a petition that:

(A) seeks the incorporation of the grounds of the unincorporated cemetery into the incorporated cemetery; and

(B) is signed by a majority of the owners of lots in the unincorporated cemetery;

is filed with the board of trustees or board of directors of the association of the incorporated cemetery;

the association may extend the boundaries of the incorporated cemetery to include the grounds of the unincorporated cemetery.

As added by P.L.52-1997, SEC.46.

IC 23-14-72-3 Levying assessments

Sec. 3. After the grounds of an unincorporated cemetery are brought into an incorporated cemetery under section 2 of this chapter, the association of the incorporated cemetery may periodically levy an assessment against each lot that was brought into the incorporated cemetery to provide a fund with which to maintain and provide for the upkeep of the lots.

As added by P.L.52-1997, SEC.46.

IC 23-14-72-4 Sale of lot for failure to pay assessments

Sec. 4. (a) As used in this section, "lot" includes a half-lot.

(b) If:

(1) the owner of a lot fails to pay an assessment imposed under section 3 of this chapter within the time allowed by the bylaws of the association of the incorporated cemetery; and

(2) the lot is not occupied by a grave;

the incorporated cemetery may sell the lot to satisfy the unpaid assessment after following the procedure set forth in subsection (c).

(c) The association of an incorporated cemetery may sell a lot under this section if:

(1) the association provides:

(A) notice in a writing addressed individually to the owner of the lot; or

(B) if the address of the owner is unknown, notice by publication once each week for a period of two (2) weeks in a newspaper of general circulation that is printed and published in the county in which the cemetery is located;

stating that the lot may be sold unless the assessment is paid within thirty (30) days after the date of the writing delivered under clause (A) or the second publication under clause (B); and

(2) the assessment is not paid within the period referred to in subdivision (1).
As added by P.L.52-1997, SEC.46.

IC 23-14-72-5 Collection of fixed amount for upkeep and maintenance
Sec. 5. (a) An incorporated cemetery that extends its boundaries to include the grounds of an unincorporated cemetery under section 2 of this chapter, instead of levying a periodic assessment against the owner of a lot under section 3 of this chapter, may collect a fixed amount from the owner in full satisfaction of all future assessments against the lot for the upkeep and maintenance.
(b) A cemetery association that receives money from the owners of lots under subsection (a) shall:
(1) hold and invest the money as a fund for the upkeep and maintenance of the lots; and
(2) expend only the income earned from the investment of the money under subdivision (1) in the care of the lots.
(c) After a cemetery association receives money from the owners of lots under subsection (a), the association shall keep and care for the lots.
As added by P.L.52-1997, SEC.46.

INDIANA CODE § 23-14-73

Chapter 73. Grave Markers of Deceased Soldiers

IC 23-14-73-1 "Member of the armed forces" defined
Sec. 1. As used in this chapter, "member of the armed forces" means an individual who served on active duty in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States.
As added by P.L.52-1997, SEC.47.

IC 23-14-73-2 Standards for markers
Sec. 2. A board of trustees or other governing body or custodian that controls a cemetery shall not refuse to allow the setting up of markers for the graves of deceased members of the armed forces in its grounds if the markers conform to the standard markers furnished by the United States government for marking the graves of deceased members of the armed forces.
As added by P.L.52-1997, SEC.47.

IC 23-14-73-3 Violation of chapter; Class C infraction
Sec. 3. A person who violates section 2 of this chapter commits a Class C infraction.
As added by P.L.52-1997, SEC.47.

INDIANA CODE § 23-14-74

Chapter 74. Cemetery Fences and Upkeep

IC 23-14-74-1 Destruction of detrimental plants and noxious weeds
Sec. 1. A corporation, organization, association, or individual that owns and has the control and management of a public cemetery located in a township shall keep the public cemetery in a respectable condition by destroying detrimental plants (as defined in IC 15-16-8-1), noxious weeds, and rank vegetation.
As added by P.L.52-1997, SEC.48. Amended by P.L.2-2008, SEC.50.

IC 23-14-74-2 Violation of chapter; Class C infraction
Sec. 2. A person who violates section 1 of this chapter commits a Class C infraction. Each year during which a cemetery is neglected in violation of this chapter constitutes a separate offense.
As added by P.L.52-1997, SEC.48.

INDIANA CODE § 23-14-75

Chapter 75. Eminent Domain Acquisition of Cemetery Land

IC 23-14-75-1 Application of chapter
Sec. 1. This chapter applies to a city, town, or township that:
(1) owns a cemetery that has been in existence for at least thirty (30) years; or
(2) desires to own a public cemetery.
As added by P.L.52-1997, SEC.49. As amended by P.L.163-2006, SEC.3.

IC 23-14-75-2 Power of eminent domain
Sec. 2. If land has not been appropriated or set apart by the owners by platting for a public cemetery and it is necessary to purchase real estate for the cemetery:
(1) the legislative body of the city or town; or
(2) the executive of the township;
has the power of eminent domain to condemn and appropriate the land for cemetery purposes under proceedings provided by statute.
As added by P.L.52-1997, SEC.49. As amended by P.L.163-2006, SEC.4.

INDIANA CODE § 23-14-76

Chapter 76. Application of Corporations Laws to Cemetery Associations

IC 23-14-76-1 Application of chapter
Sec. 1. This chapter does not apply to a cemetery owned by a county or a township. However, if a cemetery owned by a county or township is sold to a private entity, the purchaser is subject to this chapter.
As added by P.L.52-1997, SEC.50.

IC 23-14-76-2 "Cemetery association" defined
Sec. 2. (a) As used in this chapter, "cemetery association" means any cemetery association, cemetery corporation, or cemetery organization that:
(1) was established under this article before July 1, 1997; and
(2) has not been reorganized under IC 23-1 or IC 23-17 before January 1, 1998.
(b) The term does not include a cemetery that is owned or operated by a recognized church, religious society, or denomination.
(c) The term includes the Union Chapel Cemetery Association (IC 23-14-71).
As added by P.L.52-1997, SEC.50.

IC 23-14-76-3 Application of business corporation and nonprofit corporation law
Sec. 3. Except as provided in section 4 of this chapter, after December 31, 1997:
(1) IC 23-1 applies to a cemetery association that has issued shares of stock; and
(2) IC 23-17 applies to a cemetery association that has not issued shares of stock.
As added by P.L.52-1997, SEC.50.

IC 23-14-76-4 Voluntary election of application of business corporation and nonprofit corporation law

Sec. 4. (a) Before January 1, 1998, a cemetery association may elect to have the provisions of IC 23-1 or IC 23-17 apply permanently to the cemetery association, irrespective of whether the cemetery association has issued shares of stock.

(b) A cemetery association electing to have IC 23-1 apply to the cemetery association may:

(1) incorporate or reincorporate under IC 23-1; or

(2) if the cemetery association is a corporation, comply with the following procedures:

(A) The board of directors or trustees must adopt a resolution electing to have the provisions of IC 23-1 apply to the cemetery association.

(B) The resolution must specify a date (before January 1, 1998) after which the provisions of IC 23-1 will apply to the cemetery association.

(C) The resolution must be filed with the secretary of state before the date specified under clause (B).

(c) A cemetery association electing to have IC 23-17 apply to the cemetery association may:

(1) incorporate or reincorporate under IC 23-17; or

(2) if the cemetery association is a corporation, accept the provisions of IC 23-17 by taking the actions set forth in IC 23-17-1-1.

As added by P.L.52-1997, SEC.50.

INDIANA CODE § 23-14-77

Chapter 77. Vaults Used to Encase Human Remains

IC 23-14-77-1

Sec. 1. A person who sells or otherwise furnishes to another person a vault that:

(1) will be used to encase the remains of a deceased individual; and

(2) is not airtight and watertight;

shall inform the other person in writing that the vault is not airtight and watertight before the person sells or otherwise furnishes the vault to the other person.

As added by P.L.61-2008, SEC.3

IC 23-14-77-2

Sec. 2. A person who violates this chapter commits a Class B infraction.

As added by P.L.61-2008, SEC.3

INDIANA CODE § 29-2

ARTICLE 2. PROBATE CODE GENERAL PROVISIONS

INDIANA CODE § 29-2-19

Chapter 19. Funeral Planning Declaration

IC 29-2-19-2

Sec. 1. As used in this chapter, "declarant" means an individual who signs a funeral planning declaration executed under this chapter.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-3

Sec. 2. As used in this chapter, "declaration" means a funeral planning declaration executed under this chapter.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-4

Sec. 3. As used in this chapter, "designee" means an individual directed by the terms of a declaration to:

(1) carry out the funeral plan of the declarant as set forth in the declaration; or

(2) make any arrangements concerning the disposition of the declarant's remains, funeral services, merchandise, and ceremonies that are delegated to the designee in the declaration.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-5

Sec. 4. As used in this chapter, "disposition" has the meaning set forth in IC 25-15-2-7.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-6

Sec. 5. As used in this chapter, "funeral services" has the meaning set forth in IC 25-15-2-17.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-7

Sec. 6. As used in this chapter, "grave memorial" has the meaning set forth in IC 14-21-2-2.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-8

Sec. 7. As used in this chapter, "merchandise" refers to personal property described in IC 30-2-13-8.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-9

Sec. 8. (a) A person who is of sound mind and is at least eighteen (18) years of age may execute a funeral planning declaration substantially in the form set forth in section 13 of this chapter. A declaration may not be included in a will, a power of attorney, or a similar document.

(b) A declaration must meet the following conditions:

(1) Be voluntary.

(2) Be in writing.

(3) Direct an individual to serve as the declarant's designee.

(4) Be signed by the person making the declaration or by another person in the declarant's presence and at the direction of the declarant.

(5) Be dated.

(6) Be signed in the presence of at least two (2) competent witnesses who are at least eighteen (18) years of age.

(c) The following may not be a witness to a declaration under subsection (b)(6):

(1) The person who signed the declaration on behalf of and at the direction of the declarant.

(2) A parent, spouse, or child of the declarant.

(3) An individual who is entitled to any part of the declarant's estate whether the declarant dies testate or intestate, including an individual who could take from the declarant's estate if the declarant's will is declared invalid.

For purposes of subdivision (3), a person is not considered to be entitled to any part of the declarant's estate solely by virtue of being nominated as a personal representative or as the attorney for the estate in the declarant's will.

(d) A declaration is not binding upon a funeral home, a cemetery, any other person engaged in the business of providing funeral services, any other person selling merchandise or grave markers, or any other person providing a service or other property subject to the declaration until the

person receives consideration for the service, merchandise, or other property. If any provision of a declaration conflicts with:

(1) IC 23-14-31;
(2) IC 23-14-33; or
(3) IC 25-15;

the provision contained in the declaration controls.

(e) Except as provided in subsection (f), a declarant may not direct an individual who is:

(1) a provider of funeral services;
(2) responsible for any aspect of the disposition of the declarant's remains; or
(3) associated with any entity that is responsible for providing funeral services or disposing of the declarant's remains;

to be the declarant's designee in a declaration executed under this chapter.

(f) Subsection (e) does not apply to an individual who is related to the declarant by birth, marriage, or adoption.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-10

Sec. 9. A declaration may specify the declarant's preferences concerning any of the following:

(1) The disposition of the declarant's remains after the declarant's death.
(2) Who may direct the disposition of the declarant's remains.
(3) Who may provide funeral services after the declarant's death.
(4) The ceremonial arrangements to be performed after the declarant's death.
(5) The merchandise that the declarant prefers for the disposition of the declarant's remains and any ceremonial arrangements.
(6) Who may direct the ceremonial arrangements to be performed after the declarant's death.
(7) A grave memorial.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-11

Sec. 10. The provisions of a declarant's most recent declaration prevail over any other document executed by the declarant concerning any preferences described in section 9 of this chapter. However, this section may not be construed to invalidate a power of attorney executed under IC 30-5-5 or an appointment of a health care representative under IC 16-36-1 with respect to any power or duty belonging to the attorney in fact or health care representative that is not related to a preference described in section 9 of this chapter.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-12

Sec. 11. (a) A person who acts in good faith reliance on a declaration is immune from liability to the same extent as if the person had dealt directly with the declarant and the declarant had been a competent and living person.

(b) A person who deals with a declaration may presume, in the absence of actual knowledge to the contrary, that:

(1) the declaration was validly executed; and
(2) the declarant was competent at the time the declaration was executed.

(c) The directions of a declarant expressed in a declaration are binding as if the declarant were alive and competent.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-1

Sec. 12. A declaration must be substantially in the form set forth in section 13 of this chapter, but the declaration may include additional, specific directions. The invalidity of any additional, specific direction does not affect the validity of the declaration.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-13

Sec. 13. The following is the funeral planning declaration form:

(on next page)

FUNERAL PLANNING DECLARATION

Declaration made this _____ day of _____ (month, year). I, _____, being at least eighteen (18) years of age and of sound mind, willfully and voluntarily make known my instructions concerning funeral services, ceremonies, and the disposition of my remains after my death.

I hereby declare and direct that after my death _____(name of designee) shall, as my designee, carry out the instructions that are set forth in this declaration. If my designee is unwilling or unable to act, I nominate _____ as an alternate designee.

I hereby declare and direct that after my death the following actions be taken (indicate your choice by initialing or making your mark before signing this declaration):

(1) My body shall be:

(A) _____ Buried. I direct that my body be buried at _____.

(B) _____ Cremated. I direct that my cremated remains be disposed of as follows:_____
_____
_____.

(C) _____ Entombed. I direct that my body be entombed at _____.

(D) _____ I intentionally make no decision concerning the disposition of my body, leaving the decision to my designee (as named above).

(2) My arrangements shall be made as follows:

(A) I direct that funeral services be obtained from: _____.

(B) I direct that the following ceremonial arrangements be made:_____
_____
_____.

(C) I direct the selection of a grave memorial that: _____
_____
_____.

(D) I direct that the following merchandise and other property be selected for the disposition of my remains, my funeral or other ceremonial arrangements: _____
_____
_____
_____.

(E) _____ I direct that my designee (as named above) make all arrangements concerning ceremonies and other funeral services.

(3) In addition to the instructions listed above, I request the following: _____
_____
_____.

(4) If it is impossible to make an arrangement specified in subdivisions (1) through (3) because:

(A) a funeral home or other service provider is out of business, impossible to locate, or otherwise unable to provide the specified service; or

(B) the specified arrangement is impossible, impractical, or illegal;

I direct my designee to make alternate arrangements to the best of the designee's ability.

It is my intention that this declaration be honored by my family and others as the final expression of my intentions concerning my funeral and the disposition of my body after my death. I understand the full import of this declaration.

Signed: _____

City, County, and State of Residence: _____

The declarant is personally known to me, and I believe the declarant to be of sound mind. I did not sign the declarant's signature above for or at the direction of the declarant. I am not a parent, spouse, or child of the declarant. I am not entitled to any part of the declarant's estate. I am competent and at least eighteen (18) years of age.

Witness: _____ Date: _____

Witness: _____ Date: _____

As added by P.L.143-2009, SEC.14.

IC 29-2-19-14

Sec. 14. A declaration may be revoked by the declarant in writing or by burning, tearing, canceling, obliterating, or destroying the declaration with the intent to revoke the declaration.
As added by P.L.143-2009, SEC.14.

IC 29-2-19-15

Sec. 15. Except as otherwise expressly provided in a declaration, a subsequent:

(1) dissolution of marriage;
(2) annulment of marriage; or
(3) legal separation of the declarant and the declarant's spouse;

automatically revokes a delegation of authority in a declaration to the declarant's spouse to direct the disposition of the declarant's body or to make all arrangements concerning funeral services and other ceremonies after the declarant's death.
As added by P.L.143-2009, SEC.14.

IC 29-2-19-16

Sec. 16. Except as otherwise provided in a declaration, section 17 of this chapter controls if a person to whom a declaration delegates the authority to make arrangements after a declarant's death is unable or unwilling to serve.
As added by P.L.143-2009, SEC.14.

IC 29-2-19-17

Sec. 17. The right to control the disposition of a decedent's body, to make arrangements for funeral services, and to make other ceremonial arrangements after an individual's death devolves on the following, in the priority listed:

(1) An individual granted the authority in a funeral planning declaration executed by the decedent under this chapter.
(2) An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.
(3) The decedent's surviving spouse.
(4) A surviving adult child of the decedent.
(5) A surviving parent of the decedent.
(6) An individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent.

As added by P.L.143-2009, SEC.14.

IC 29-2-19-18

Sec. 18. A person in Indiana may rely on a declaration or similar instrument that was executed in another state and that complies with the requirements of this chapter to the extent that an action requested by the declarant in the declaration or similar instrument does not violate any federal or Indiana law or any ordinance or regulation of a political subdivision.
As added by P.L.143-2009, SEC.14.

IC 29-2-19-19

Sec. 19. An action to contest the validity of any declaration made under this chapter must be:

(1) brought in the same manner as an action to contest the validity of a will under IC 29-1-7;
(2) filed in the circuit court of the county in which the declarant's remains are located;
(3) expedited on the docket of the circuit court as a matter requiring priority; and
(4) accompanied by a bond, cash deposit, or other surety sufficient to guarantee that the hospital, nursing home, funeral home, or other institution holding the declarant's remains is compensated for the storage charges incurred while the action is pending.

As added by P.L.143-2009, SEC.14.

INDIANA CODE § 4-6-14
Chapter 14. Health Records and Identifying Information Protection

IC 4-6-14-1
"Abandoned"

Sec. 1. As used in this chapter, "abandoned" means voluntarily surrendered, relinquished, or disclaimed by the health care provider or regulated professional, with no intention of reclaiming or regaining possession.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-2
"Health care provider"

Sec. 2. As used in this chapter, "health care provider" means a person listed in IC 16-39-7-1(a)(1) through IC 16-39-7-1(a)(11).
As added by P.L.84-2010, SEC.1.

IC 4-6-14-3
"Personal information"

Sec. 3. As used in this chapter, "personal information" has the meaning set forth in IC 24-4.9-2-10.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-4
"Regulated professional"

Sec. 4. As used in this chapter, "regulated professional" means an individual who is regulated by a board listed under IC 25-1-11-1.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-5
Attorney general's powers

Sec. 5. The attorney general may do the following with abandoned health records and other records that contain personal information:

(1) Take possession of.
(2) Store.
(3) Maintain.
(4) Transfer.
(5) Protect.
(6) Destroy, subject to the limitations in sections 8(b) and 9(b) of this chapter.

As added by P.L.84-2010, SEC.1.

IC 4-6-14-6
Determination of abandonment

Sec. 6. (a) Before taking any action described in section 5 of this chapter, the attorney general shall determine whether a health care provider or regulated professional has abandoned health records or records containing personal information.

(b) A determination of abandonment under this section may only be used for the purpose of taking an action described in this chapter. However, a subsequent enforcement action may take place under a state or federal law based on proof of facts that may have contributed to the determination of abandonment if the facts are proved in a subsequent enforcement action.

(c) An investigation to make a determination of abandonment under this section must be conducted under the attorney general's authority under existing state and federal law. Nothing in this chapter shall be

construed to create new authority for a subpoena or search warrant.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-7
Notification
Sec. 7. (a) The attorney general shall make reasonable efforts to notify the patients and those individuals identified in:
(1) health records; or
(2) records or documents that contain personal information;
that the attorney general has taken possession of the records or documents. The notice in this subsection must include information about the procedure for either obtaining originals or copies of the records or having the original records sent to a duly authorized subsequent treating health care provider.
(b) Unless prohibited by law, the attorney general may also notify other persons, including professional organizations, hospitals, law enforcement agencies, and government units, who:
(1) may be able to assist in notifying persons whose records were abandoned and secured by the attorney general under this chapter; and
(2) when appropriate, may be able to assist in returning the records to those persons.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-8
Length of time health records must be maintained; destruction of records
Sec. 8. (a) The attorney general shall maintain health records obtained under section 5 of this chapter for the lesser of the following:
(1) The time required under IC 16-39-7-1 and IC 16-39-7-2.
(2) Three (3) years after the date the records are secured.
(b) When the time expires under subsection (a), the attorney general may destroy the health records obtained under section 5 of this chapter.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-9
Length of time personal information records must be maintained; destruction of records
Sec. 9. (a) The attorney general shall maintain records that are not health records but contain personal information for at least three (3) years after the date the records are seized or secured.
(b) When the time expires under subsection (a) and after notification under section 7 of this chapter, the attorney general may destroy the records that contain personal information.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-10
Health records and personal identifying information protection trust fund
Sec. 10. (a) The health records and personal identifying information protection trust fund is established for the purpose of paying storage, maintenance, copying, mailing, and transfer of:
(1) health records; and
(2) records containing personal information;
as required under this chapter. Expenditures from the trust fund may be made only to carry out the purposes of this subsection.
(b) Subject to subsection (c), if a health care provider or a regulated professional is disciplined under IC 25-1-9 or IC 25-1-11, the board that issues the disciplinary order shall impose a fee against the individual of five dollars ($5). The fee must be deposited into the health records and personal identifying information protection trust fund.
(c) If the amount in the health records and personal identifying information protection trust fund exceeds seventy-five thousand dollars ($75,000), the fee imposed under subsection (b) may not be imposed on an individual who is subject to a disciplinary order.
(d) The attorney general shall administer the trust fund.
(e) The expenses of administering the trust fund shall be paid from the money in the fund.
(f) The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.
(g) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-11
Immunity
Sec. 11. The attorney general is immune from civil liability for destroying or failing to maintain custody and control of any record obtained under this chapter.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-12
Cooperation with other agencies
Sec. 12. The following may cooperate with the attorney general's office to implement this chapter:
(1) The Indiana professional licensing agency and the appropriate board that regulates a health care provider or a regulated professional under IC 25.
(2) The state police department.
(3) A prosecuting attorney.
(4) Local law enforcement agencies.
(5) Federal law enforcement agencies.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-13
Rules
Sec. 13. The attorney general may adopt rules under IC 4-22-2 that are necessary to administer and implement this chapter.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-14
Judicial review
Sec. 14. A determination by the attorney general that health records or other records that contain personal information have been abandoned is subject to review in a circuit or superior court. A person who seeks to enforce this section must first notify the attorney general of the intention to seek judicial review.
As added by P.L.84-2010, SEC.1.

IC 4-6-14-15
Funding
Sec. 15. The attorney general may pay for the administration of this chapter only from funds currently appropriated to the office of the attorney general.
As added by P.L.84-2010, SEC.1.

INDIANA CODE § 25-1

ARTICLE 1. GENERAL PROVISIONS

INDIANA CODE § 25-1-1

Chapter 1. Evidence of License Applicant's Payment of Personal Property Taxes Required

IC 25-1-1-1 Issuance of license; evidence of payment of personal property tax

Sec. 1. It is unlawful for any board, officer, or person to issue any license, as defined in section 2 of this chapter, to any person who is a resident of this state, unless the applicant, at the time he applies for such license, submits, in addition to all other requirements prescribed by law, a receipt or other evidence showing that he has paid all his personal property taxes in full. "Other evidence" in the case of all licenses issued by the bureau of motor vehicles means a statement signed by the treasurer of the county in which the applicant is a resident that the applicant has paid all personal taxes assessed against him, including all delinquent personal property tax; or, if the applicant owns no personal property subject to taxation, a signed statement from the assessor of the county in which the applicant resides certifying that he has made an affidavit to the effect that he owes no delinquent personal property tax in any county in Indiana.

(Formerly: Acts 1931, c.124, s.1; Acts 1941, c.61, s.1; Acts 1943, c.124, s.1; Acts 1953, c.208, s.1.) As amended by Acts 1978, P.L.2, SEC.2501.

IC 25-1-1-2 License defined

Sec. 2. The term "license" as used in this chapter shall be construed to mean and include motor vehicle registration licenses, certificates of title showing the ownership of any motor vehicle, except those classed as passenger vehicles.

(Formerly: Acts 1931, c.124, s.2; Acts 1972, P.L.183, SEC.1.)

IC 25-1-1-3 Repealed

(*Repealed by Acts 1978, P.L.2, SEC.2570.)*

IC 25-1-1-4 Repealed

(*Repealed by Acts 1978, P.L.2, SEC.2570.)*

INDIANA CODE § 25-1-1.1

Chapter 1.1. Effect of Criminal Convictions on Licensed or Registered Persons

IC 25-1-1.1-1 Denial, revocation, or suspension of license or certificate of registration; conviction of crime

Sec. 1. Except as provided under sections 2 through 3 of this chapter, a license or certificate of registration that an individual is required by law to hold to engage in a business, profession, or occupation may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(Formerly: Acts 1973, P.L.249, SEC.1.) As amended by Acts 1978, P.L.2, SEC.2502; P.L.67-1990, SEC.6.

IC 25-1-1.1-2 Suspension, denial, or revocation of license or certificate; conviction for drug related offense

Sec. 2. *Notwithstanding IC 25-1-7,* a board, a commission, or a committee may suspend, *deny,* or revoke a license or certificate issued under this title by the board, the commission, or the committee *without an investigation by the office of the attorney general* if the individual who holds the license or certificate is convicted of any of the following *and the board, commission, or committee determines, after the individual has appeared in person, that the offense affects the individual's ability to perform the duties of the profession:*

(1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

(2) Possession of methamphetamine under IC 35-48-4-6.1.

(3) Possession of a controlled substance under IC 35-48-4-7(a).

(4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).

(5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).

(6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).

(7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, *salvia, or a synthetic cannabinoid* as a Class D felony under IC 35-48-4-11.

(9) Maintaining a common nuisance under IC 35-48-4-13.

(10) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

(11) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (10).

(12) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10). *(13) A sex crime under IC 35-42-4.*

(14) A felony that reflects adversely on the individual's fitness to hold a professional license.

(15) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.

As added by P.L.67-1990, SEC.7. Amended by P.L.1-1991, SEC.162; P.L.17-2001, SEC.5; P.L.151-2006, SEC.10; P.L. 6-2012, SEC 6.

IC 25-1-1.1-3 Suspension or revocation of license or certificate; conviction for additional drug related offenses

Sec. 3. A board, a commission, or a committee shall revoke or suspend a license or certificate issued under this title by the board, the commission, or the committee if the individual who holds the license or certificate is convicted of any of the following:

(1) Dealing in or manufacturing cocaine or a narcotic drug under IC 35-48-4-1.

(2) Dealing in methamphetamine under IC 35-48-4-1.1.

(3)Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(5) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(8) Dealing in a counterfeit substance under IC 35-48-4-5.

(9) Dealing in marijuana, hash oil, or hashish under IC 35-48-4-10(b).

(10) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (9).

(11) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (9).

(12) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under subdivisions (1) through (11).

(13) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.

As added by P.L.67-1990, SEC.8. Amended by P.L.182-1991, SEC.1; P.L.17-2001, SEC.6; P.L.1-2002, SEC.94; P.L.151-2006, SEC.11.

INDIANA CODE § 25-1-1.2

Chapter 1.2. Effect of Delinquency in Child Support Payments on Licensed or Registered Persons

IC 25-1-1.2-1 "Applicant" defined

Sec. 1. As used in this chapter, "applicant" means a person who applies for:

(1) an unlimited license, certificate, registration, or permit;
(2) a limited or probationary license, certificate, registration, or permit;
(3) a temporary license, certificate, registration, or permit; or
(4) an intern permit;

issued by a board regulating a profession or an occupation.
As added by P.L.133-1995, SEC.19.

IC 25-1-1.2-2 "Board" defined

Sec. 2. As used in this chapter, "board" means an entity that regulates occupations or professions under this title and the department of education established by IC 20-19-3-1.
As added by P.L.133-1995, SEC.19. Amended by P.L. 1-2005, SEC. 191; P.L. 246-2005, SEC. 210.

IC 25-1-1.2-3 "Bureau" defined

Sec. 3. As used in this chapter, "bureau" means the child support bureau established by IC 31-25-3-1.
As added by P.L.133-1995, SEC.19. Amended by P.L.145-2006, SEC.157.

IC 25-1-1.2-4 "Delinquent" defined

Sec. 4. As used in this chapter, "delinquent" means at least:

(1) two thousand dollars ($2,000); or
(2) three (3) months;

past due on payment of court ordered child support.
As added by P.L.133-1995, SEC.19. Amended by P.L.23-1996, SEC.18.

IC 25-1-1.2-5 "License" defined

Sec. 5. As used in this chapter, "license" has the meaning set forth in IC 25-1-2-6.
As added by P.L.133-1995, SEC.19.

IC 25-1-1.2-6 "Practitioner" defined

Sec. 6. As used in this chapter, "practitioner" means a person that holds:

(1) an unlimited license, certificate, registration, or permit;
(2) a limited or probationary license, certificate, registration, or permit;
(3) a temporary license, certificate, registration, or permit; or
(4) an intern permit;

issued by a board regulating a profession or an occupation.
As added by P.L.133-1995, SEC.19.

IC 25-1-1.2-7 Order for suspension or denial of license; notice to practitioner; contents; reinstatement

Sec. 7. (a) Upon receiving an order of a court issued under IC 31-14-12-5 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before their repeal), the board shall:

(1) suspend the license of the practitioner; or
(2) deny the application of the applicant;

who is the subject of the order.

(b) Upon receiving an order of a court issued under IC 31-14-12-5 or IC 31-16-12-8 (or IC 31-1-11.5-13(k) or IC 31-6-6.1-16(k) before their repeal), the board shall promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(1) That the practitioner's license has been suspended, beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate ten (10) business days after the board receives an order allowing reinstatement from the court that issued the suspension order.
(2) That the practitioner has the right to petition for reinstatement of the practitioner's license to the court that issued the order for suspension.

(c) The board may not reinstate a license suspended under this section until the board receives an order allowing reinstatement from the court that issued the order for suspension.
As added by P.L.133-1995, SEC.19. Amended by P.L.23-1996, SEC.19; P.L.1-1997, SEC.109.

IC 25-1-1.2-8 Notice of delinquency; contents; delinquency finding; probationary status; suspension; reinstatement

Sec. 8. (a) The board shall, upon receiving an order from the bureau under IC 31-25-4-32(e), send a notice to the practitioner identified by the bureau that includes the following:

(1) Specifies that the practitioner is delinquent and is subject to an order placing the practitioner on probationary status.
(2) Describes the amount of child support that the practitioner is in arrears.
(3) Explains that unless the practitioner contacts the bureau and:
  (A) pays the practitioner's child support arrearage in full;
  (B) establishes a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or
  (C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the board shall place the practitioner on probationary status.
(4) Explains that the practitioner may contest the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.
(5) Explains that the only basis for contesting the bureau's determination that the practitioner is delinquent and subject to an order placing the practitioner on probationary status is a mistake of fact.
(6) Explains the procedures to:
  (A) pay the practitioner's child support arrearage in full;
  (B) establish a payment plan with the bureau to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;
  (C) request a hearing under IC 31-25-4-33.
(7) Explains that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the practitioner has:
  (A) paid the practitioner's child support arrearage in full; or
  (B) established a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(b) If the board is advised by the bureau that the practitioner either requested a hearing and failed to appear or appeared and was found to be delinquent, the board shall promptly mail a notice to the practitioner who is the subject of the order stating the following:

(1) That the practitioner's license has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the board receives a notice from the bureau that the person has:
  (A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(2) That if the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(c) If the board is advised by the bureau that the practitioner whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the board shall suspend the practitioner's license.

(d) The board may not reinstate a license or permit placed on probation or suspended under this section until the board receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

As added by P.L.133-1995, SEC.19. Amended by P.L.23-1996, SEC.20; P.L.1-1997, SEC.110; P.L.145-2006, SEC.158; P.L.103-2007, SEC.7.

IC 25-1-1.2-9 Repealed

(*Repealed by P.L.23-1996, SEC.33.)*

IC 25-1-1.2-10 Repealed

(*Repealed by P.L.23-1996, SEC.33.)*

INDIANA CODE § 25-1-2

Chapter 2. Renewal of Licenses Granted by State Agencies. Notice of Expiration

IC 25-1-2-1 Declaration of intent

Sec. 1. It is the declared intent of the general assembly by the enactment of this law to require those agencies which are authorized to issue the licenses designated in section 2.1 of this chapter, in the interests of efficiency and economy in the administration of government, to issue such designated permits, licenses, certificates of registration, and other evidences of compliance with statute or regulation, and renewals thereof, for periods of two (2) years duration rather than upon an annual basis, and at the time of issuance or reissuance, or at the time designated by law for the collection of fees therefore, to require the payment of such fees for a period of two (2) years rather than for one (1) year.

(Formerly: Acts 1961, c.79, s.1.) As amended by P.L.1-1990, SEC.246.

IC 25-1-2-2 Repealed

(*Repealed by P.L.1-1990, SEC.247.)*

IC 25-1-2-2.1 Two year or longer period for certain licenses

Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.

(2) Architects and landscape architects.

(3) Dry cleaners.

(4) Professional engineers.

(5) Land surveyors.

(6) Real estate brokers.

(7) Real estate agents.

(8) Security dealers' licenses issued by the securities commissioner.

(9) Dental hygienists.

(10) Dentists.

(11) Veterinarians.

(12) Physicians.

(13) Chiropractors.

(14) Physical therapists.

(15) Optometrists.

(16) Pharmacists and assistants, drugstores or pharmacies.

(17) Motels and mobile home community licenses.

(18) Nurses.

(19) Podiatrists.

(20) Occupational therapists and occupational therapy assistants.

(21) Respiratory care practitioners.

(22) Social workers, marriage and family therapists, and mental health counselors.

(23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.

(24) Wholesale legend drug distributors.

(25) Physician assistants.

(26) Dietitians.

(27) Hypnotists.

(28) Athlete agents.

(29) Manufactured home installers.

(30) Home inspectors.

(31) Massage therapists.

(32) Interior designers.

(33) Genetic counselors.

As added by P.L.1-1990, SEC.248. Amended by P.L.186-1990, SEC.1; P.L.183-1991, SEC.1; P.L.182-1991, SEC.2; P.L.25-1992, SEC.26; P.L.227-1993, SEC.2; P.L.124-1994, SEC.1; P.L.234-1995, SEC.1; P.L.175-1997, SEC.2; P.L.147-1997, SEC.5; P.L.84-1998, SEC.1; P.L.54-2001, SEC.3; P.L.162-2002, SEC.1; P.L.145-2003, SEC.1; P.L. 87-2005, SEC. 31; P.L.200-2007, SEC.2; P.L.3-2008, SEC.175; P.L.177-2009, SEC.10.

IC 25-1-2-3 Authorization to issue and reissue two year licenses

Sec. 3. Effective October 1, 1961, such licensing agencies as are authorized to issue any of the foregoing shall issue and reissue such licenses and collect the fees for the same on the basis of two (2) years and the dates by month and day which govern the issuance or reissuance of licenses for one (1) year shall govern the issuance or reissuance of licenses for two (2) years; provided, that entire fees for a two (2) year period shall be payable before issuance thereof on the day and month designated for payment of fees for one (1) year licenses.

(Formerly: Acts 1961, c.79, s.3.) As amended by Acts 1982, P.L.154, SEC.1.

IC 25-1-2-4 Rebates and proration of fees

Sec. 4. Rebates and proration of fees for fractions of a biennium shall be allowed only with respect to the second year of such license if claim be made therefor before the expiration of the first year for which the license was issued.

(Formerly: Acts 1961, c.79, s.4.)

IC 25-1-2-5 Rules and regulations

Sec. 5. Notice shall be given and forms prepared by such licensing agencies as necessary to execute the provisions of this chapter and in order to expedite and effectuate the conversion from one (1) year licensing periods to those of two (2) years, such licensing agencies may adopt and promulgate such rules and regulations they may deem necessary in the manner prescribed by law.

(Formerly: Acts 1961, c.79, s.5.) As amended by Acts 1982, P.L.154, SEC.2.

IC 25-1-2-6 Definitions; application of section; notice to licensee of need to renew

Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects and landscape architects.
(5) State board of cosmetology and barber examiners.
(6) Medical licensing board of Indiana.
(7) Secretary of state.
(8) State board of dentistry.
(9) State board of funeral and cemetery service.
(10) Worker's compensation board of Indiana.
(11) Indiana state board of health facility administrators.
(12) Committee of hearing aid dealer examiners.
(13) Indiana state board of nursing.
(14) Indiana optometry board.
(15) Indiana board of pharmacy.
(16) Indiana plumbing commission.
(17) Board of podiatric medicine.
(18) Private investigator and security guard licensing board.
(19) State board of registration for professional engineers.
(20) State psychology board.
(21) Indiana real estate commission.
(22) Speech-language pathology and audiology board.
(23) Department of natural resources.
(24) Board of chiropractic examiners.
(25) Mining board.
(26) Indiana board of veterinary medical examiners.
(27) State department of health.
(28) Indiana physical therapy committee.
(29) Respiratory care committee.
(30) Occupational therapy committee.
(31) Behavioral health and human services licensing board.
(32) Real estate appraiser licensure and certification board.
(33) State board of registration for land surveyors.
(34) Physician assistant committee.
(35) Indiana dietitians certification board.
(36) Attorney general (only for the regulation of athlete agents).
(37) Manufactured home installer licensing board.
(38) Home inspectors licensing board.
(39) State board of massage therapy.
(40) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

(d) Notwithstanding any other law, the entities included in subsection (b) shall send notice of the expiration of a license to each individual whose license has expired within thirty (30) days following the expiration of the license. The notice must meet the following requirements:

(1) Inform the individual of the following:
(A) That the individual's license has expired.
(B) Any requirements that must be met before reinstatement of a license may occur.
(2) Be sent electronically. However, if the entity does not have an electronic mail address on record for the individual, the notice must be sent via United States mail.

As added by Acts 1981, P.L.221, SEC.1. Amended by P.L.137-1985, SEC.5; P.L.246-1985, SEC.13; P.L.169-1985, SEC.22; P.L.149-1987, SEC.17; P.L.5-1988, SEC.132; P.L.28-1988, SEC.73; P.L.242-1989, SEC.4; P.L.234-1989, SEC.1; P.L.238-1989, SEC.4; P.L.186-1990, SEC.2; P.L.183-1991, SEC.2; P.L.23-1991, SEC.7; P.L.48-1991, SEC.12; P.L.2-1992, SEC.765; P.L.227-1993, SEC.3; P.L.33-1993, SEC.9; P.L.124-1994, SEC.2; P.L.175-1997, SEC.3; P.L.125-1997, SEC.17; P.L.147-1997, SEC.6; P.L.253-1997(ss), SEC.22; P.L.24-1999, SEC.2; P.L.82-2000, SEC.2; P.L.54-2001, SEC.4; P.L.162-2002, SEC.2; P.L.145-2003, SEC.2; P.L.185-2007, SEC.1; P.L.200-2007, SEC.3; P.L.3-2008, SEC.176; P.L.122-2009, SEC.1; P.L.160-2009, SEC.4; P.L.1-2010, SEC.100; P.L.84-2010, SEC.7; P.L.113-2010, SEC.100; P.L.42-2011, SEC.49; P.L.197-2011, SEC.73.

IC 25-1-2-7 Application of IC 25-1-2-6

Sec. 7. Section 6 of this chapter applies to the mining board (IC 22-10-1.5-2).

As added by P.L.37-1985, SEC.56.

IC 25-1-2-8 Application of chapter; fees

Sec. 8. This chapter applies to the imposition and collection of fees under the following:

IC 14-24-10
IC 16-19-5-2
IC 25-30-1-17
IC 33-42-2-1.

As added by P.L.5-1988, SEC.133. Amended by P.L.2-1993, SEC.135; P.L.1-1995, SEC.69; P.L.98-2004, SEC.98.

IC 25-1-2-9 Repealed

(Repealed by P.L. 194-2005, SEC. 87.)

INDIANA CODE § 25-1-3

Chapter 3. Civil Immunity of Regulatory Agencies

IC 25-1-3-1 Definitions

Sec. 1. (a) As used in this chapter, the term "regulatory board" means any state board, commission, or state agency which licenses persons in order to regulate the practice of a particular profession or professions.

(b) As used in this chapter, the term "board members" means members of a regulatory board.

(c) As used in this chapter, the term "secretary" means the executive secretary or other person charged with the administration of the affairs of

a regulatory board.
(Formerly: Acts 1975, P.L.268, SEC.1.)

IC 25-1-3-2 Extent of immunity from civil liability
Sec. 2. The board members, the secretary, his staff, counsel, investigators and hearing officer of every regulatory board, except as provided in section 4 of this chapter, shall be immune from civil liability for damages for conduct within the scope and arising out of the performance of their duties. This section shall not be construed to include civil actions for damages not directly related to the investigative process and shall apply only to the process for the finding of fact of the regulatory board.
(Formerly: Acts 1975, P.L.268, SEC.1.)

IC 25-1-3-3 Immunity from civil liability; statements in course of investigatory hearing or review proceedings
Sec. 3. Any person shall be immune from civil liability for damages for any sworn or written statements, made without malice, and transmitted to the regulatory board, executive secretary, or his staff, or made in the course of investigatory, hearing or review proceedings.
(Formerly: Acts 1975, P.L.268, SEC.1.)

IC 25-1-3-4 Regulatory boards covered
Sec. 4. The provisions of this chapter extend to every regulatory board of the state except the disciplinary commission of the supreme court of Indiana which is protected under IC 1971, 33-2-3-1.
(Formerly: Acts 1975, P.L.268, SEC.1.)

INDIANA CODE § 25-1-4

Chapter 4. Continuing Education

IC 25-1-4-0.2 "Approved organization" defined
Sec. 0.2. As used in this chapter, "approved organization" refers to the following:
(1) United States Department of Education.
(2) Council on Post-Secondary Education.
(3) Joint Commission on Accreditation of Hospitals.
(4) Joint Commission on Healthcare Organizations.
(5) Federal, state, and local government agencies.
(6) A college or other teaching institution accredited by the United States Department of Education or the Council on Post-Secondary Education.
(7) A national organization of practitioners whose members practicing in Indiana are subject to regulation by a board or agency regulating a profession or occupation under this title.
(8) A national, state, district, or local organization that operates as an affiliated entity under the approval of an organization listed in subdivisions (1) through (7).
(9) An internship or a residency program conducted in a hospital that has been approved by an organization listed in subdivisions (1) through (7).
(10) Any other organization or individual approved by the board.
As added by P.L.157-2006, SEC.10. Amended by P.L.2-2008, SEC.51.

IC 25-1-4-0.3 "Board" defined
Sec. 0.3. As used in this chapter, "board" means any of the following:
(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana athletic trainers board (IC 25-5.1-2-1).
(4) Indiana auctioneer commission (IC 25-6.1-2-1).
(5) Board of chiropractic examiners (IC 25-10-1).
(6) State board of cosmetology and barber examiners (IC 25-8-3-1).
(7) State board of dentistry (IC 25-14-1).
(8) Indiana dietitians certification board (IC 25-14.5-2-1).
(9) State board of registration for professional engineers (IC 25-31-1-3).
(10) State board of funeral and cemetery service (IC 25-15-9).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Committee of hearing aid dealer examiners (IC 25-20-1-1.5)
(13) Home inspectors licensing board (IC 25-20.2-3-1).
(14) State board of registration for land surveyors (IC 25-21.5-2-1).
(15) Manufactured home installer licensing board (IC 25-23.7).
(16) Medical licensing board of Indiana (IC 25-22.5-2).
(17) Indiana state board of nursing (IC 25-23-1).
(18) Occupational therapy committee (IC 25-23.5).
(19) Indiana optometry board (IC 25-24).
(20) Indiana board of pharmacy (IC 25-26).
(21) Indiana physical therapy committee (IC 25-27-1).
(22) Physician assistant committee (IC 25-27.5).
(23) Indiana plumbing commission (IC 25-28.5-1-3).
(24) Board of podiatric medicine (IC 25-29-2-1).
(25) Private investigator and security guard licensing board (IC 25-30-1-5.2).
(26) State psychology board (IC 25-33).
(27) Indiana real estate commission (IC 25-34.1-2).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) Respiratory care committee (IC 25-34.5).
(30) *Behavioral health and human services licensing* board (IC 25-23.6).
(31) Speech-language pathology and audiology board (IC 25-35.6-2).
(32) Indiana board of veterinary medical examiners (IC 25-38.1-2).
As added by Acts 1981, P.L.221, SEC.1. Amended by P.L.137-1985, SEC.5; P.L.246-1985, SEC.13; P.L.169-1985, SEC.22; P.L.149-1987, SEC.17; P.L.5-1988, SEC.132; P.L.28-1988, SEC.73; P.L.242-1989, SEC.4; P.L.234-1989, SEC.1; P.L.238-1989, SEC.4; P.L.186-1990, SEC.2; P.L.183-1991, SEC.2; P.L.23-1991, SEC.7; P.L.48-1991, SEC.12; P.L.2-1992, SEC.765; P.L.227-1993, SEC.3; P.L.33-1993, SEC.9; P.L.124-1994, SEC.2; P.L.175-1997, SEC.3; P.L.125-1997, SEC.17; P.L.147-1997, SEC.6; P.L.253-1997(ss), SEC.22; P.L.24-1999, SEC.2; P.L.82-2000, SEC.2; P.L.54-2001, SEC.4; P.L.162-2002, SEC.2; P.L.145-2003, SEC.2; P.L.185-2007, SEC.1; P.L.200-2007, SEC.3; P.L.3-2008, SEC.176; P.L.160-2009, SEC.4; P.L.122-2009, SEC.1; P.L. 84-2010, SEC 8.
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IC 25-1-4-0.5 "Continuing education" defined
Sec. 0.5. As used in this chapter, "continuing education" means an orderly process of instruction:
(1) that is approved by:
(A) an approved organization or the board for a profession or occupation other than a real estate appraiser; or
(B) for a real estate appraiser:
(i) the Appraiser Qualifications Board, under the regulatory oversight of the Appraisal Subcommittee established under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989; or
(ii) the real estate appraiser licensure and certification board established under IC 25-34.1-8 for specific courses and course subjects, as determined by the real estate appraiser licensure and certification board; and
(2) that is designed to directly enhance the practitioner's knowledge and skill in providing services relevant to the practitioner's profession or occupation.

The term includes an activity that is approved by the board for a profession or occupation, other than a real estate appraiser, and that augments the practitioner's knowledge and skill in providing services relevant to the practitioner's profession or occupation.
As added by P.L.157-2006, SEC.12. Amended by P.L.57-2007, SEC.1; P.L.177-2009, SEC.11.

IC 25-1-4-0.6 "Practitioner" defined

Sec. 0.6. As used in section 3 of this chapter, "practitioner" means an individual who holds:

(1) an unlimited license, certificate, or registration;
(2) a limited or probationary license, certificate, or registration;
(3) a temporary license, certificate, registration, or permit;
(4) an intern permit; or
(5) a provisional license;

issued by the board regulating the profession in question.
As added by P.L.269-2001, SEC.3.

IC 25-1-4-0.7

Sec. 0.7. (a) In computing any period under this chapter, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is:

(1) a Saturday;
(2) a Sunday;
(3) a legal holiday under a state statute; or
(4) a day that the office in which the act is to be done is closed during regular business hours.

(b) A period runs until the end of the next day after a day described in subsection (a)(1) through (a)(4). If the period allowed is less than seven (7) days, intermediate Saturdays, Sundays, state holidays, and days on which the office in which the act is to be done is closed during regular business hours are excluded from the calculation.

(c) A period under this chapter that begins when a person is served with a paper begins with respect to a particular person on the earlier of the date that:

(1) the person is personally served with the notice; or
(2) a notice for the person is deposited in the United States mail.

(d) If a notice is served through the United States mail, three (3) days must be added to a period that begins upon service of that notice.
As added by P.L.177-2009, SEC.12.

IC 25-1-4-1 Requirement

Sec. 1. No board or agency regulating a profession or occupation under this title or under IC 16 or IC 22 may require continuing education as a condition of certification, registration, or licensure unless so specifically authorized or mandated by statute.
As added by Acts 1981, P.L.222, SEC.1. Amended by P.L.2-2008, SEC.53.

IC 25-1-4-2 Promotion

Sec. 2. A board or agency regulating a profession or occupation under this title or under IC 16 or IC 22 may cooperate with members of the profession or occupation it regulates to promote continuing education within the profession or occupation.
As added by Acts 1981, P.L.222, SEC.1. Amended by P.L.2-2008, SEC.54.

IC 25-1-4-3 Sworn statements of compliance; retention of copies of certificates of completion; audits

Sec. 3. (a) Notwithstanding any other law, a board that is specifically authorized or mandated to require continuing education as a condition to renew a registration, certification, or license must require a practitioner to comply with the following renewal requirements:

(1) The practitioner shall provide the board with a sworn statement executed by the practitioner that the practitioner has fulfilled the continuing education requirements required by the board.
(2) The practitioner shall retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied. The practitioner shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit.

(b) Following every license renewal period, the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the practitioners required to take continuing education courses.
As added by P.L.269-2001, SEC.4. Amended by P.L.157-2006, SEC.13.

IC 25-1-4-3.2 Distance learning methods

Sec. 3.2. A board or agency regulating a profession or occupation under this title or under IC 16 or IC 22 shall require that at least one-half (1/2) of all continuing education requirements must be allowed by distance learning methods, except for doctors, nurses, chiropractors, optometrists and dentists.
As added by P.L.227-2001, SEC.1. Amended by P.L.2-2008, SEC.55.

IC 25-1-4-4 Hardship waiver

Sec. 4. A board, a commission, a committee, or an agency regulating a profession or an occupation under this title or under IC 16 or IC 22 may grant an applicant a waiver from all or part of the continuing education requirement for a renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following:

(1) Service in the armed forces of the United States during a substantial part of the renewal period.
(2) An incapacitating illness or injury.
(3) Other circumstances determined by the board or agency.

As added by P.L.88-2004, SEC.1. Amended by P.L.2-2008, SEC.56.

IC 25-1-4-5 Failure to comply; license suspension; penalties; reinstatement requirements

Sec. 5. (a) Notwithstanding any other law, if the board determines that a practitioner has not complied with this chapter or IC 25-1-8-6 at the time that the practitioner applies for license renewal or reinstatement or after an audit conducted under section 3 of this chapter, the board shall do the following:

(1) Send the practitioner notice of noncompliance by certified mail to the practitioner’s last known address.
(2) As a condition of license renewal or reinstatement, require the practitioner to comply with subsection (b).
(3) For license renewal, issue a conditional license to the practitioner that is effective until the practitioner complies with subsection (b).

(b) Upon service of a notice of noncompliance under subsection (a), a practitioner shall do either of the following:

(1) If the practitioner believes that the practitioner has complied with this chapter or IC 25-1-8-6, if applicable, within twenty-one (21) days of service of the notice, send written notice to the board requesting a review so that the practitioner may submit proof of compliance.
(2) If the practitioner does not disagree with the board's determination of noncompliance, do the following:
(A) Except as provided in subsection (d), pay to the board a civil penalty not to exceed one thousand dollars ($1,000) within twenty-one (21) days of service of the notice.
(B) Acquire, within six (6) months after service of the notice, the number of credit hours needed to achieve full compliance.
(C) Comply with all other provisions of this chapter.

(c) If a practitioner fails to comply with subsection (b), the board shall immediately suspend or refuse to reinstate the license of the practitioner and send notice of the suspension or refusal to the practitioner by

certified mail.

(d) If the board determines that a practitioner has knowingly or intentionally made a false or misleading statement to the board concerning compliance with the continuing education requirements, in addition to the requirements under this section the board may impose a civil penalty of not more than five thousand dollars ($5,000) under subsection (b)(2)(A).

(e) The board shall:

(1) reinstate a practitioner's license; or

(2) renew the practitioner's license in place of the conditional license issued under subsection (a)(3);

if the practitioner supplies proof of compliance with this chapter under subsection (b)(1) or IC 25-1-8-6, if applicable.

As added by P.L.157-2006, SEC.14. Amended by P.L.197-2007, SEC.17; P.L.177-2009, SEC.13.

IC 25-1-4-6 Failure to comply; denial of license renewal; penalties

Sec. 6. (a) Notwithstanding any other law, if at the time a practitioner applies for license renewal or reinstatement or after an audit conducted under section 3 of this chapter, the board determines that the practitioner has failed to comply with this chapter or IC 25-1-8-6, if applicable, and the practitioner has previously received a notice of noncompliance under section 5(a) of this chapter during the preceding license period, the board shall do the following:

(1) Provide the practitioner notice of noncompliance by certified mail.

(2) Deny the practitioner's application for license renewal or reinstatement.

(b) The board shall reinstate a license not renewed under subsection (a) upon occurrence of the following:

(1) Payment by a practitioner to the board of a civil penalty determined by the board, but not to exceed one thousand dollars ($1,000).

(2) Acquisition by the practitioner of the number of credit hours required to be obtained by the practitioner during the relevant license period.

(3) The practitioner otherwise complies with this chapter.

As added by P.L.157-2006, SEC.15. Amended by P.L.197-2007, SEC.18.

IC 25-1-4-7 Credit Hours

Sec. 7. Credit hours acquired by a practitioner under section 5(b)(2) or 6(b)(2) of this chapter may not apply to the practitioner's credit hour requirement for the license period in which the credit hours are acquired.

As added by P.L.157-2006, SEC.16.

IC 25-1-4-8 Rules

Sec. 8. The board may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.157-2006, SEC.17.

INDIANA CODE § 25-1-6

Chapter 6. Professional Licensing Agency

IC 25-1-6-1 Legislative intent

Sec. 1. The centralization of staff, functions, and services contemplated by this chapter shall be done in such a way as to enhance the licensing agency's ability to:

(1) make maximum use of data processing as a means of more efficient operation;

(2) provide more services and carry out functions of superior quality; and

(3) ultimately and significantly reduce the number of staff needed to provide these services and carry out these functions.

As added by Acts 1981, P.L.222, SEC.3. Amended by P.L.132-1984, SEC.2; P.L. 194-2005, SEC. 1.

IC 25-1-6-2 Definitions

Sec. 2. As used in this chapter:

"Board" means any agency, board, advisory committee, or group included in section 3 of this chapter.

"Licensing agency" means the Indiana professional licensing agency created by IC 25-1-5-3.

As added by Acts 1981, P.L.222, SEC.3. Amended by P.L.132-1984, SEC.3; P.L. 206-2005, SEC. 8.

IC 25-1-6-3 Indiana professional licensing agency; functions, duties, and responsibilities

Sec. 3. (a) The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of cosmetology and barber examiners (IC 25-8-3-1).

(5) State board of funeral and cemetery service (IC 25-15-9).

(6) State board of registration for professional engineers (IC 25-31-1-3).

(7) Indiana plumbing commission (IC 25-28.5-1-3).

(8) Indiana real estate commission (IC 25-34.1).

(9) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).

(10) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(11) State board of registration for land surveyors (IC 25-21.5-2-1).

(12) Manufactured home installer licensing board (IC 25-23.7).

(13) Home inspectors licensing board (IC 25-20.2-3-1).

(14) State board of massage therapy (IC 25-21.8-2-1).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

As added by Acts 1981, P.L.222, SEC.3. Amended by Acts 1982, P.L.113, SEC.10; P.L.132-1984, SEC.4; P.L.246-1985, SEC.14; P.L.257-1987, SEC.14; P.L.234-1989, SEC.2; P.L.186-1990, SEC.4; P.L.23-1991, SEC.8; P.L.48-1991, SEC.15; P.L.1-1992, SEC.129; P.L.30-1993, SEC.4; P.L.234-1995, SEC.2; P.L.82-2000, SEC.3; P.L.227-2001, SEC.3; P.L.162-2002, SEC.3; P.L.145-2003, SEC.3; P.L. 194-2005, SEC. 2; P.L. 206-2005, SEC. 9; P.L.185-2007, SEC.3; P.L.200-2007, SEC.4; P.L.3-2008, SEC.177; P.L.160-2009, SEC.6, 84-2010, SEC 11.

IC 25-1-6-4 Additional duties and functions; staff

Sec. 4. (a) The licensing agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

(1) notice of board meetings and other communication services;

(2) recordkeeping of board meetings, proceedings, and actions;

(3) recordkeeping of all persons or individuals licensed, regulated, or certified by a board;

(4) administration of examinations; and

(5) administration of license or certificate issuance or renewal

(b) In addition, the licensing agency:

(1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;
(2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize licensing agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and
(3) may consolidate, where feasible, office space, recordkeeping, and data processing services.

(c) In administering the renewal of licenses or certificates under this chapter, the licensing agency shall issue a sixty (60) day notice of expiration to all holders of a license or certificate. The notice must inform the holder of a license or certificate of the requirements to:
(1) renew the license or certificate; and
(2) pay the renewal fee.

(d) If the licensing agency fails to send notice of expiration under subsection (c), the holder of the license or certificate is not subject to a sanction for failure to renew if the holder renews the license or certificate not more than forty-five (45) days after the holder receives the notice from the licensing agency.

(e) The licensing agency may require an applicant for a license or certificate renewal to submit evidence showing that the applicant:
(1) meets the minimum requirements for licensure or certification; and
(2) is not in violation of:
(A) the law regulating the applicant's profession; or
(B) rules adopted by the board regulating the applicant's profession.

(f) The licensing agency may delay renewing a license or certificate for not more than ninety (90) days after the renewal date to permit the board to investigate information received by the licensing agency that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the licensing agency delays renewing a license or certificate, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (g), the board shall do one (1) of the following before the expiration of the ninety (90) day period:
(1) Deny renewal of the license or certificate following a personal appearance by the applicant before the board.
(2) Renew the license or certificate upon satisfaction of all other requirements for renewal.
(3) Renew the license and file a complaint under IC 25-1-7.
(4) Request the office of the attorney general to conduct an investigation under subsection (h) if, following a personal appearance by the applicant before the board, the board has good cause to believe that the applicant engaged in activity described in IC 25-1-11-5.
(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license or certificate and place the applicant on probation status under IC 25-1-11-12.

(g) If an applicant fails to appear before the board under subsection (f), the board may take action as provided in subsection (f)(1), (f)(2), or (f)(3).

(h) If the board makes a request under subsection (f)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-11-5. If the office of the attorney general files a petition, the board shall set the matter for a public hearing. If, after a public hearing, the board finds the applicant violated IC 25-1-11-5, the board may impose sanctions under IC 25-1-11-12. The board may delay renewing a license or certificate beyond ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license or certificate remains valid until the final determination of the board is rendered unless the renewal is:
(1) denied; or
(2) summarily suspended under IC 25-1-11-13.

(i) The license or certificate of the applicant for license renewal remains valid during the ninety (90) day period unless the license or certificate is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license or certificate shall be automatically renewed at the end of the ninety (90) day period.

(j) Notwithstanding any other law, the licensing agency may stagger license or certificate renewal cycles.

(k) An application for a license or certificate is abandoned without an action by the board if the applicant does not complete the requirements for obtaining the license or certificate not more than one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

As added by Acts 1981, P.L.222, SEC.3. Amended by P.L.132-1984, SEC.5; P.L. 194-2005, SEC. 3.

IC 25-1-6-5 Executive director

Sec. 5. (a) The licensing agency shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the licensing agency or the executive director's designee.

(d) The executive director is the chief fiscal officer of the licensing agency and is responsible for hiring of all staff and for procurement of all services and supplies in accordance with IC 5-22. The executive director may appoint no more than three (3) deputy directors, who must be qualified to work for the boards which are served by the licensing agency.

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the licensing agency to execute a bond if that employee receives, disburses, or in any way handles funds or property of the licensing agency. The costs of any such bonds shall be paid from funds available to the licensing agency.

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the licensing agency and the boards it serves, including adoption of four (4) year license or certificate renewal cycles wherever feasible.

(g) Upon the request of a board or commission, the executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of the board or commission.

(h) Upon the request of a board or commission, the executive director may provide advice and technical assistance on issues that may be presented to the board or commission.

As added by Acts 1981, P.L.222, SEC.3. Amended by Acts 1982, P.L.113, SEC.11; P.L.132-1984, SEC.6; P.L.49-1997, SEC.64; P.L. 194-2005, SEC. 4, P.L. 6-2012, SEC 4.

IC 25-1-6-5.5 Appeal of license renewal denial

Sec. 5.5. A person who has a license renewal denied by a board listed in section 3 of this chapter may file an appeal of the denial in accordance with IC 4-21.5-3.

As added by P.L.227-2001, SEC.4. Amended by P.L.1-2002, SEC.95; P.L. 194-2005, SEC. 5.

IC 25-1-6-6 Executive director; representatives; staff placement

Sec. 6. (a) The executive director shall designate certain employees of the licensing agency to represent the executive director of the licensing agency at board meetings, proceedings, or any other activities of a board.

(b) The executive director shall assign staff to individual boards and shall work with the boards to ensure efficient utilization and placement of staff.

As added by Acts 1981, P.L.222, SEC.3. Amended by P.L.132-1984, SEC.7.

IC 25-1-6-7 Repealed

(*Repealed by P.L.186-1990, SEC.17.)*

IC 25-1-6-8 Department of state revenue; access to names of licensees and applicants; persons on tax warrant list

Sec. 8. (a) The bureau and the boards may allow the department of state revenue access to the name of each person who:

(1) is licensed under this chapter or IC 25-1-5; or

(2) has applied for a license under this chapter or IC 25-1-5.

(b) If the department of state revenue notifies the licensing agency that a person is on the most recent tax warrant list, the licensing agency may not issue or renew the person's license until:

(1) the person provides to the licensing agency a statement from the department of revenue that the person's delinquent tax liability has been satisfied; or

(2) the licensing agency receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

As added by P.L.26-1985, SEC.20. Amended by P.L.332-1989(ss), SEC.46; P.L. 2-2005, SEC. 63; P.L. 206-2005, SEC. 10.

IC 25-1-6-9 Repealed

(*Repealed by P.L.186-1990, SEC.17.)*

IC 25-1-6-10 Provision of social security numbers; access to numbers

Sec. 10. (a) An individual who applies for a license issued by a board under this chapter or who holds a license issued by a board under this chapter shall provide the individual's Social Security number to the licensing agency.

(b) The licensing agency and the boards shall collect and release the applicant's or licensee's Social Security number as otherwise provided in state or federal law.

(c) Notwithstanding IC 4-1-10-3, the licensing agency and the boards may allow access to the Social Security number of each person who is licensed under this chapter or has applied for a license under this chapter to:

(1) a testing service that provides the examination for licensure to the licensing agency or the boards; or

(2) an individual state regulatory board or an organization composed of state regulatory boards for the applicant's or licensee's profession for the purpose of coordinating licensure and disciplinary activities among the individual states.

As added by P.L.157-2006, SEC.19.

INDIANA CODE § 25-1-7

Chapter 7. Investigation and Prosecution of Complaints Concerning Regulated Occupations

IC 25-1-7-1 Definitions

Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State athletic commission (IC 25-9-1).

(5) Board of chiropractic examiners (IC 25-10-1).

(6) State board of cosmetology and barber examiners (IC 25-8-3-1).

(7) State board of dentistry (IC 25-14-1).

(8) State board of funeral and cemetery service (IC 25-15-9).

(9) State board of registration for professional engineers (IC 25-31-1-3).

(10) Indiana state board of health facility administrators (IC 25-19-1).

(11) Medical licensing board of Indiana (IC 25-22.5-2).

(12) Indiana state board of nursing (IC 25-23-1).

(13) Indiana optometry board (IC 25-24).

(14) Indiana board of pharmacy (IC 25-26).

(15) Indiana plumbing commission (IC 25-28.5-1-3).

(16) Board of podiatric medicine (IC 25-29-2-1).

(17) State psychology board (IC 25-33).

(18) Speech-language pathology and audiology board (IC 25-35.6-2).

(19) Indiana real estate commission (IC 25-34.1-2).

(20) Indiana board of veterinary medical examiners (IC 25-38.1).

(21) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(22) Respiratory care committee (IC 25-34.5).

(23) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(24) Occupational therapy committee (IC 25-23.5).

(25) Behavioral health and human services licensing board (IC 25-23.6).

(26) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(27) State board of registration for land surveyors (IC 25-21.5-2-1).

(28) Physician assistant committee (IC 25-27.5).

(29) Indiana athletic trainers board (IC 25-5.1-2-1).

(30) Indiana dietitians certification board (IC 25-14.5-2-1).

(31) Indiana physical therapy committee (IC 25-27).

(32) Manufactured home installer licensing board (IC 25-23.7).

(33) Home inspectors licensing board (IC 25-20.2-3-1).

(34) State department of health, for out-of-state mobile health care facilities.

(35) State board of massage therapy (IC 25-21.8-2-1)

(36) Any other occupational or professional agency created after June 30, 1981.

As added by Acts 1981, P.L.222, SEC.4. Amended by Acts 1982, P.L.113, SEC.12; P.L.137-1985, SEC.7; P.L.246-1985, SEC.15; P.L.169-1985, SEC.29; P.L.149-1987, SEC.21; P.L.257-1987, SEC.15; P.L.242-1989, SEC.6; P.L.234-1989, SEC.3; P.L.238-1989, SEC.6; P.L.1-1990, SEC.249; P.L.186-1990, SEC.5; P.L.183-1991, SEC.3; P.L.23-1991, SEC.9; P.L.48-1991, SEC.16; P.L.1-1992, SEC.130; P.L.30-1993, SEC.5; P.L.227-1993, SEC.5; P.L.213-1993, SEC.2; P.L.8-1993, SEC.371; P.L.33-1993, SEC.11; P.L.1-1994, SEC.120; P.L.124-1994, SEC.4; P.L.234-1995, SEC.3; P.L.175-1997, SEC.5; P.L.147-1997, SEC.8; P.L.84-1998, SEC.3; P.L.24-1999, SEC.4; P.L.82-2000, SEC.4; P.L.162-2002, SEC.4; P.L.145-2003, SEC.4; P.L.185-2007, SEC.4; P.L.193-2007, SEC.4; P.L.200-2007, SEC.5; P.L.3-2008, SEC.178; P.L.134, SEC.16; P.L.1-2009, SEC.138; P.L.160-2009, SEC.7; P.L.122-2009, SEC.5. 84-2010, SEC 12.

IC 25-1-7-2 Duties of attorney general

Sec. 2. The office of the attorney general, under the conditions specified in this chapter, may receive, investigate, and prosecute complaints concerning regulated occupations.
As added by Acts 1981, P.L.222, SEC.4.

IC 25-1-7-3 Investigation of complaints

Sec. 3. The division is responsible for the investigation of complaints concerning licensees.
As added by Acts 1981, P.L.222, SEC.4.

IC 25-1-7-4 Complaints; requisites; standing

Sec. 4. All complaints must be written and signed by the complainant and initially filed with the director. Except for employees of the attorney general's office acting in their official capacity, a complaint may be filed by any person, including members of any of the boards listed in section 1 of this chapter.
As added by Acts 1981, P.L.222, SEC.4.

IC 25-1-7-5 Duties and powers of director

Sec. 5. (a) Subsection (b)(1) does not apply to:
(1) a complaint filed by:
(A) a member of any of the boards listed in section 1 of this chapter; or
(B) the Indiana professional licensing agency; or
(2) a complaint filed under IC 25-1-5-4.
(b) The director has the following duties and powers:
(1) The director shall make an initial determination as to the merit of each complaint. A copy of a complaint having merit shall be submitted to the board having jurisdiction over the licensee's regulated occupation that board thereby acquiring jurisdiction over the matter except as otherwise provided in this chapter.
(2) The director shall through any reasonable means notify the licensee of the nature and ramifications of the complaint and of the duty of the board to attempt to resolve the complaint through negotiation.
(3) The director shall report any pertinent information regarding the status of the complaint to the complainant.
(4) The director may investigate any written complaint against a licensee. The investigation shall be limited to those areas in which there appears to be a violation of statutes governing the regulated occupation.
(5) The director has the power to subpoena witnesses and to send for and compel the production of books, records, papers, and documents for the furtherance of any investigation under this chapter. The circuit or superior court located in the county where the subpoena is to be issued shall enforce any such subpoena by the director.
As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.22-1999, SEC.2; P.L.14-2000, SEC.55; P.L. 206-2005, SEC. 11.

IC 25-1-7-6 Statement of settlement; period of time to resolve

Sec. 6. (a) This section does not apply to:
(1) a complaint filed by:
(A) a member of any of the boards listed in section 1 of this chapter; or
(B) the Indiana professional licensing agency; or
(2) a complaint filed under IC 25-1-5-4.
(b) If, at any time before the director files the director's recommendations with the attorney general, the board files with the director a statement signed by the licensee and the complainant that the complaint has been resolved, the director shall not take further action. For a period of thirty (30) days after the director has notified the board and the licensee that a complaint has been filed, the division shall not conduct any investigation or take any action whatsoever, unless requested by the board. If, during the thirty (30) days, the board requests an extension of the thirty (30) day time period, the director shall grant it for a period not exceeding an additional twenty (20) days. If at any time during the thirty (30) day period or an extension thereof, the board notifies the director of its intention not to proceed further to resolve the complaint, the division may proceed immediately under this chapter. For every purpose of this section, a board may designate a board member or staff member to act on behalf of or in the name of the board.
As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.22-1999, SEC.3; P.L. 206-2005, SEC. 12.

IC 25-1-7-7 Disciplinary sanctions; report to attorney general; prosecution; hearing officer

Sec. 7. (a) If there has been no statement of settlement filed by the board under section 6 of this chapter, and if, after conducting an investigation, the director believes that the licensee should be subjected to disciplinary sanctions by the board of his regulated occupation, then he shall so report to the attorney general. Upon receiving the director's report, the attorney general may prosecute the matter, on behalf of the state of Indiana, before the board. The board may designate any person as a hearing officer to hear the matter.
(b) Notwithstanding subsection (a) of this section, if the board by majority vote so requests, the attorney general shall prosecute the matter before the board, on behalf of the state of Indiana.
As added by Acts 1981, P.L.222, SEC.4.

IC 25-1-7-8 Witnesses

Sec. 8. At the hearing, the board or hearing officer may call witnesses in addition to those presented by the state or the licensee.
As added by Acts 1981, P.L.222, SEC.4.

IC 25-1-7-9 Disqualification of board member

Sec. 9. A board member is disqualified from any consideration of the case if the board member filed the complaint or participated in negotiations regarding the complaint. The board member is not disqualified from the board's final determination solely because the board member was the hearing officer or determined the complaint and the information pertaining to the complaint was current significant investigative information (as defined by IC 25-23.2-1-5 (Repealed)).
As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.181-2002, SEC.1; P.L.1-2007, SEC.166.

IC 25-1-7-10 Confidentiality of complaints and information

Sec. 10. (a) All complaints and information pertaining to the complaints shall be held in strict confidence until the attorney general files notice with the board of the attorney general's intent to prosecute the licensee.
(b) A person in the employ of the office of attorney general or any of

the boards, or any person not a party to the complaint, may not disclose or further a disclosure of information concerning the complaint unless the disclosure is required:

(1) under law; or

(2) for the advancement of an investigation.

As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.181-2002, SEC.2; P.L.1-2007, SEC.167.

IC 25-1-7-11 Administrative orders and procedures

Sec. 11. Nothing in this chapter limits the rights of the licensee or the state under IC 4-21.5.

As added by Acts 1981, P.L.222, SEC.4. Amended by P.L.7-1987, SEC.110.

IC 25-1-7-12 Reimbursement of attorney general

Sec. 12. (a) If:

(1) a fund is created by statute for the payment of an unpaid judgment against a licensee; and

(2) the office of the attorney general is required by statute to provide services to the boards that administer the funds described in subdivision (1);

the office of the attorney general is entitled to reimbursement for the costs incurred in providing the services described in subdivision (2).

(b) If:

(1) more than one (1) fund is established by statute for the payment of an unpaid judgment against a licensee; and

(2) the office of the attorney general is entitled to reimbursement under subsection (a);

the funds for reimbursement shall be taken in equal amounts from each of the funds described in subdivision (1).

As added by P.L.255-1987, SEC.1.

IC 25-1-7-13 Reports; contents

Sec. 13. The office of the attorney general shall submit to each board, at the request of the board, a report that includes the following information concerning that regulated occupation:

(1) The number of complaints filed.

(2) The number of cases currently under investigation.

(3) The number of cases closed.

(4) The number of cases resolved.

(5) The age of the complaints.

As added by P.L.177-1997, SEC.1.

IC 25-1-7-14 Cease and desist

Sec. 14. (a) Notwithstanding any other law, if the board of a regulated occupation believes that a person who is not licensed, certified, or registered under this title is engaged in or is believed to be engaged in activities for which a license, certification, or registration is required under this title, the board may do the following:

(1) File a complaint with the attorney general, who shall investigate and may file:

(A) with notice; or

(B) without notice, if the attorney general determines that person is engaged in activities that may affect an individual's health or safety;

a motion for a cease and desist order with the appropriate board. For purposes of this subdivision, the board may designate a board member or an employee of the Indiana professional licensing agency to act on behalf or in the name of the board.

(2) Upon review of the attorney general's motion for a cease and desist order, the board may issue an order requiring the affected person to show cause why the person should not be ordered to cease and desist from such activities. The show cause order must set forth a time and place for a hearing at which the affected person may appear and show cause as to why the person should not be subject to licensing, certification, or registration under this title. For purposes of this subdivision, the board may designate a board member to act on behalf or in the name of the board.

(b) If the board, after a hearing, determines that the activities in which the person is engaged are subject to licensing, certification, or registration under this title, the board may issue a cease and desist order that must describe the person and activities that are the subject of the order.

(c) A hearing conducted under this section must comply with the requirements under IC 4-21.5.

(d) A cease and desist order issued under this section is enforceable in the circuit or superior courts. A person who is enjoined under a cease and desist order and who violates the order shall be punished for contempt of court.

(e) A cease and desist order issued under this section does not relieve any person from prosecution under any other law.

As added by P.L.84-2010, SEC.13. Amended by P.L.155-2011, SEC.9.

INDIANA CODE § 25-1-8

Chapter 8. Occupational and Professional Licensure, Registration, and Certification Fees

IC 25-1-8-1 "Board" defined

Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State athletic commission (IC 25-9-1).

(5) Board of chiropractic examiners (IC 25-10-1).

(6) State board of cosmetology and barber examiners (IC 25-8-3-1).

(7) State board of dentistry (IC 25-14-1).

(8) State board of funeral and cemetery service (IC 25-15).

(9) State board of registration for professional engineers (IC 25-31-1-3).

(10) Indiana state board of health facility administrators (IC 25-19-1).

(11) Medical licensing board of Indiana (IC 25-22.5-2).

(12) Mining board (IC 22-10-1.5-2).

(13) Indiana state board of nursing (IC 25-23-1).

(14) Indiana optometry board (IC 25-24).

(15) Indiana board of pharmacy (IC 25-26).

(16) Indiana plumbing commission (IC 25-28.5-1-3).

(17) State psychology board (IC 25-33).

(18) Speech-language pathology and audiology board (IC 25-35.6-2).

(19) Indiana real estate commission (IC 25-34.1-2-1).

(20) Indiana board of veterinary medical examiners (IC 25-38.1-2-1).

(21) Department of insurance (IC 27-1).

(22) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.

(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(24) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(25) Occupational therapy committee (IC 25-23.5-2-1).

(26) Behavioral health and human services licensing board (IC 25-23.6-2-1).

(27) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(28) State board of registration for land surveyors (IC 25-21.5-2-1).

(29) Physician assistant committee (IC 25-27.5).

(30) Indiana athletic trainers board (IC 25-5.1-2-1).

(31) Board of podiatric medicine (IC 25-29-2-1).

(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana physical therapy committee (IC 25-27).
(34) Manufactured home installer licensing board (IC 25-23.7).
(35) Home inspectors licensing board (IC 25-20.2-3-1).
(36) State board of massage therapy (IC 25-21.8-2-1)
(37) Any other occupational or professional agency created after June 30, 1981.

As added by Acts 1981, P.L.223, SEC.1. Amended by P.L.250-1983, SEC.1; P.L.246-1985, SEC.16; P.L.169-1985, SEC.30; P.L.19-1986, SEC.42; P.L.149-1987, SEC.22; P.L.257-1987, SEC.16; P.L.3-1989, SEC.144; P.L.234-1989, SEC.4; P.L.186-1990, SEC.6; P.L.183-1991, SEC.4; P.L.23-1991, SEC.10; P.L.48-1991, SEC.17; P.L.1-1992, SEC.131; P.L.30-1993, SEC.6; P.L.33-1993, SEC.12; P.L.213-1993, SEC.3; P.L.227-1993, SEC.6; P.L.1-1994, SEC.121; P.L.124-1995, SEC.5; P.L.234-1995, SEC.4; P.L.147-1997, SEC.9; P.L.84-1998, SEC.4; P.L.24-1999, SEC.5; P.L.82-2000, SEC.5; P.L.162-2002, SEC.5; P.L.2-2003, SEC.64; P.L.145-2003, SEC.5; P.L.185-2007, SEC.5; P.L.200-2007, SEC.6; P.L.3-2008, SEC.179; P.L.122-2009, SEC.6; P.L.160-2009, SEC.8, P.L. 84-2010, SEC. 14.

IC 25-1-8-1.1 Repealed

(*Repealed by P.L.19-1986, SEC.43.)*

IC 25-1-8-2 Fees; establishment and collection

Sec. 2. (a) Notwithstanding any other provision regarding the fees to be assessed by a board, a board shall establish by rule and cause to be collected fees for the following:

(1) Examination of applicants for licensure, registration, or certification.
(2) Issuance, renewal, or transfer of a license, registration, or certificate.
(3) Restoration of an expired license, registration, or certificate when such action is authorized by law.
(4) Issuance of licenses by reciprocity or endorsement for out-of-state applicants.
(5) Issuance of board or committee reciprocity or endorsements for practitioners licensed, certified, or registered in Indiana who apply to another state for a license.

No fee shall be less than twenty-five dollars ($25) unless the fee is collected under a rule adopted by the board which sets a fee for miscellaneous expenses incurred by the board on behalf of the practitioners the board regulates.

(b) Fees established by statute shall remain in effect until replaced by a new fee adopted by rule under this section.

(c) In no case shall the fees be less than are required to pay all of the costs, both direct and indirect, of the operation of the board.

(d) For the payment of fees, a board shall accept cash, a draft, a money order, a cashier's check, and a certified or other personal check. If a board receives an uncertified personal check for the payment of a fee and if the check does not clear the bank, the board may void the license, registration, or certificate for which the check was received.

(e) Unless designated by rule, a fee is not refundable.

(f) A board shall charge a fee of not more than ten dollars ($10) for the issuance of a duplicate license, registration, or certificate.

As added by Acts 1981, P.L.223, SEC.1. Amended by Acts 1982, P.L.113, SEC.13; P.L.169-1985, SEC.31; P.L.48-1991, SEC.18; P.L.33-1993, SEC.13; P.L.235-1995, SEC.1; P.L.197-2007, SEC.19.

IC 25-1-8-3 Quadrennial license or registration cycle; refunds

Sec. 3. (a) A board, operating on a quadrennial license, registration, or certificate renewal cycle, shall refund one-half (1/2) of the amount of the license, registration, or certificate fee if the holder of the license, registration, or certificate surrenders it at least two (2) years before it expires.

(b) This section does not apply to the holder of a license, registration, or certificate revoked or suspended by the board.

As added by Acts 1982, P.L.113, SEC.14.

IC 25-1-8-4 Quadrennial license renewal system

Sec. 4. (a) Notwithstanding any law establishing a biennial license renewal system, a board operating on such a system may by rule establish a quadrennial license renewal system.

(b) If a board establishes a quadrennial license renewal system, it may provide for a reduction in the fees for the four (4) year license.

As added by P.L.234-1983, SEC.3.

IC 25-1-8-5 Employment of professionals for testing; examination on statutes, rules, and regulations; standards of review

Sec. 5. (a) Notwithstanding any statutory provisions regarding the administration of examinations, a board or committee may employ organizations or additional professionals to assist in the preparation, administration, and scoring of licensing examinations.

(b) A board or committee may require applicants for licensure, certification, or registration by examination, endorsement, or reciprocity to pass a test on the state or federal statutes, state rules, and federal regulations that the board or committee determines by rule to be relevant to the practice of a regulated profession.

(c) A board or committee may enter into a contract with a testing company or national association to set the standards of review for an examination by an applicant for licensure, certification, or registration. The standards of review may include:

(1) setting fees for review;
(2) requiring that an examination remain confidential; and
(3) prohibiting the release of the examination or copies of the examination.

As added by P.L.169-1985, SEC.32. Amended by P.L.152-1988, SEC.5; P.L.48-1991, SEC.19.

IC 25-1-8-6 Reinstatement of delinquent or lapsed licenses

Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana athletic trainers board (IC 25-5.1-2-1).
(4) Indiana auctioneer commission (IC 25-6.1-2-1).
(5) Board of chiropractic examiners (IC 25-10-1).
(6) State board of cosmetology and barber examiners (IC 25-8-3-1).
(7) State board of dentistry (IC 25-14-1).
(8) Indiana dietitians certification board (IC 25-14.5-2-1).
(9) State board of registration for professional engineers (IC 25-31-1-3).
(10) State board of funeral and cemetery service (IC 25-15-9).
11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Committee of hearing aid dealer examiners (IC 25-20-1-1.5).
(13) Home inspectors licensing board (IC 25-20.2-3-1).
(14) State board of registration for land surveyors (IC 25-21.5-2-1).
(15) Manufactured home installer licensing board (IC 25-23.7).
(16) Medical licensing board of Indiana (IC 25-22.5-2).
(17) Indiana state board of nursing (IC 25-23-1).
(18) Occupational therapy committee (IC 25-23.5).
(19) Indiana optometry board (IC 25-24).
(20) Indiana board of pharmacy (IC 25-26).
(21) Indiana physical therapy committee (IC 25-27).
(22) Physician assistant committee (IC 25-27.5).
(23) Indiana plumbing commission (IC 25-28.5-1-3).
(24) Board of podiatric medicine (IC 25-29-2-1).
(25) Private investigator and security guard licensing board (IC 25-

30-1-5.2).

(26) State psychology board (IC 25-33).

(27) Indiana real estate commission (IC 25-34.1-2).

(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(29) Respiratory care committee (IC 25-34.5).

(30) *Behavioral health and human services licensing* board (IC 25-23.6).

(31) Speech-language pathology and audiology board (IC 25-35.6-2).

(32) Indiana board of veterinary medical examiners (IC 25-38.1).

(33) State board of massage therapy (IC 25-21.8-2-1). (b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

As added by P.L.269-2001, SEC.5. Amended by P.L. 206-2005, SEC. 13; P.L.157-2006, SEC.20; P.L.185-2007, SEC.6; P.L.197-2007, SEC.20; P.L.3-2008, SEC.180; P.L.105-2008, SEC.2; P.L.122-2009, SEC.7; P.L.160-2009, SEC.9, P.L. 84-2010, SEC. 15.

IC 25-1-8-7 Repealed

(Repealed by P.L.157-2006, SEC.76.)

IC 25-1-8-8 License reinstatement; grounds for denial

Sec. 8. (a) As used in this section, "board" has the meaning set forth in section 6(a) of this chapter.

(b) The licensing agency may delay reinstating a license, certificate, or registration for not more than ninety (90) days after the date the applicant applies for reinstatement of a license, certificate, or registration to permit the board to investigate information received by the licensing agency that the applicant for reinstatement may have committed an act for which the applicant may be disciplined. If the licensing agency delays reinstating a license, certificate, or registration, the licensing agency shall notify the applicant that the applicant is being investigated. Except as provided in subsection (c), the board shall do one (1) of the following before the expiration of the ninety (90) day period:

(1) Deny reinstatement of the license, certificate, or registration following a personal appearance by the applicant before the board.

(2) Reinstate the license, certificate, or registration upon satisfaction of all other requirements for reinstatement.

(3) Reinstate the license and file a complaint under IC 25-1-7.

(4) Request the office of the attorney general to conduct an investigation under subsection (d) if, following a personal appearance by the applicant before the board, the board has good cause to believe that the applicant engaged in activity described in IC 25-1-9-4 or IC 25-1-11-5.

(5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, reinstate the license, certificate, or registration and place the applicant on probation status under IC 25-1-9-9 or IC 25-1-11-12.

(c) If an applicant fails to appear before the board under subsection (b), the board may take action as provided in subsection (b)(1), (b)(2), or (b)(3).

(d) If the board makes a request under subsection (b)(4), the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4 or IC 25-1-11-5. If the office of the attorney general files a petition, the board shall set the matter for a public hearing. If, after a public hearing, the board finds that the applicant violated IC 25-1-9-4 or IC 25-1-11-5, the board may impose sanctions under IC 25-1-9-9 or IC 25-1-11-12. The board may delay reinstating a license, certificate, or registration beyond ninety (90) days after the date the applicant files an application for reinstatement of a license, certificate, or registration until a final determination is made by the board.

(e) The license, certificate, or registration of the applicant for license reinstatement remains invalid during the ninety (90) day period unless:

(1) the license, certificate, or registration is reinstated following a personal appearance by the applicant before the board before the end of the ninety (90) day period;

(2) the board issues a conditional license to the practitioner that is effective until the reinstatement is denied or the license is reinstated; or

(3) the reinstatement is denied.

If the ninety (90) day period expires without action by the board, the license, certificate, or registration shall be automatically reinstated at the end of the ninety (90) day period.

As added by P.L.197-2007, SEC.21.

INDIANA CODE § 25-1-10

Chapter 10. Reserved

INDIANA CODE § 25-1-11

Chapter 11. Professional Licensing Standards of Practice

IC 25-1-11-1 "Board" defined

Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).
(2) Board of registration for architects and landscape architects (IC 25-4-1-2).
(3) Indiana auctioneer commission (IC 25-6.1-2).
(4) State athletic commission (IC 25-9-1).
(5) State board of cosmetology and barber examiners (IC 25-8-3-1).
(6) State board of registration of land surveyors (IC 25-21.5-2-1).
(7) State board of funeral and cemetery service (IC 25-15-9).
(8) State board of registration for professional engineers (IC 25-31-1-3).
(9) Indiana plumbing commission (IC 25-28.5-1-3).
(10) Indiana real estate commission (IC 25-34.1-2-1).
(11) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(12) Private investigator and security guard licensing board (IC 25-30-1-5.2).
(13) Manufactured home installer licensing board (IC 25-23.7).
(14) Home inspectors licensing board (IC 25-20.2-3-1)
(15) State board of massage therapy (IC 25-21.8-2-1)

As added by P.L.214-1993, SEC.1. Amended by P.L.2-1995, SEC.93; P.L.234-1995, SEC.5; P.L.82-2000, SEC.6; P.L.162-2002, SEC.6; P.L.145-2003, SEC.6; P.L.185-2007, SEC.7; P.L.200-2007, SEC.7; P.L.3-2008, SEC.181; P.L.160-2009, SEC.10, P.L. 84-2010 SEC. 18.

IC 25-1-11-2 "Practitioner" defined

Sec. 2. As used in this chapter, "practitioner" means a person that holds:

(1) an unlimited license, certificate, registration, or permit;
(2) a limited or probationary license, certificate, registration, or permit;
(3) a temporary license, certificate, registration, or permit;
(4) an intern permit; or
(5) an inactive license;

issued by the board regulating a profession.

As added by P.L.214-1993, SEC.1. Amended by P.L.236-1995, SEC.1.

IC 25-1-11-3 "License" defined

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

As added by P.L.214-1993, SEC.1.

IC 25-1-11-4 "Person" defined

Sec. 4. As used in this chapter, "person" means an individual, a partnership, a corporation, or a limited liability company.

As added by P.L.214-1993, SEC.1. Amended by P.L.236-1995, SEC.2.

IC 25-1-11-5 Practitioner compliance with professional standards; findings; meriting disciplinary sanctions

Sec. 5. (a) A practitioner shall comply with the standards established by the board regulating a profession. A practitioner is subject to the exercise of the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that:

(1) a practitioner has:
(A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;
(B) engaged in fraud or material deception in the course of professional services or activities;
(C) advertised services or goods in a false or misleading manner; or
(D) been convicted of a crime or assessed a civil penalty involving fraudulent billing practices.
(2) a practitioner has been convicted of a crime that:
(A) has a direct bearing on the practitioner's ability to continue to practice competently; or
(B) is harmful t o the public.
(3) a practitioner has knowingly violated a state statute or rule or federal statute or regulation regulating the profession for which the practitioner is licensed;
(4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:
(A) professional incompetence, including undertaking professional activities that the practitioner is not qualified by training or experience to undertake;
(B) failure to keep abreast of current professional theory or practice;
(C) physical or mental disability; or
(D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
(6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;
(7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any state or jurisdiction on grounds similar to those under this chapter;
(8) a practitioner has assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter;
(9) a practitioner has allowed a license issued by a board to be:
(A) used by another person; or
(B) displayed to the public when the license has expired, is inactive, or has been revoked or suspended; or
(10) a practitioner has failed to comply with an order imposing a sanction under section 12 of this chapter.

(b) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the board may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the board. An applicant who is aggrieved by a decision of the board under this section is entitled to hearing and appeal rights under the Indiana administrative rules and procedures act (IC 4-21.5).

(c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).

As added by P.L.214-1993, SEC.1. Amended by P.L.84-1998, SEC.6; P.L.113-1999, SEC.1; P.L.197-2007, SEC.24.

IC 25-1-11-6 Architect or landscape architect; grounds for disciplinary sanctions

Sec. 6. A practitioner registered as an architect or a landscape architect is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that the practitioner has:

(1) permitted the practitioner's seal to be affixed to plans, specifications, or drawings that were not prepared by the practitioner

or under the practitioner's personal supervision by the practitioner's regularly employed subordinates; or

(2) used the title "engineer" or advertised to practice engineering and is not registered under IC 25-31-1.

As added by P.L.214-1993, SEC.1.

IC 25-1-11-7 Auctioneers; grounds for disciplinary sanctions

Sec. 7. A practitioner licensed to practice auctioneering is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that the practitioner has failed to:

(1) account and to make payment under IC 25-6.1-6-2; or

(2) keep the funds of others separate from the practitioner's own private accounts.

As added by P.L.214-1993, SEC.1.

IC 25-1-11-8 Barbers; grounds for disciplinary sanctions

Sec. 8. A practitioner registered as a barber is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that the practitioner has continued to practice barbering while the practitioner has an infectious, a contagious, or a communicable disease that has been epidemiologically demonstrated to be transmitted through casual contact during the scope of practice of barbering.

As added by P.L.214-1993, SEC.1.

IC 25-1-11-9 Engineers or land surveyors; grounds for disciplinary sanctions

Sec. 9. A practitioner registered as an engineer or a land surveyor is subject to the disciplinary sanctions under section 12 of this chapter if, after a hearing, the board finds that the practitioner:

(1) has permitted the practitioner's seal to be affixed to plans, specifications, or drawings not prepared by the practitioner or under the practitioner's personal supervision by the practitioner's regularly employed subordinates;

(2) has used the title "architect" or advertised to practice architecture and is not registered under IC 25-4-1.

As added by P.L.214-1993, SEC.1.

IC 25-1-11-9.5 Repealed

(Repealed by P.L. 194-2005, SEC. 87.)

IC 25-1-11-10 Physical and mental examination of practitioner

Sec. 10. The board may order a practitioner to submit to a reasonable physical or mental examination, at the practitioner's expense, if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding.

As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.1. Amended by P.L. 194-2005, SEC. 7.

IC 25-1-11-11 Refusal of physical or mental examination; summary suspension

Sec. 11. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 13 of this chapter.

As added by P.L.214-1993, SEC.1.

IC 25-1-11-12 Sanctions for violations

Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

(1) Permanently revoke a practitioner's license.

(2) Suspend a practitioner's license.

(3) Censure a practitioner.

(4) Issue a letter of reprimand.

(5) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the board upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the board;

(C) continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation;

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner; or

(E) satisfactorily complete a quality review (before July 1, 2012) or peer review (after June 30, 2012) specified by the board as a condition for termination of probationary status if the practitioner is a licensee (as defined in IC 25-2.1-1-8).

(6) Assess a civil penalty against the practitioner for not more than one thousand dollars ($1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.

(7) Order a practitioner to pay consumer restitution to a person who suffered damages as a result of the conduct or omission that was the basis for the disciplinary sanctions under this chapter.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

As added by P.L.214-1993, SEC.1. Amended by P.L.32-2000, SEC.12; P.L.177-2009, SEC.17; P.L.197-2011, SEC.74.

IC 25-1-11-13 Summary suspension of practitioners; real estate appraisers; notification by consumer protection division

Sec. 13. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for not more than ninety (90) days.

(b) The board may summarily suspend the license of a real estate appraiser for ninety (90) days before a final adjudication or during the appeals process if the board finds that the licensed real estate appraiser has engaged in material and intentional misrepresentations or omissions in the preparation of at least three (3) written appraisal reports that were submitted by a person to obtain a loan. The summary suspension may be renewed after a hearing before the board. Each renewal of a summary suspension may be for not more than ninety (90) days.

(c) Before the board may summarily suspend a license under this section, the consumer protection division of the office of the attorney general office shall make a reasonable attempt to notify a practitioner of:

(1) a hearing by the board to suspend the practitioner's license: and

(2) information regarding the allegation against the practitioner.

The consumer protection division of the office of the attorney general shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to notify the practitioner is made if the consumer protection division of the office of the attorney general attempts to notify the practitioner by

telephone or facsimile at the last telephone number or facsimile number of the practitioner on file with the board.
As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.2; P.L.197-2007, SEC.25; P.L.209-2007, SEC.3; P.L.3-2008, SEC.182.

IC 25-1-11-14 Reinstatement of suspended license
Sec. 14. The board may reinstate a license that has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.
As added by P.L.214-1993, SEC.1. Amended by P.L.178-1997, SEC.3.

IC 25-1-11-15 Reinstatement of revoked license
Sec. 15. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.
As added by P.L.214-1993, SEC.1.

IC 25-1-11-16 Consistency of sanctions
Sec. 16. The board shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.
As added by P.L.214-1993, SEC.1.

IC 25-1-11-17 Surrender of practitioner license
Sec. 17. (a) Except as provided in subsection (b), a practitioner may petition the board to accept the surrender of the practitioner's license instead of having a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.
(b) The board may not approve the surrender of a practitioner's license under subsection (a) if the office of the attorney general:
(1) has filed an administrative complaint concerning the practitioner's license; and
(2) opposes the surrender of the practitioner's license.
As added by P.L.214-1993, SEC.1. Amended by P.L.105-2009, SEC.13; P.L.52-2009, SEC.10.

IC 25-1-11-18 Costs; practitioners subjected to sanctions
Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:
(1) Court reporters.
(2) Transcripts.
(3) Certification of documents.
(4) Photo duplication.
(5) Witness attendance and mileage fees.
(6) Postage.
(7) Expert witnesses.
(8) Depositions.
(9) Notarizations.
(10) Administrative law judges.
(11) Real estate review appraisals, if applicable.
As added by P.L.214-1993, SEC.1. Amended by P.L. 194-2005, SEC. 8; P.L.105-2009, SEC.14; P.L.52-2009, SEC.11.

IC 25-1-11-19 Refusal of licensure or granting of probationary license
Sec. 19. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:
(1) the applicant has:
(A) been disciplined by a licensing entity of another state or jurisdiction; or
(B) committed an act that would have subjected the applicant to the disciplinary process if the applicant had been licensed in Indiana when the act occurred; and
(2) the violation for which the applicant was or could have been disciplined has a bearing on the applicant's ability to competently perform or practice the profession in Indiana.
(b) The board may:
(1) refuse to issue a license; or
(2) issue a probationary license;
to an applicant for licensure if the applicant practiced without a license in violation of the law.
(c) Whenever the board issues a probationary license, the board may require a licensee to do any of the following:
(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
(2) Limit practice to the areas prescribed by the board.
(3) Continue or renew professional education requirements.
(4) Engage in community restitution or service without compensation for the number of hours specified by the board.
(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.
(d) The board shall remove any limitations placed on a probationary license under this section if the board finds after a public hearing that the deficiency that required disciplinary action has been remedied.
As added by P.L.194-2005, SEC.9. Amended by P.L.197-2007, SEC.26.

IC 25-1-11-20 Applicant appearance before board
Sec. 20. The board may require an applicant for licensure to appear before the board before issuing a license.
As added by P.L. 194-2005, SEC. 10.

IC 25-1-11-21 Adoption of rules; spouses of active duty military personnel
Sec. 21. The board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance or renewal of a:
(1) license;
(2) certificate;
(3) registration; or
(4) permit;
of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana.
As added by P.L.144-2007, SEC.26.

INDIANA CODE § 25-1-12

Chapter 12. Renewal of Licenses Held by Individuals in Military Service

IC 25-1-12-1 Applicability of chapter
Sec. 1. This chapter applies to an individual who:
(1) holds a license, certificate, registration, or permit under this title, IC 16, or IC 22; and
(2) is called to active duty.
As added by P.L.88-2004, SEC.2. Amended by P.L.2-2008, SEC.61.

IC 25-1-12-2 "Active duty" defined

Sec. 2. As used in this chapter, "active duty" means full-time service in the:

(1) armed forces of the United States; or

(2) national guard;

for a period that exceeds thirty (30) consecutive days in a calendar year.

As added by P.L.88-2004, SEC.2.

IC 25-1-12-3 "Armed forces of the United States" defined

Sec. 3. As used in this chapter, "armed forces of the United States" means the active or reserve components of:

(1) the army;

(2) the navy;

(3) the air force;

(4) the coast guard;

(5) the marine corps; or

(6) the merchant marine.

As added by P.L.88-2004, SEC.2. Amended by P.L. 2-2005, SEC. 64.

IC 25-1-12-4 "National guard" defined

Sec. 4. As used in this chapter, "national guard" means:

(1) the Indiana army national guard; or

(2) the Indiana air national guard.

As added by P.L.88-2004, SEC.2.

IC 25-1-12-5 "Practitioner" defined

Sec. 5. As used in this chapter, "practitioner" means an individual who holds:

(1) an unlimited license, certificate, or registration;

(2) a limited or probationary license, certificate, or registration;

(3) a temporary license, certificate, registration, or permit;

(4) an intern permit; or

(5) a provisional license;

issued under this title, IC 16, or IC 22.

As added by P.L.88-2004, SEC.2. Amended by P.L.2-2008, SEC.62.

IC 25-1-12-6 Extension to renew license or complete continuing education; requirements for extension; additional extensions

Sec. 6. (a) Notwithstanding any other law, a practitioner who is called to active duty out-of-state and meets the requirements of subsection (b) is entitled to an extension of time described in subsection (c) to:

(1) renew; and

(2) complete the continuing education required by;

the practitioner's license, certificate, registration, or permit.

(b) The practitioner must meet the following requirements to receive the extension of time provided under subsection (a):

(1) On the date the practitioner enters active duty, the practitioner's license, certificate, registration, or permit may not be revoked, suspended, lapsed, or be the subject of a complaint under IC 25-1-7.

(2) The practitioner's license, certificate, registration, or permit must expire while the practitioner is out-of-state on active duty and the practitioner must not have received the notice of expiration before the date the practitioner entered active duty.

(3) The practitioner shall provide proof of out-of-state active duty by providing a copy of the practitioner's:

(A) discharge; or

(B) government movement orders;

to the agency, board, commission, or committee issuing the practitioner's license, certificate, registration, or permit at the time the practitioner renews the practitioner's license, certificate, registration, or permit under this chapter.

(c) The extension of time provided under subsection (a) is equal to one hundred eighty (180) days after the date of the practitioner's discharge or release from active duty.

(d) The agency, board, commission, or committee that issued the practitioner's license, certificate, registration, or permit may extend the period provided in subsection (c) if the agency or board determines that an illness, an injury, or a disability related to the practitioner's active duty prevents the practitioner from renewing or completing the continuing education required for the practitioner's license, certificate, registration, or permit. However, the agency, board, commission, or committee may not extend the period for longer than three hundred sixty-five (365) days after the date of the practitioner's discharge or release from active duty.

As added by P.L.88-2004, SEC.2. Amended by P.L. 2-2005, SEC. 65.

IC 25-1-12-7 Waiver of late fees

Sec. 7. Any late fees that may be assessed against a practitioner in connection with a renewal under this chapter are waived.

As added by P.L.88-2004, SEC.2.

IC 25-1-12-8 Construction with federal law

Sec. 8. This chapter may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of:

(1) the armed forces of the United States; or

(2) the national guard;

under federal law.

As added by P.L.88-2004, SEC.2.

INDIANA CODE § 25-1-14

Chapter 14. Meetings

IC 25-1-14 Version a

Chapter 14. Meetings

Note: This version of chapter effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.

IC 25-1-14-1 Version a

Applicability

Note: This version of section effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.

Sec. 1. This section applies to a meeting of a board, committee, or commission listed in IC 25-1-5-3 or IC 25-1-6-3.

As added by P.L.179-2007, SEC.14.

IC 25-1-14-2 Version a

Participation by member not physically present at meeting

Note: This version of section effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.

Sec. 2. (a) A member of a board, committee, or commission may participate in a meeting of the board, committee, or commission:

(1) except as provided in subsection (b), at which at least a quorum is physically present at the place where the meeting is conducted; and

(2) by using a means of communication that permits:

(A) all other members participating in the meeting; and

(B) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(b) A member of a board, committee, or commission may participate in an emergency meeting of the board, committee, or commission to consider disciplinary sanctions under IC 25-1-9-10 or IC 25-1-11-13 by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member who participates in a meeting under subsection (b):

(1) is considered to be present at the meeting;
(2) shall be counted for purposes of establishing a quorum; and
(3) may vote at the meeting.
As added by P.L.179-2007, SEC.14. Amended by P.L.105-2008, SEC.3; P.L.160-2009, SEC.11; P.L.113-2010, SEC.104.

IC 25-1-14-3 Version a
Member considered present
Note: This version of section effective until 1-1-2013. See also following repeal of this chapter, effective 1-1-2013.
Sec. 3. A member who participates in a meeting under section 2 of this chapter:
(1) is considered to be present at the meeting;

INDIANA CODE § 25-1-16

Chapter 16. Evaluation of regulated occupations

Chapter 16. Evaluation of Regulated Occupations
Sec. 1. As used in this chapter, "agency" refers to the Indiana professional licensing agency.
Sec. 2. As used in this chapter, "board" means an entity that regulates a specific regulated occupation.
Sec. 3. As used in this chapter, "committee" means the regulated occupations evaluation committee established by section 6 of this chapter.
Sec. 4. As used in this chapter, "license" means:
(1) an unlimited license, certificate, or registration;
(2) a limited or probationary license, certificate, or registration;
(3) a temporary license, certificate, registration, or permit;
(4) an intern permit; or
(5) a provisional license;
issued by the board regulating the regulated occupation in question.
Sec. 5. As used in this chapter, "regulated occupation" has the meaning set forth in IC 25-1-7-1.
Sec. 6. The regulated occupations evaluation committee is established.

Sec. 7. (a) The committee consists of the following individuals:
(1) The dean of the Indiana University School of Public and Environmental Affairs or the dean's designee. The dean or the dean's designee shall serve as chairperson of the committee.
(2) The director of the agency or the director's designee.
(3) The attorney general or the attorney general's designee, as a nonvoting member.
(4) Two (2) individuals appointed by the governor who are licensed in a regulated occupation.
(5) Two (2) individuals appointed by the governor who are not licensed in a regulated occupation.
(b) The term of a member appointed under subsection (a)(4) or (a)(5) is three (3) years.
(c) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure.
Sec. 8. (a) The committee shall review and evaluate each regulated occupation. The review and evaluation must include the following:
(1) The functions, powers, and duties of the regulated occupation and the board, including any functions, powers, or duties that are inconsistent with current or projected practice of the occupation.
(2) An assessment of the management efficiency of the board.
(3) An assessment of the regulated occupation's and the board's ability to meet the objectives of the general assembly in licensing the regulated occupation.
(4) Any other criteria identified by the committee.
(b) The committee shall prepare a report concerning each regulated occupation that the committee reviews and evaluates. The report must contain the following:
(1) The number of individuals who are licensed in the regulated occupation.
(2) A summary of the board's functions and actions.
(3) The budget and other fiscal factors of regulating the regulated occupation.
(4) An assessment of the effect of the regulated occupation on the state's economy, including consumers and businesses.
(5) Any recommendations for legislation, including whether a regulated occupation should be modified, combined with another board, or terminated.
(6) Any recommendations for administrative changes.

Sec. 9. (a) A board shall cooperate with the committee, as the committee determines is necessary in the committee's review and evaluation of the board.
(b) The committee shall allow testimony concerning each regulated occupation that is being reviewed and evaluated.
Sec. 10. The committee shall establish a schedule to review and evaluate each regulated occupation. Each regulated occupation must be reviewed and evaluated at least every seven (7) years.
Sec. 11. (a) The agency shall provide staff and administrative support to the committee.
(b) The committee may hire, with approval of the director of the agency, an individual to assist the committee.
(c) The expenditures of the committee shall be paid from appropriations to the agency.
Sec. 12. (a) Each member of the committee who is not a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
(b) Each member of the committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.
Sec. 13. The committee shall submit a report to the:
(1) governor;
(2) health finance commission; and
(3) legislative services agency;
not later than July 1 of each year. The report submitted to the legislative services agency must be in an electronic format under IC 5-14-6.
As added by P.L. 84-2010, SEC. 19.

INDIANA CODE § 25-1-17

Chapter 17.
Licensure of Individuals with Military Training; Licensure of Military Spouses

Sec. 1. As used in this chapter, "board" has the meaning set forth in IC 25-1-8-1.
Sec. 2. As used in this chapter, "military service" means service performed while an active member of any of the following:
(1) The armed forces of the United States.
(2) A reserve component of the armed forces of the United States.
(3) The National Guard.

Sec. 3. As used in this chapter, "military spouse" means the husband or wife of an individual who is a member of the armed forces of the United States.

Sec. 4. Notwithstanding any other law, a board shall issue a license, certificate, registration, or permit to a military service applicant to allow the applicant to practice the applicant's occupation in Indiana if, upon application to a licensing board, the applicant satisfies the following conditions:

(1) Has:

(A) completed a military program of training;

(B) been awarded a military occupational specialty; and

(C) performed in that occupational specialty;

at a level that is substantially equivalent to or exceeds the academic or experience requirements for a license, certificate, registration, or permit of the board from which the applicant is seeking licensure, certification, registration, or a permit.

(2) Has engaged in the active practice of the occupation for which the person is seeking a license, certificate, registration, or permit from the board for at least two (2) of the five (5) years preceding the date of the application under this section.

(3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license, certificate, registration, or permit to practice that occupation in Indiana at the time the act was committed.

(4) Pays the fees required by the board from which the applicant is seeking licensure, certification, registration, or a permit.

Sec. 5. Notwithstanding any other law, a board shall issue a license, certificate, registration, or permit to a military spouse to allow the military spouse to practice the military spouse's occupation in Indiana if, upon application to the board, the military spouse satisfies the following conditions:

(1) Holds a current license, certification, registration, or permit from another jurisdiction, and that jurisdiction's requirements for a license, certificate, registration, or permit are substantially equivalent to or exceed the requirements for a license, certificate, registration, or permit of the board from which the applicant is seeking licensure, certification, registration, or a permit.

(2) Can demonstrate competency in the occupation through methods as determined by the board, including having completed continuing education units or having had recent experience for at least two (2) of the five (5) years preceding the date of the application under this section.

(3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license, certificate, registration, or permit to practice that occupation in Indiana at the time the act was committed.

(4) Is in good standing and has not been disciplined by the agency that has jurisdiction to issue the license, certification, registration, or permit.

(5) Pays any fees required by the occupational licensing board for which the applicant is seeking licensure, certification, registration, or a permit.

Sec. 6. (a) All relevant experience of a:

(1) military service member in the discharge of official duties; or

(2) military spouse, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity;

must be credited in the calculation of years of practice in an occupation as required under section 4 or 5 of this chapter.

(b) In determining if a military service member substantially meets the academic requirements for a license, certificate, registration, or permit issued by a board, the board shall consider the recommendations in the Guide to the Evaluation of Educational Experiences in the Armed Services published by the American Council on Education, or the council's successor organization.

Sec. 7. A nonresident who is issued a license, certificate, registration, or permit under this chapter is entitled to the same rights and subject to the same obligations as required of a resident who is issued a license, certificate, registration, or permit by a board.

Sec. 8. (a) Notwithstanding any other law, a board may issue a temporary practice permit or provisional license to a:

(1) military service applicant; or

(2) military spouse who is licensed, certified, registered, or issued a permit in another jurisdiction;

while the military service applicant or military spouse is satisfying certain requirements, as determined by the board, for a license, certificate, registration, or permit under section 4 or 5 of this chapter.

(b) The military service applicant or military spouse may practice under the temporary practice permit or provisional license issued under subsection (a) until:

(1) a license, certification, registration, or permit is granted or denied by the board;

(2) a temporary permit expires; or

(3) a provisional license holder fails to comply with the terms of the provisional license.

Sec. 9. A board may adopt rules under IC 4-22-2 necessary to implement this chapter.

Sec. 10. This chapter does not prohibit a military service applicant or military spouse from proceeding under other licensure, certification, registration, or permit requirements established by a board.

As added by Acts 2012, P.L, 7-2012, SEC. 1.

Non-Code Provision under Public Law 206-2005

P.L. 206-2005, SECTION 16

(a) The rules adopted by the health professions bureau before July 1, 2005, and in effect on June 30, 2005, shall be treated after June 30, 2005, as the rules of the Indiana professional licensing agency.

(b) On July 1, 2005, the Indiana professional licensing agency becomes the owner of all of the property of the health professions bureau. An appropriation made to the health professions bureau shall be treated after June 30, 2005, as an appropriation to the Indiana professional licensing agency.

(c) Any reference in a law, a rule, a license, a registration, a certification, or an agreement to the health professions bureau shall be treated after June 30, 2005, as a reference to the Indiana professional licensing agency.

Non-Code Provision under Public Law 134-2012

P.L. 134-2012, SECTION 28.

Non-Code Provision under Public Law 134-2012

P.L. 134-2012, SECTION 28.

EFFECTIVE JANUARY 1, 2013]:

Sec. 3. (a) Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them.

(b) A secret ballot vote may not be taken at a meeting.

(c) A meeting conducted in compliance with IC 5-1.5-2-2.5 section

3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication does not violate this section.
(d) A member of the governing body of a public agency who is not physically present at a meeting of the governing body but who communicates with members of the governing body during the meeting by telephone, computer, videoconferencing, or any other electronic means of communication:
(1) may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute; and
(2) may not be considered to be present at the meeting unless considering the member to be present at the meeting is expressly authorized by statute.
(e) The memoranda of a meeting prepared under section 4 of this chapter that a member participates in by using a means of communication described in subsection (d) must state the name of:
(1) each member who was physically present at the place where the meeting was conducted;
(2) each member who participated in the meeting by using a means of communication described in this section; and
(3) each member who was absent.

SECTION 11. IC 5-14-1.5-3.5

Sec. 3.5. (a) This section applies only to a governing body of a public agency of a political subdivision.
(b) A member of the governing body of a public agency who is not physically present at a meeting of the governing body but who communicates with members of the governing body during the meeting by telephone, computer, video conferencing, or any other electronic means of communication:
(1) may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute; and
(2) may not be considered to be present at the meeting unless considering the member to be present at the meeting is expressly authorized by statute.
(c) The memoranda prepared under section 4 of this chapter for a meeting in which a member participates by using a means of communication described in subsection (b) must state the name of:
(1) each member who was physically present at the place where the meeting was conducted;
(2) each member who participated in the meeting by using a means of communication described in subsection (b); and
(3) each member who was absent.

SECTION 12. IC 5-14-1.5-3.6

Sec. 3.6. (a) This section applies only to a governing body of a public agency of the state, including a body corporate and politic established as an instrumentality of the state.
(b) A member of the governing body of a public agency who is not physically present at a meeting of the governing body may participate in a meeting of the governing body by electronic communication only if the member uses a means of communication that permits:
(1) the member;
(2) all other members participating in the meeting;
(3) all members of the public physically present at the place where the meeting is conducted; and
(4) if the meeting is conducted under a policy adopted under subsection (g)(7), all members of the public physically present at a public location at which a member participates by means of electronic communication;
to simultaneously communicate with each other during the meeting.
(c) The governing body must fulfill both of the following requirements for a member of the governing body to participate in a meeting by electronic communication:
(1) This subdivision does not apply to committees appointed by a board of trustees of a state educational institution. The minimum number of members who must be physically present at the place where the meeting is conducted must be the greater of:
(A) two (2) of the members; or
(B) one-third (1/3) of the members.
(2) All votes of the governing body during the electronic meeting must be taken by roll call vote.
Nothing in this section affects the public's right under this chapter to attend a meeting of the governing body at the place where the meeting is conducted and the minimum number of members is physically present as provided for in subdivision (1).
(d) Each member of the governing body is required to physically attend at least one (1) meeting of the governing body annually.
(e) Unless a policy adopted by a governing body under subsection (g) provides otherwise, a member who participates in a meeting by electronic communication:
(1) is considered to be present at the meeting;
(2) shall be counted for purposes of establishing a quorum; and
(3) may vote at the meeting.
(f) A governing body may not conduct meetings using a means of electronic communication until the governing body:
(1) meets all requirements of this chapter; and
(2) by a favorable vote of a majority of the members of the governing body, adopts a policy under subsection (g) governing participation in meetings of the governing body by electronic communication.
(g) A policy adopted by a governing body to govern participation in the governing body's meetings by electronic communication may do any of the following:
(1) Require a member to request authorization to participate in a meeting of the governing body by electronic communication within a certain number of days before the meeting to allow for arrangements to be made for the member's participation by electronic communication.
(2) Subject to subsection (e), limit the number of members who may participate in any one (1) meeting by electronic communication.
(3) Limit the total number of meetings that the governing body may conduct in a calendar year by electronic communication.
(4) Limit the number of meetings in a calendar year in which any one (1) member of the governing body may participate by electronic communication.
(5) Provide that a member who participates in a meeting by electronic communication may not cast the deciding vote on any official action.
(6) Require a member participating in a meeting by electronic communication to confirm in writing the votes cast by the member during the meeting within a certain number of days after the date of the meeting.
(7) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings of the governing body, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication. If the governing body's policy includes this provision, a meeting notice must provide the following information:
(A) The identity of each member who will be physically

present at a public place and participate in the meeting by electronic communication.
(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.
(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.
(8) Require at least a quorum of members to be physically present at the location where the meeting is conducted.
(9) Provide that a member participating by electronic communication may vote on official action only if, subject to subsection (e), a specified number of members:
(A) are physically present at the location where the meeting is conducted; and
(B) concur in the official action.
(10) Establish any other procedures, limitations, or conditions that govern participation in meetings of the governing body by electronic communication and are not in conflict with this chapter.
(h) The policy adopted by the governing body must be posted on the Internet web site of the governing body or the public agency.
(i) Nothing in this section affects a public agency's right to exclude the public from an executive session in which a member participates by electronic communication.

TITLE 832. STATE BOARD OF FUNERAL AND CEMETERY SERVICE

ARTICLE 1. GENERAL PROVISIONS (Repealed)

ARTICLE 2. GENERAL PROVISIONS

Rule 1. Definitions, Fees, and Reports

832 IAC 2-1-1 Definitions

Authority: IC 25-15-9-8
Affected: IC 23-14-31; IC 25-15-2-6; IC 25-15-2-8

Sec. 1. (a) The definitions in IC 25-15-2 and this section apply throughout this title.
(b) "Authorizing agent" has the meaning set forth in IC 23-14-31-2.
(c) "Board" means the state board of funeral and cemetery service.
(d) "Cremation" means the incineration of human remains, consistent with IC 23-14-31-8 and IC 25-15-2-6.
(e) "Cremation chamber" means the enclosed spaced where a cremation occurs, consistent with IC 23-14-31-9.
(f) "Distance learning method", for the purpose of 832 IAC 4-1, means a formal, interactive, verifiable learning exercise where:
(1) a practitioner and instructor are separated by geography or time, or both, for the majority of the instructional period; and
(2) materials are delivered through:
(A) print;
(B) audio;
(C) video;
(D) broadcasts;
(E) computer software;
(F) web-based programs; or
(G) other online technologies.
(g) "Human remains" has the meaning set forth in IC 23-14-31-16 and IC 25-15-2-8.
(h) "Licensee" means a person or entity licensed by or registered with the board.
(i) "Major stockholders" means those stockholders owning more than ten percent (10%) of the voting stock of any corporation.
(j) "Nonhuman remains" means the body of an animal other than a human. *(State Board of Funeral and Cemetery Service; 832 IAC 2-1-1; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1366; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 2-1-2 Fees

Authority: IC 25-1-8-2; IC 25-15
Affected: IC 25-1-8-6

Sec. 2. (a) The fee for application/issuance of a funeral home license under IC 25-15-4-1(3) is fifty dollars ($50).
(b) The fee for application/issuance of a funeral director intern license under IC 25-15-4-2(a)(5) is twenty-five dollars ($25).
(c) The fee for application/issuance of a funeral director license under IC 25-15-4-3(b)(7) is fifty dollars ($50).
(d) The fee for application/issuance of a funeral director license by reciprocity under IC 25-15-4-5 is fifty dollars ($50).
(e) The fee for application/issuance of a courtesy card under IC 25-15-10 is one hundred fifty dollars ($150).
(f) The fee to renew a funeral home or funeral branch location license under IC 25-15-6-2 is fifty dollars ($50).
(g) The fee to renew a funeral director license or embalmer license under IC 25-15-6-3 is fifty dollars ($50).
(h) The fee to renew a courtesy card under IC 25-15-10 is one hundred fifty dollars ($150).
(i) Five dollars ($5) of every fee collected under subsections (a) through (f) shall be deposited in the funeral service education fund.
(j) The fee to renew a funeral director intern license under IC 25-15-4-2(a)(5) is twenty-five dollars ($25).
(k) All applicants for any examination administered by the board shall pay a fee of fifty dollars ($50). The same fee shall be paid for the second and all subsequent examinations. All applicants for an examination provided or administered by a professional examination service shall pay the examination or reexamination fee assessed by the professional examination service directly to the professional examination service.
(l) Fees for reinstatement of an expired license shall be paid in accordance with IC 25-1-8-6.
(m) The fee for a duplicate wall certificate is ten dollars ($10).
(n) The fee for verification of licensure to another state or jurisdiction is ten dollars ($10). *(State Board of Funeral and Cemetery Service; 832 IAC 2-1-2; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1367; errata, 9 IR 1380; filed Aug 27, 1987, 2:30 p.m.: 11 IR 93; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1900; errata filed Nov 28, 1989, 3:00 p.m.: 13 IR 677; filed May 20, 1993, 5:00 p.m.: 16 IR 2422; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3100; errata filed Sep 23, 1996, 3:05 p.m.: 20 IR 333; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; filed Mar 28, 2003, 9:45 a.m.: 26 IR 2622; filed Feb 12, 2007, 3:53 p.m.: 20070314-IR-832060112FRA; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 2-1-3 Annual report
Authority: IC 25-15-9-8
Affected: IC 25-15-8-2
Sec. 3. The annual report of all funeral home licensees is due by the 31st day of December of each calendar year for the period ending November 30 of the same year. No annual report is due during the calendar year when a funeral home is initially licensed. The completion and filing of a license renewal application shall satisfy the annual report requirement for the calendar year of renewal.
(State Board of Funeral and Cemetery Service; 832 IAC 2-1-3; filed Jan 30, 1986, 2:23 pm: 9 IR 1367; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 2-1-4 Notice of changes in circumstances
Authority: IC 25-15-9-8
Affected: IC 25-15-8-2; IC 25-15-8-6
Sec. 4. (a) A licensee shall submit an application for a new license if there is any change in the legal entity.
(b) A "change in the legal entity" under subsection (a) includes, but is not limited to:
(1) a corporation receiving a new charter from the secretary of state;
(2) the creation of a new corporate entity that results in the change in federal employer identification number;
(3) a change in control of a corporation through new major stockholder;
(4) a change in ownership of a sole proprietorship;
(5) a change from a sole proprietorship to a corporation;
(6) a change of partner in a partnership;
(7) a partnership is ended and a new partnership is formed;
(8) a change from corporation to sole proprietorship or partnership; or
(9) the creation, or modification from prior entity status, of a limited liability partnership or a limited liability company or corporation.
(c) An applicant for a funeral home license, either to be issued to a new funeral home or as the result of a change in funeral home location, shall be submitted to the board thirty (30) days prior to the initial date of expected operation in order to permit the board to satisfy the requirements of 832 IAC 5-1-1.1. *(State Board of Funeral and Cemetery Service; 832 IAC 2-1-4; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1367; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA))*

832 IAC 2-1-5 Notifications
Authority: IC 25-15
Affected: IC 25-15-8
Sec. 5. (a) All notifications to the board as required by law, including affidavits, must be in writing and on forms prescribed by the board.
(b) Notifications include the following:
(1) A funeral director or funeral director intern must do the following:
(A) Register with the board the name and address of the funeral home in which he or she is performing services or is an agent.
(B) Notify the board and cancel the registration described in clause (A) within thirty (30) days of ceasing to perform services in or for the funeral home.
(C) Notify the board of any change of name or residential address within thirty (30) days after the change.
(2) A funeral director must file an affidavit with the board as follows:
(A) Acknowledging that the funeral director is the manager of a funeral home.
(B) Within thirty (30) days of ceasing to act as the manager of a funeral home.
(State Board of Funeral and Cemetery Service; 832 IAC 2-1-5; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1367; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

Rule 2. Licensee Obligations

832 IAC 2-2-1 Confidential information
Authority: IC 25-15-9-8
Affected: IC 25-15-8-4
Sec. 1. A licensee shall neither discuss the confidential and private matters or secrets of the domestic life of any family he or she may be called upon to serve, nor cause the dissemination of the same in such a way as to violate the privacy of the family served.
(State Board of Funeral and Cemetery Service; 832 IAC 2-2-1; filed Jan 30, 1986, 2:23 pm: 9 IR 1367; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 2-2-2 Cremation; burial permit required; written authority
Authority: IC 25-15-9-8
Affected: IC 23-14-31; IC 25-15-8-1
Sec. 2. The disposal of human remains by licensees shall be in strict compliance with applicable law. In the event disposition is to be cremation, a burial permit shall be obtained for and in connection with the cremation. No licensee shall directly or indirectly participate in the cremation of human remains without first having obtained a burial permit and written authority from the authorizing agent to cremate the decedent. *(State Board of Funeral and Cemetery Service; 832 IAC 2-2-2; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1368; errata filed Nov 28, 1989, 3:00 p.m.: 13 IR 677; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 2-2-2.1 Simultaneous cremation; unauthorized activity
Authority: IC 25-15-9-8
Affected: IC 23-14-31-39
Sec. 2.1. (a) Except as permitted by IC 23-14-31-39, human remains of more than one (1) individual shall not be simultaneously cremated within the same cremation chamber.
(b) Nonhuman remains shall not be simultaneously cremated with human remains within the same cremation chamber as used for human remains. *(State Board of Funeral and Cemetery Service; 832 IAC 2-2-2.1; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 2-2-3 Embalming rooms; embalming procedure
Authority: IC 25-15-9-8
Affected: IC 25-15-2-9; IC 25-15-2-17
Sec. 3. (a) Human remains shall not be in any way prepared for disposition by a licensee except in an approved embalming room. To be approved as an embalming room the same must meet the requirements of these rules and regulations. The room shall be located in a licensed funeral home, a school, college, or department of mortuary science

engaging in proper instruction and approved for such instruction by the board, or temporary locations approved by the state board of health of Indiana, a county coroner, or a local board of health of Indiana or officer thereof.

(b) Human remains donated to the state anatomical board shall be embalmed as required by the state anatomical board.

(c) Those licensees performing the embalming procedure shall be required to utilize protective devices, such as gloves, outer protective gowns, etc., and such other means to adequately protect the licensee.

(d) A licensee must dispose of human remains in accordance with directives of the Indiana state board of health and local health officials.

(e) Nothing in this section shall be interpreted to require embalming if the next-of-kin does not authorize embalming.

(State Board of Funeral and Cemetery Service; 832 IAC 2-2-3; filed Jan 30, 1986, 2:23 pm: 9 IR 1368; filed Mar 13, 1987, 8:30 am: 10 IR 1701; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 2-2-4 Professional conduct

Authority: IC 25-15-9-8

Affected: IC 25-15

Sec. 4. No licensee shall permit or engage in:

(1) the use of drugs or the consumption of alcohol or any other substance of similar nature that would affect the ability of a licensee to perform the duties and services for which he is licensed;

(2) the practice of funeral services except as the agent of a licensed funeral home either as an owner, employee, or under a written agreement. Nothing herein shall be construed to restrict preneed agents or cemeteries from performing duties and functions as provided by law;

(3) refusal to promptly surrender the custody of human remains upon the express order of the person who is authorized by Indiana law to make arrangements;

(4) failure to secure permit for removal or burial of human remains prior to interment or other disposal;

(5) obtaining possession or embalming human remains without first being duly authorized to do so by a relative of the deceased person or a person legally entitled to authorize such possession or embalming;

(6) directing, allowing, or permitting any individual or person who is not a licensee to perform funeral services, as defined in IC 25-15-2-17 to the extent not otherwise exempt under IC 25-15-2-10. This prohibition does not extend to the sale of funeral goods as defined in IC 25-15-2-14;

(7) a violation of any part of IC 25-15-2 thru and including IC 25-15-8 or any part of the regulations promulgated thereunder.

(State Board of Funeral and Cemetery Service; 832 IAC 2-2-4; filed Aug 6, 1986, 10:10 a.m.: 9 IR 3092; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

ARTICLE 3. EDUCATION, EXAMINATION AND LICENSURE

Rule 1. Schools

832 IAC 3-1-1 Approved college, school, or department of mortuary science

Authority: IC 25-15-9-8

Affected: IC 25-15-4-2; IC 25-15-4-3

Sec. 1. (a) For purposes of qualifying for licensure under IC 25-15-4-2(a)(4) and IC 25-15-4-3(b)(4), "accredited college, school, or department of mortuary science approved by the board" means a course of study at a school or college accredited by the American Board of Funeral Service Education, regional association of colleges and schools recognized by the United States Department of Education, or other colleges and schools as approved by the board, which address the areas of the following:

(1) Theory and practice of embalming.
(2) Restorative art.
(3) Pathology.
(4) Anatomy.
(5) Microbiology.
(6) Chemistry.
(7) Hygiene.
(8) Public health and sanitation.
(9) Ethics.

(b) Schools or colleges offering courses in mortuary science that do not meet the requirements of subsection (a) may be approved by the board upon a finding by the board that the institution substantially complies with the criteria for accreditation established by the American Board of Funeral Service Education. *(State Board of Funeral and Cemetery Service; 832 IAC 3-1-1; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1368; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

Rule 2. Internships and Examinations

832 IAC 3-2-1 Funeral director internships

Authority: IC 25-15-9-8

Affected: IC 25-15-4-2; IC 25-15-4-3

Sec. 1. (a) The one (1) year experience requirement for licensure as a funeral director provided for by IC 25-15-4-3(b)(6) may only be satisfied during the period of time that the applicant has been licensed as a funeral director intern.

(b) The successful completion of a funeral director internship must include the following:

(1) Working in a funeral home under the direct supervision of a licensed funeral director for at least one thousand five hundred (1,500) hours over a period of at least one (1) year.
(2) Assisting in the embalming of at least twenty-four (24) bodies at the rate of at least six (6) embalmings per quarter.
(3) Assisting in the arrangement, services, and disposition of at least twenty-four (24) bodies at the rate of at least six (6) bodies per quarter.

(c) Upon expiration of a funeral director intern license issued under IC 25-15-4-2, the holder may extend the license for an additional one (1) year by paying the funeral director intern license fee and otherwise meeting the requirements of IC 25-15-4-2.

(State Board of Funeral and Cemetery Service; 832 IAC 3-2-1; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1368; filed Mar 13, 1987, 8:30 a.m.: 10 IR 1701; filed Oct 12, 1988, 3:55 p.m.: 12 IR 589; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1388; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

832 IAC 3-2-1 Funeral director internships

Authority: IC 25-15-9-8

Affected: IC 25-15-4-2; IC 25-15-4-3

Sec. 1. (a) The one (1) year experience requirement for licensure as a funeral director provided for by IC 25-15-4-3(b)(6) may only be satisfied during the period of time that the applicant has been licensed as a funeral director intern.

(b) The successful completion of a funeral director internship must include the following:
(1) Working in a funeral home under the direct supervision of a licensed funeral director for at least one thousand five hundred (1,500) hours over a period of at least one (1) year.
(2) Assisting in the embalming of at least twenty-four (24) bodies at the rate of at least six (6) embalmings per quarter.
(3) Assisting in the arrangement, services, and disposition of at least twenty-four (24) bodies at the rate of at least six (6) bodies per quarter.
(c) Upon expiration of a funeral director intern license issued under IC 25-15-4-2, the holder may extend the license for an additional one (1) year by paying the funeral director intern license fee and otherwise meeting the requirements of IC 25-15-4-2.
(State Board of Funeral and Cemetery Service; 832 IAC 3-2-1; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1368; filed Mar 13, 1987, 8:30 a.m.: 10 IR 1701; filed Oct 12, 1988, 3:55 p.m.: 12 IR 589; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1388; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

832 IAC 3-2-2 Recognized funeral service intern examination
Authority: IC 25-15-9-9
Affected: IC 25-15-4-2
Sec. 2. (a) In addition to meeting the requirements in IC 25-15-4-2(a), an applicant for licensure as a funeral director intern must provide proof of the successful completion of an examination in the field of funeral service. An examination conducted by a person other than the board may satisfy the funeral service intern examination requirement provided the examination is preapproved by the board and conducted by a nationally recognized testing service that is under contract with the boards of at least three (3) other states to provide testing and grading in the field of funeral service.
(b) The examination shall consist of two (2) parts, one concerning funeral service science and the other concerning funeral service arts. To pass the examination, an individual must obtain a score of seventy-five percent (75%) or higher for the total examination. If, however, the individual scores less than seventy percent (70%) on either part of the examination, the individual will fail the examination. A score of at least seventy-five percent (75%) is required to pass a retake of either section of the examination. *(State Board of Funeral and Cemetery Service; 832 IAC 3-2-2; filed Mar 13, 1987, 8:30 a.m.: 10 IR 1701; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1901; readopted filed Oct 3, 2001, 9:50 a.m.: 25 IR 520; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 3-2-3 Funeral director intern case reports
Authority: IC 25-15-9-8
Affected: IC 25-15-4-3
Sec. 3. (a) Funeral director interns shall submit to the board a total of four (4) funeral director intern case reports. The reports shall be submitted on a quarterly basis after the date of the issuance of the funeral director intern license.
(b) The reports required under subsection (a) shall be submitted not later than thirty (30) days after the end of the quarter. Funeral director license applications will be considered incomplete until all case reports have been submitted.
(c) Funeral director intern quarterly case reports shall be on forms provided by the board and shall include a detailed report of any of the following funeral services in which the intern participated:
(1) Embalmings.
(2) First call.
(3) Assisting at funerals.
(4) Preparing death notices.
(5) Arranging funeral or memorial services.
(6) Rosary-lodge services.
(7) Preparing death certificates.
(8) Arranging for organists, soloists, or beauticians.
(9) Ship-out detail.
(10) Veterans burials.
(11) Social Security forms.
(12) Indigent funerals.
(13) Cemetery details.
(14) Assisting in the sale of merchandise.
(15) Maintenance of funeral establishment and all equipment.
(16) Preparation of sales tax for each individual service.
(17) Compliance with Federal Trade Commission rulings.
(d) The funeral director intern case reports shall be signed by the intern and the sponsoring funeral director both of whom shall provide their license numbers. *(State Board of Funeral and Cemetery Service; 832 IAC 3-2-3; filed Oct 12, 1988, 3:55 p.m.: 12 IR 589; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 3-2-4 Requirements for third and subsequent takings of funeral director license examination
Authority: IC 25-15-9-8
Affected: IC 25-15-5-3
Sec. 4. (a) Following the second failure of the funeral director examination by an applicant for a funeral director license, the applicant must provide proof of completion of five (5) hours of instruction in continuing education courses approved under 832 IAC 4-1 before each additional examination attempt.
(b) The continuing education required by subsection (a) must be obtained not earlier than ninety (90) days before the next examination attempt.
(c) The continuing education required by subsection (a) shall be directly related to Indiana funeral service law. *(State Board of Funeral and Cemetery Service; 832 IAC 3-2-4; filed Oct 12, 1988, 3:55 p.m.: 12 IR 590; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA))*

832 IAC 3-2-5 Funeral director examination; passing score
Authority: IC 25-15-9-8
Affected: IC 25-15-4-3
Sec. 5. To pass the funeral director examination, an individual must obtain a score of seventy-five percent (75%) or higher. *(State Board of Funeral and Cemetery Service; 832 IAC 3-2-5; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1902; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)*

Rule 3. Licensure

832 IAC 3-3-1 Reciprocal licensing (Repealed)
Sec. 1. *(Repealed by State Board of Funeral and Cemetery Service; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389)*

832 IAC 3-3-2 Funeral director license; out of state applicants
Authority: IC 25-15-9-8
Affected: IC 25-15-4-3; IC 25-15-4-5

Sec. 2. (a) An individual who:
(1) is licensed in another state with requirements that are substantially equal to those contained in IC 25-15-4-3(b); and
(2) meets the requirements of this section;
shall be entitled, upon application, to be licensed as a funeral director.
(b) The individual must take and pass the funeral director examination.
(c) An individual described in subsection (a):
(1) whose out of state license has:
(A) been revoked or suspended by the licensing authority in the other state; or
(B) expired; or
(2) has been placed on probation by the licensing authority in the other state;
shall not qualify for a funeral director license. *(State Board of Funeral and Cemetery Service; 832 IAC 3-3-2; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1388; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1902; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 3-3-3 Temporary permit exceptions
Authority: IC 25-15-9-8
Affected: IC 25-15-4
Sec. 3. *(Repealed by State Board of Funeral and Cemetery Service; filed Feb 12, 2007, 3:53 p.m.: 20070314-IR-832060112FRA)*

832 IAC 3-3-4 Substantially equal (Repealed)
Sec. 4. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 3-3-5 Effect of expired funeral director license
Authority: IC 25-15-9-8
Affected: IC 25-15-4
Sec. 5. An individual who held an Indiana funeral director license which has expired shall not be entitled to a license under this rule. *(State Board of Funeral and Cemetery Service; 832 IAC 3-3-5; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)*

ARTICLE 4. CONTINUING EDUCATION; LICENSE RESTORATION AND RENEWAL

Rule 1. Continuing Education

832 IAC 4-1-1 Continuing education requirements
Authority: IC 25-1-4; IC 25-15-9-8
Affected: IC 23-14-31; IC 25-15-2-22; IC 25-15-6-3; IC 30-2-13
Sec. 1. (a) Funeral directors and embalmers must complete a minimum of ten (10) hours of instruction in each two (2) year period (as defined by subsection (b)) in courses that are given by board approved sponsors. Courses must meet the following criteria:
(1) Measurements and reports must be in full hours excluding preparation time with a fifty (50) minute instruction period being equivalent to one (1) hour.
(2) The number of hours for a specific course will be determined and announced by the sponsor.
(3) A funeral director who attends the same approved continuing education course more than once in the same two (2) year period is entitled to continuing education credit for that course only once.
(4) A funeral director shall not be entitled to any continuing education credit for a course unless he or she attends the entire course.
(b) The two (2) year period within which funeral directors and embalmers must obtain a minimum of ten (10) hours of continuing education under subsection (a) extends from January 1 of each odd-numbered year to December 31 of each evennumbered year.
(c) Subject to the provisions of subsection (a)(3), a funeral director or embalmer who attends an approved continuing education course as an instructor is entitled to continuing education credit for that course.
(d) Of the minimum of ten (10) hours of instruction each funeral director and embalmer must complete within each two (2) year period, at least four (4) hours must be in one (1) or more of the following areas:
(1) Preneed burial services or merchandise under IC 30-2-13.
(2) The practice of funeral service under IC 25-15-2-22.
(3) The cremation act under IC 23-14-31.
(4) The cemetery act under IC 23-14.
(e) A funeral director or embalmer can complete not more than five
(5) hours of continuing education requirements for the two (2) year period through distance learning methods. *(State Board of Funeral and Cemetery Service; 832 IAC 4-1-1; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1369; filed Aug 27, 1987, 2:30 p.m.: 11 IR 93; filed Oct 12, 1988, 3:55 p.m.: 12 IR 590; filed Jun 18, 1990, 3:39 p.m.: 13 IR 2000; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 4-1-2 Continuing education course requirements
Authority: IC 25-1-4; IC 25-15-9-8
Affected: IC 25-15-6-3; IC 25-15-6-5
Sec. 2. To qualify and be included in the continuing education minimum hour requirement, the course must be formally organized, primarily instructional, and contribute directly to professional competence in the practice of funeral service. The following criteria must be met:
(1) The course and its sponsor must be approved by the board prior to the time it is conducted.
(2) An outline of the course shall be prepared and distributed to attendees. The outline shall state the number of applicable continuing education hours.
(3) The course is at least one (1) instructional hour of fifty (50) minutes in length.
(4) The course is conducted by a qualified instructor.
(5) A continuing education hour rating is determined by the sponsor.
(6) The course must cover one (1) or more of the following subjects:
(A) Business administration.
(B) Religion.
(C) Natural sciences.
(D) Management services-systems, cost, budget, merger and acquisition, data processing, etc.
(E) Preneed services.
(F) Restorative art/embalming.
(G) Funeral service counseling.
(H) Funeral service merchandising.
(I) Funeral customs.
(J) Communicable diseases including transmission, sterilization techniques, and risk education methods in the practice of professional services.
(7) The course is not given during meals.

(8) Mandatory annual courses or programs that are taken for the purpose of complying with applicable federal and state laws and regulations of the United States Occupational Safety and Health Administration (OSHA) and the Indiana occupational and safety standards commission are in addition to the continuing education requirements required under this article.

(State Board of Funeral and Cemetery Service; 832 IAC 4-1-2; filed Jan 30, 1986, 2:22 p.m.: 9 IR 1373; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1902; filed Jun 18, 1990, 3:39 p.m.: 13 IR 2000; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

832 IAC 4-1-2.1 Continuing education credit sponsored by the board

Authority: IC 25-15-9-8

Affected: IC 25-15-6-3; IC 25-15-6-5

Sec. 2.1. Continuing education credit may be given for courses sponsored by the board where the recordkeeping requirements of 832 IAC 4-1-3 are assigned to a previously approved sponsor. *(State Board of Funeral and Cemetery Service; 832 IAC 4-1-2.1; filed Mar 13, 1987, 8:30 am: 10 IR 1701; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)*

832 IAC 4-1-3 Sponsors

Authority: IC 25-1-4; IC 25-15-9-8

Affected: IC 25-15-6-3; IC 25-15-6-5

Sec. 3. (a) All sponsors of continuing education courses shall submit an application for approval by the board. Approved sponsors must do the following:

(1) Maintain an accurate record of course attendance showing date, place, and name and state board license number of attendee.

(2) Maintain a copy of the course outline and the attendance records for four (4) years following presentation of the course.

(3) Provide upon request by an attendee, verification of attendance stating the date and subject of the course, and the number of continuing education hours.

(b) Notwithstanding subsection (a), continuing education programs sponsored by the following organizations shall be deemed approved and no approval by the board shall be required:

(1) The Indiana Funeral Directors Association.

(2) The Independent Funeral Directors of Indiana.

(3) The National Funeral Directors Association.

(4) The National Funeral Directors & Morticians Association, Inc.

(5) The International Cemetery, Cremation, and Funeral Association.

(c) The board shall approve sponsors and their individual continuing education courses. The board reserves the right to withdraw such approval for good cause. *(State Board of Funeral and Cemetery Service; 832 IAC 4-1-3; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1369; filed Oct 12, 1988, 3:55 p.m.: 12 IR 591; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 4-1-4 Sponsor appeal rights (Repealed)

Sec. 4. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

Rule 2. License Restoration and Renewal; Reentry into Practice

832 IAC 4-2-1 License restoration (Repealed)

Sec. 1. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 4-2-2 Continuing education requirements for license reinstatement

Authority: IC 25-15-9-8

Affected: IC 25-1-8-6; IC 25-15-6-4

Sec. 2. (a) In addition to the requirements under IC 25-15-6-4 and IC 25-1-8-6, in order to reinstate an expired funeral director or embalmer license under IC 25-15-6-4, the licensee must complete the continuing education hours required for renewal of the license at the time it expired.

(b) If more than one (1) year has passed since the expiration of the funeral director or embalmer license, the licensee shall be required to obtain five (5) additional hours of continuing education for each year following expiration. These continuing education hours are in addition to the requirements under subsection (a).

(c) Five (5) hours of continuing education obtained to reinstate an expired license under the requirements of subsection (b) may count toward the licensee's continuing education requirement for the first renewal of the reinstated license if they were obtained during the two (2) calendar years immediately prior to the next renewal date following reinstatement. *(State Board of Funeral and Cemetery Service; 832 IAC 4-2-2; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1370; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 4-2-3 Continuing education requirements for new licensees

Authority: IC 25-15-9-8

Affected: IC 25-15-6-3

Sec. 3. (a) Notwithstanding 832 IAC 4-1-1, an individual who is issued a new funeral director license in an odd-numbered year shall be required to obtain a minimum of only five (5) hours of continuing education credit during the two (2) year period then in progress.

(b) Notwithstanding 832 IAC 4-1-1, an individual who is issued a new funeral director license in an even-numbered year shall not be required to obtain any continuing education during the two (2) year period then in progress.

(State Board of Funeral and Cemetery Service; 832 IAC 4-2-3; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1370; filed Oct 12, 1988, 3:55 p.m.: 12 IR 591; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 4-2-4 Application of renewal for license

Authority: IC 25-15-9-8

Affected: IC 25-15-6-3; IC 25-15-6-5

Sec. 4. (a) Funeral directors intending to engage in the practice of funeral directing and embalmers intending to engage in the practice of embalming must biennially renew their licenses by December 31 of each even numbered year using the form provided by the board.

(b) Each funeral director and embalmer must sign a statement on the renewal form verifying that all continuing education requirements according to 832 IAC 4-1 will have been met by the time of license renewal.

(c) A funeral director or embalmer shall maintain his or her continuing education records for a period of three (3) years following the end of the biennium.

(d) It is the responsibility of the funeral director or embalmer to verify that courses attended have been approved by the board.
Without approval, as provided under 832 IAC 4-1, credit will not be given. *(State Board of Funeral and Cemetery Service; 832 IAC 4-2-4; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1370; filed Oct 12, 1988, 3:55 p.m.: 12 IR 592; filed Jun 8, 1989, 4:45 p.m.: 12 IR 1903; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3236; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 4-2-5 Reentry following expiration of license (Repealed)
Sec. 5. *(Repealed by State Board of Funeral and Cemetery Service; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389)*

ARTICLE 5. LICENSURE AND OPERATION OF FUNERAL HOMES

Rule 1. Licensure, Construction, and Equipment

832 IAC 5-1-0.5 Licensure procedure
Authority: IC 25-15-9-8
Affected: IC 25-15-4-1; IC 25-15-9-9
Sec. 0.5. (a) Applications for funeral home licensure shall be filed with the board at least thirty (30) days prior to the date the funeral home is scheduled to open for business.
(b) The board shall issue a license to any applicant the board or its designee certifies as having:
(1) met the licensure requirements specified in this rule and IC 25-15-4;
(2) received a satisfactory rating on an inspection under IC 25-15-9-9; and
(3) paid the fee specified in 832 IAC 2-1-2.
(c) No funeral home shall be operated or be opened for business prior to the issuance of a funeral home license by the board for that funeral home. Violation of this section shall be grounds for denial of licensure. *(State Board of Funeral and Cemetery Service; 832 IAC 5-1-0.5; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 5-1-1 Partnership affidavit
Authority: IC 25-15-9-8
Affected: IC 25-15-4-1
Sec. 1. In each case where a partnership is formed, and said partnership makes application for a funeral home license, it shall be necessary for the application to be filed with an affidavit, sworn to under oath and under the penalties for perjury, setting forth the full name and address of each person having an interest in said partnership.
(State Board of Funeral and Cemetery Service; 832 IAC 5-1-1; filed Jan 30, 1986, 2:23 pm: 9 IR 1370; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 5-1-1.1 Inspections
Authority: IC 25-15-9-8; IC 25-15-9-9
Affected: IC 25-15
Sec. 1.1. (a) All funeral homes shall be subject to inspection by the board or its inspector at all times with or without notice.
The inspection shall include the following:
(1) The facility.
(2) Vehicles used in the funeral business.
(3) Grounds contiguous to the funeral home.
(b) A funeral home shall be inspected by the board under the following circumstances:
(1) Prior to the issuance of a funeral home license.
(2) When a funeral home moves to a new location.
(3) When ownership of a funeral home is changed or otherwise transferred.
(c) The owner of the funeral home shall notify the board at least thirty (30) days before any of the following occur:
(1) When a funeral home moves to a new location.
(2) When ownership of a funeral home is changed or otherwise transferred.
(d) The board or its designee may inspect any funeral home or other facility when a complaint is made or to ensure protection of the public health, safety, and welfare. *(State Board of Funeral and Cemetery Service; 832 IAC 5-1-1.1; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 5-1-1.2 Records
Authority: IC 25-15-9-8; IC 25-15-9-9
Affected: IC 25-15
Sec. 1.2. (a) All funeral home licensees shall make the following records available to the board for the purposes of examination or inspection:
(1) The certificate of authority to sell preneed services or merchandise.
(2) A general price list.
(3) Bylaws and rules and regulations, if any.
(4) Preneed contracts.
(5) Other contracts, including at-need sales and contracts for burial rights.
(6) Preneed funeral contract consumer protection trust fund and regulatory trust fund remittances and supporting documentation.
(7) Records of cancellation requests and refunds given.
(b) All records referenced in subsection (a) must be maintained in a secure manner so as to be readily available for inspection.
For purposes of this rule, "secure" may include one (1) or more of the following:
(1) A vault or fireproof container with a properly certified fire resistant capability of at least one (1) hour.
(2) A computer readable media backed up by diskette, or optical disk, or tape that is stored at an off-site location.
(3) Microfilm backed up by a security roll stored at an off-site location.
(4) A duplicate copy of the records referenced in this rule maintained at an off-site location and updated at least quarterly.
(5) Any other method that would ensure the funeral home licensee can readily produce records for inspection as required under these rules.
(State Board of Funeral and Cemetery Service; 832 IAC 5-1-1.2; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

832 IAC 5-1-2 Location of funeral directing business; proximity to health care facilities (Repealed)
Sec. 2. *(Repealed by State Board of Funeral and Cemetery Service; filed Jan 8, 1989, 9:45 a.m.: 12 IR 1389)*

832 IAC 5-1-2.1 Display identification
Authority: IC 25-15-9-8
Affected: IC 25-15-4-1; IC 25-15-8-2
Sec. 2.1. The name of a funeral home shall be prominently displayed on the premises on exterior signage.
(State Board of Funeral and Cemetery Service; 832 IAC 5-1-2.1; filed Mar 13, 1987, 8:30 am: 10 IR 1702; readopted filed May 10, 2001, 2:39

p.m. : 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 5-1-3 Plumbing requirements; back-syphonage protection systems

Authority: IC 25-15-9-8
Affected: IC 25-15-4-1; IC 25-15-8-2

Sec. 3. Each licensed funeral home must have a back-syphonage protection system in keeping with the requirements of the fire prevention and building safety commission and the requirements of local health and building codes. The system at a minimum must be:

(1) a hydro aspirator with four (4) inch approved vacuum breaker;
(2) an electro aspirator;
(3) water service centers with breakers in system; or
(4) any other systems approved by the board.

*(State Board of Funeral and Cemetery Service; 832 IAC 5-1-3; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1371; filed Mar 13, 1987, 8:30 a.m.: 10 IR 1702; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR*Indiana *832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 5-1-3 Plumbing requirements; back-syphonage protection systems

Authority: IC 25-15-9-8
Affected: IC 25-15-4-1; IC 25-15-8-2

Sec. 3. Each licensed funeral home must have a back-syphonage protection system in keeping with the requirements of the fire prevention and building safety commission and the requirements of local health and building codes. The system at a minimum must be:

(1) a hydro aspirator with four (4) inch approved vacuum breaker;
(2) an electro aspirator;
(3) water service centers with breakers in system; or
(4) any other systems approved by the board.

(State Board of Funeral and Cemetery Service; 832 IAC 5-1-3; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1371; filed Mar 13, 1987, 8:30 a.m.: 10 IR 1702; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

Rule 2. General Operations

832 IAC 5-2-1 Display of license

Authority: IC 25-15-9-8
Affected: IC 25-15-4-1; IC 25-15-8-2

Sec. 1. All licenses issued by the board including duplicate licenses required by section 5 of this rule shall be available for viewing in a public area of the funeral home or funeral home branch location. *(State Board of Funeral and Cemetery Service; 832 IAC 5-2-1; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1371; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 5-2-2 Required employment of embalmers by unqualified funeral directors

Authority: IC 25-15-9-8
Affected: IC 25-15-8-10

Sec. 2. A funeral home manager who was not licensed as an embalmer in Indiana prior to July 1, 1985, except where initial licensure as a funeral director followed said date, shall employ a licensed embalmer or funeral director who has been licensed under IC 25-15. *(State Board of Funeral and Cemetery Service; 832 IAC 5-2-2; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1371; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 5-2-3 Food service restrictions (Repealed)

Sec. 3. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 5-2-4 Supervised funeral service limited to licensees

Authority: IC 25-15-9-8
Affected: IC 25-15-2-17

Sec. 4. Each act of funeral services, as defined at IC 25-15-2-17, performed for a funeral home under the direct supervision of a funeral director must be performed by either a funeral director or a funeral director intern. At-need funeral arrangements must be performed by a licensed funeral director or a funeral director intern under the direct supervision of a licensed funeral director. *(State Board of Funeral and Cemetery Service; 832 IAC 5-2-4; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1372; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA))*

832 IAC 5-2-5 Duplicate licenses at all locations where associated

Authority: IC 25-15-9-8
Affected: IC 25-15-8-6; IC 25-15-8-11

Sec. 5. Funeral directors, funeral director interns, and embalmers must provide and make available a duplicate license for each funeral home and funeral home branch location where services in any capacity are performed. *(State Board of Funeral and Cemetery Service; 832 IAC 5-2-5; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1372; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 5-2-6 Inspection of records (Repealed)

Sec. 6. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

ARTICLE 6. FUNERAL TRUST FUNDS

Rule 1. Trust Fund Agreements; Contract Provisions

832 IAC 6-1-1 Notifications affecting preneed contracts

Authority: IC 25-15-9-8
Affected: IC 1-1-7-1; IC 25-15-8-5; IC 30-2

Sec. 1. When a funeral home is sold or when the preneed contracts established under IC 30-2 that names licensees as beneficiaries are sold, the seller is responsible to notify the purchasers of all such preneed contracts affected by the sale, advising them of the transaction. Notification must be in writing and provided by the seller to the purchasers by regular mail or by any method permitted by IC 1-1-7-1. *(State Board of Funeral and Cemetery Service; 832 IAC 6-1-1; filed Jan 30, 1986, 2:23 p.m.: 9 IR 1372; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 6-1-2 Restrictions on increased pre-need contract prices
Authority: IC 25-15-9-8
Affected: IC 30-2-9

Sec. 2. If the funeral trust contract executed pursuant to IC 30-2-9 does not specifically allow for increases in the total stated price of the services, the beneficiary of the funeral trust may provide the agreed upon funeral and burial services at no greater cost than the total specified in the funeral service contract. Even if a funeral trust contract described in IC 30-2-9 includes a provision for increases in the total price of the funeral service, the beneficiary of the trust may not charge or collect any total price for the service selected by the settlor of the trust greater than that specified in the last written notification to the settlor or the settlor's guardian before the settlor's demise.
(State Board of Funeral and Cemetery Service; 832 IAC 6-1-2; filed Jan 30, 1986, 2:23 pm: 9 IR 1372; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 6-1-3 Payment of trust and escrow funds; documentation required
Authority: IC 30-2
Affected: IC 25-15-9-8; IC 25-15-9-18

Sec. 3. (a) A trustee or escrow agent acting as a fiduciary, as defined at IC 30-2-13-11 and including an insurance company holding prepaid funeral funds, that disburses funds in a funeral trust or escrow account established under IC 30-2-9, IC 30-2-10, or IC 30-2-13 may do so only when documentation is submitted to the trustee or escrow agent acting as a fiduciary verifying both:

(1) the death of the individual for whom services were to be provided under contract; and
(2) that the beneficiary of the trust has fully performed all funeral and burial services provided for in the contract.

(b) Presentation of one (1) of the following documents shall be satisfactory verification of proof of death under subsection (a)(1):

(1) A completed and executed copy of a death certificate.
(2) Certification of proof of death from the coroner pending issuance of a death certificate.
(3) For burial purposes only, a burial permit.

(c) Presentation of one (1) of the following documents shall be satisfactory verification of performance of services under subsection (a)(2):

(1) In the event of a merchandise sale only, an invoice for merchandise that reflects the name of the purchaser or beneficiary and the contract number.
(2) Acknowledgment signed by the purchaser, next of kin, or a person who has authority to designate final disposition of remains, acknowledging that merchandise was delivered or services were performed, as permitted by IC 25-15-9-18.

(d) The beneficiary of the trust shall maintain documentation, in original or electronic format, for at least three (3) years after the date of full performance of the contract. *(State Board of Funeral and Cemetery Service; 832 IAC 6-1-3; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

ARTICLE 7. PRENEED FUNERAL BURIAL SERVICES OR MERCHANDISE CONTRACTS

Rule 1. Definitions

832 IAC 7-1-1 Applicability
Authority: IC 25-15-9-8; IC 30-2-13-34
Affected: IC 30-2-13

Sec. 1. The definitions in IC 30-2-13 and this rule apply throughout this article. *(State Board of Funeral and Cemetery Service; 832 IAC 7-1-1; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2453; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-1-2 "Cash advance item" defined (Repealed)

Sec. 2. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-1-3 "Contract" defined (Repealed)

Sec. 3. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-1-4 "Contract beneficiary" defined
Authority: IC 25-15-9-8
Affected: IC 30-2-13

Sec. 4. "Contract beneficiary" means the person specified in a contract for prepaid services or merchandise, upon whose death, the services or merchandise shall be provided or delivered.
(State Board of Funeral and Cemetery Service; 832 IAC 7-1-4; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2453; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 7-1-5 "Delivery" defined (Repealed)

Sec. 5. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-1-6 "Preneed contract" defined (Repealed)

Sec. 6. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-1-7 "Preneed services or merchandise" or "service of merchandise" defined (Repealed)

Sec. 7. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-1-8 "Purchaser" defined (Repealed)

Sec. 8. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-1-9 "Seller" defined (Repealed)

Sec. 9. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

Rule 2. Contract Provisions

832 IAC 7-2-1 Preneed contract
Authority: IC 25-15-9-8; IC 30-2-13-34
Affected: IC 30-2-13

Sec. 1. (a) It shall be unlawful for any seller doing business within this state to make, either directly or indirectly, by any means, a preneed contract unless it is as follows:

(1) Made on a form that complies with this article, is written in clear, understandable language, and printed in easy-to-read type, size, and style.
(2) Identifies, by name, address, and telephone number, the seller, purchaser, and the contract beneficiary, if other than the purchaser, and contains the seller's certificate of authority number and date of contract.

(3) Clearly discloses that, upon payment in full, all services and merchandise subject to contract are guaranteed as to delivery, or, in the event a contract is funded through a cash installment sale or an insurance policy with a limited death benefit, delivery of services and merchandise may be reduced to the extent of funds actually received at the time delivery is to be made.

(4) Clearly discloses that if cash advance items are funded in the preneed contract, then, at the time of delivery, funds available shall be applied by the seller to the prepaid services and merchandise and cash advance items in the same proportion as initially funded in the preneed contract.

(5) Provides that the purchaser may terminate the contract within thirty (30) days of execution, that the contract becomes irrevocable after that time, and an acknowledgment by the purchaser that they understand the irrevocable nature of the contract.

(6) Provides that if the particular merchandise and services specified in the contract are unavailable at the time of delivery, the seller will furnish services and merchandise similar in style and quality of material at least equal in value.

(7) Clearly discloses the manner in which the preneed contract is to be funded, including, but not limited to:

(A) a bank trust;

(B) an annuity;

(C) a life insurance policy; or

(D) a savings account.

(8) Clearly discloses the purchaser's right to designate a new seller, and place of final disposition, if known.

(9) Clearly discloses any geographic restrictions and related charges, if any.

(b) Where the particular merchandise and services specified in the contract are unavailable under subsection (a)(6), the seller must advise the purchaser of the substituted merchandise or services and explain how the seller determined the merchandise or services are similar in style and quality of material and at least equal in value. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-1; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2454; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-2 Delivery of contract

Authority: IC 25-15-9-8

Affected: IC 30-2-13

Sec. 2. At the time the contract is entered into, the seller shall furnish the purchaser with a copy of the signed contract. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-2; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2454; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)*

832 IAC 7-2-3 Preneed contract paid through installments

Authority: IC 25-15-9-8

Affected: IC 30-2-13

Sec. 3. In the event a contract is funded on a cash basis, payable in installments, or with a life insurance policy, annuity, or other method which has a limited death benefit period, and the contract beneficiary dies either before the installments are paid in full or during the limited death benefit period, then the seller shall:

(1) deliver services and merchandise equal in value to the funds available in trust or the proceeds of a life insurance policy, annuity, or other funding vehicle; or

(2) deliver services and merchandise specified in the preneed contract, provided the purchaser, or other person, provides a financial guaranty or other consideration sufficient in value to pay the difference between the seller's retail price at time of delivery and the proceeds available from the funding mechanism employed to fund the contract.

(State Board of Funeral and Cemetery Service; 832 IAC 7-2-3; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2454; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA)

832 IAC 7-2-4 Bank trust deposits

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 30-2-13-12.5

Sec. 4. Cash or other property received for services or merchandise shall be deposited as required by IC 30-2-13-12.5. Subsequent installment payments shall be deposited by the seller within thirty (30) days of receipt. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-4; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2454; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-5 Cash advance item and sales tax collections

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 30-2-13-12.5

Sec. 5. All funds collected by a seller for future payment of cash advance items or sales tax shall be deposited to trust in accordance with IC 30-2-13-12.5 and held in trust until the time of delivery. Funds collected as premiums for life insurance or annuities to fund cash advance items or sales tax shall be paid as premiums to the life insurance company. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-5; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2454; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-6 Duplicate contracts

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 30-2-13

Sec. 6. In the event there is more than one (1) preneed contract to provide the same or similar services or merchandise without a successor seller designated, the contract that is first in time prevails and is valid. The seller of a subsequent contract who has not been designated as a successor seller shall, on demand of the purchaser, refund to the purchaser from trust all funds or other property paid to the subsequent seller in the funding of the subsequent contract. The seller of the subsequent contract shall execute whatever documents are necessary to effectuate the transfer or refund. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-6; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2455; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19,2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-7 Transferred contracts (Repealed)

Sec. 7. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-7.1 Inability to perform contractual duties

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 30-2-13

Sec. 7.1. (a) A seller who is unable to perform its obligations under a preneed contract for any reason shall give notice to the board and to each preneed contract purchaser under the requirements of IC 30-2-13-15.

(b) A purchaser who receives notice under subsection (a) has thirty (30) days after the date the notice was mailed to designate, under IC 30-2-13-13, a new seller to become the beneficiary of the trust or the designated recipient of the escrow funds. Should the newly designated seller consent to the designation, the original seller shall transfer the unperformed contract and funds held in trust or escrow to the newly designated seller. The newly designated seller shall perform the transferred contract. A purchaser receiving notice under IC 30-2-13-13 may not hold back or retain the right to make future delivery of any item of service or merchandise, or any cash advance item, set forth in the contract subject to transfer.

(c) A seller who is unable to perform its obligations under a preneed contract and has not been informed by a purchaser regarding a newly designated seller within thirty (30) days of sending notice under subsection (a) shall send the board all unperformed preneed contracts for which there is no newly designated seller. The preneed contracts and all original supporting documentation shall be sent to the board within sixty (60) days after the date the notice required under subsection (a) was mailed by the seller to the purchaser.

(d) Where a purchaser has not designated a new seller, the board shall designate a new seller, subject to acceptance by the new seller of such designation. In selecting a new seller, the board shall consider sellers in the geographic area where the preneed contract is to be performed. Each newly designated seller shall become the beneficiary of the trust or the designated recipient of the escrow funds of the purchaser.

(e) In the event the board is required to designate a new seller, the board's action shall not limit or prohibit a purchaser from exercising the right to further designate a successor seller of the purchaser's choosing under IC 30-2-13-13.

(f) A seller who is unable to perform its obligations under a preneed contract and fails to discharge its responsibilities under IC 30-2-13-15 and this rule may be subject to criminal and civil penalties, as provided by IC 30-2-13-38. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-7.1; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-8 Consumer protection charges

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 30-2-13-27

Sec. 8. A seller may elect to include in its sales price the cost of compliance with IC 30-2-13-27, and such charge shall not be subject to the trust requirements of IC 30-2-13. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-8; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2455; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-9 Consumer protection fund disclosure

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 30-2-13

Sec. 9. A seller shall not:

(1) use;

(2) employ;

(3) advertise;

(4) market; or

(5) otherwise solicit;

the sale of services or merchandise in such a manner as to publicize the existence of the Preneed Consumer Protection Fund in the promotion of such sale or attempted sale of a preneed contract. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-9; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2455; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52p.m.: 20070808-IR-832070048RFA; filed Mar 1*

832 IAC 7-2-10 Excess funds; IC 30-2-10 trust

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 30-2-10; IC 30-2-13

Sec. 10. Funeral director sellers required to employ a trust or escrow authorized by IC 30-2-10 shall compute any excess or refund amount on the difference between the seller's retail price at the time of delivery and the proceeds available from the funding mechanism employed to fund the contract. *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-10; filed Jun 26, 1992, 5:00 p.m.: 15 IR 2455; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-11 Pre-Act exchange provisions (Repealed)

Sec. 11. *(Repealed by State Board of Funeral and Cemetery Service; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-12 Requirements to make records available to board

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 30-2-13

Sec. 12. (a) Each holder of a certificate of authority and each person required by IC 30-2-13 to obtain a certificate of authority shall, upon demand, provide and make available for inspection and copying any and all detailed records:

(1) required by IC 30-2-13; and

(2) necessary to show compliance with IC 30-2-13;

upon request by the board for investigative purposes.

(b) All records shall be maintained in a secure manner in accordance with 832 IAC 5-1-1.2(b). *(State Board of Funeral and Cemetery Service; 832 IAC 7-2-12; filed Jun 9, 1993, 9:00 a.m.: 16 IR 2423; readopted filed May 10, 2001, 2:39 p.m.: 24 IR 3237; readopted filed Jul 19, 2007, 12:52 p.m.: 20070808-IR-832070048RFA; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 7-2-13 Unlawful inducement

Authority: IC 25-15-9-8; IC 30-2-13-34

Affected: IC 23-14-37; IC 30-2-13-13

Sec. 13. (a) "Inducement" means the act or process of a seller to entice or persuade a purchaser or potential purchaser to take a certain course of action with respect to a contract. An inducement can be tangible or intangible as well as direct or indirect.

(b) "Unlawful inducement" means an inducement employed by a seller that is in violation of IC 30-2-13, IC 23-14-37, or these rules.

(c) The advertisement of preneed services or merchandise to the general public does not constitute an unlawful inducement unless the advertisement is false or misleading or otherwise in violation of statute or these rules.

(d) It is an unlawful inducement for a seller to knowingly induce a purchaser to breach an existing contract that provides

for prepaid or at-need services or merchandise. It is not an unlawful inducement for a seller to advertise or otherwise inform consumers of their right to transfer their contracts to a successor seller.

(e) A seller engages in an unlawful inducement where the seller knowingly:

(1) induces a purchaser who has the right to designate a successor seller under IC 30-2-13-13 to:

(A) make a designation of a successor seller;

(B) breach an existing contract for prepaid or at-need services or merchandise; or

(C) enter into a prepaid or at-need contract calling for the delivery of similar services or merchandise; or

(2) offers a monetary inducement or the exchange or substitution of free or discounted services or merchandise in an effort to induce a purchaser to change the designation of a seller of prepaid or at-need services or merchandise.

(f) An unlawful inducement occurs where a seller provides free or discounted burial rights as:

(1) an inducement or as a consideration for the transfer of a contract; or

(2) an inducement of a purchaser to change the designation of a seller of prepaid or at-need services or merchandise.

(g) In addition to section 9 of this rule, a seller engages in an unlawful inducement where the seller, as inducement to purchase burial rights in a cemetery or as inducement to purchase preneed or at-need services or merchandise, does any of the following:

(1) Offers, promises, or agrees to resell or repurchase the burial rights.

(2) Pays or offers to pay any sum of money as interest or as a premium for the right to resell or repurchase the burial rights.

(3) Allows a purchaser to convert, substitute, or exchange the purchase of burial rights for the purchase of services or merchandise.

(4) Offers or provides a purchaser with free services or merchandise in exchange for the purchase of other services or merchandise.

(5) Offers or provides a purchaser with cash or gifts with a value of more than fifty dollars ($50) as inducement to purchase a contract for services or merchandise.

(h) A cemetery owner is not prohibited by subsection (g) from offering or agreeing to repurchase burial rights under a lot exchange plan that:

(1) is entered into with other cemetery owners or through an association of cemetery owners; and

(2) provides for the repurchase of burial rights in case the purchaser should change legal residence to another community and purchases burial rights in a cemetery located in the community of the purchaser's new place of residence.

(i) A seller is not prohibited from offering or providing cash or gifts of a value less than fifty dollars ($50) as inducements to potential purchasers or new customers as part of the advertisement of goods and services.

(j) Any reference to a seller includes an agent of the seller.

(State Board of Funeral and Cemetery Service; 832 IAC 7-2-13; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

ARTICLE 8. CONSUMER PROTECTION FUNDS

Rule 1. Preneed Consumer Protection Fund

832 IAC 8-1-1 Definitions

Authority: IC 25-15-9-8; IC 30-2-13-34
Affected: IC 30-2-13-29

Sec. 1. The definitions in IC 30-2-13 apply throughout this article. *(State Board of Funeral and Cemetery Service; 832 IAC 8-1-1; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

832 IAC 8-1-2 Purpose of the preneed consumer protection fund

Authority: IC 25-15-9-8; IC 30-2-13-34
Affected: IC 23-14-49-1; IC 30-2

Sec. 2. The purpose of the preneed consumer protection fund established under IC 30-2-13-28 is to provide restitution to the following:

(1) A purchaser of a preneed contract under IC 30-2-13.

(2) An individual who has established a funeral trust under IC 30-2-9 or IC 30-2-10.

(3) An individual who has established a cemetery escrow or trust under IC 23-14-49-1.

(4) The estate of an individual described in subdivision (1), (2), or (3).

(5) A funeral home, funeral director, or cemetery owner that performs a defaulted contract when the original seller of the prepaid services or merchandise has defaulted on a contract.

(State Board of Funeral and Cemetery Service; 832 IAC 8-1-2; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

832 IAC 8-1-3 Requests for restitution

Authority: IC 25-15-9-8; IC 30-2-13-34
Affected: IC 30-2

Sec. 3. (a) Requests for restitution from the preneed consumer protection fund shall be subject to the review and approval of the board. The board has complete discretion to allow or reject the requests for restitution in whole or in part.

(b) Requests for restitution from the preneed consumer protection fund must be in writing and on a form prescribed by the board. The following documentation shall be submitted with the request to the board:

(1) A copy of the original preneed contract.

(2) Documentation, such as canceled checks or payment receipts, verifying the total funds paid to the seller on the contract and demonstrating that applicant for restitution has not defaulted on the contract.

(3) Documentation showing that the seller is incapable or has failed to provide the services or merchandise on a preneed contract.

(4) Documentation concerning efforts to obtain reimbursement from the seller, insurance companies, trustees, escrow agent, or others.

(5) Documentation of amounts recovered from any source in partial payment of the loss.

(c) The board has the right to review, investigate, or request additional documentation in order to determine the validity and correct amount of restitution, if any, to be paid. *(State Board of Funeral and Cemetery Service; 832 IAC 8-1-3; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA*

832 IAC 8-1-4 Board approval of disbursement

Authority: IC 25-15-9-8; IC 30-2-13-34
Affected: IC 25-1-11; IC 30-2-13-33

Sec. 4. 2(a) The board shall determine to its satisfaction that the seller does not possess the financial means to deliver or provide the prepaid services or merchandise based on a review of any of the following:

(1) A disciplinary proceeding against the seller or other licensee under IC 25-1-11.

(2) Bankruptcy proceedings.

(3) Whether the seller has been acquired by a successor who by law has assumed the obligations of the seller, including the

preneed funeral contracts.
(4) Trust or escrow accounts held by or entered into by the seller.
(5) Assets held by the seller.
(b) Disbursements from the preneed consumer protection fund shall be determined after consideration of the following additional criteria:
(1) Whether the seller was licensed to sell preneed services under IC 30-2-13-33 when the contract was entered into.
(2) Whether adequate funds in the preneed consumer protection fund are available.
(3) Whether the requestor of restitution was required to obtain services and merchandise other than from the seller of the preneed contract.
(4) Whether the losses are not otherwise covered, protected, or reimbursable.
(5) Whether the requestor is eligible for or seeking reimbursement from a judgment or other right as a result of criminal or civil litigation.
(6) Whether credit for merchandise delivered or resources still existing in the trust or escrow must be subtracted from the amount of restitution.
(c) Restitution from the preneed consumer protection fund is not available for any of the following:
(1) Defective merchandise or costs associated with reopening a grave in order to take corrective action on defective merchandise.
(2) Services or merchandise not included in the original preneed contract.
(3) Court costs or other fees associated with the original preneed contract.
(State Board of Funeral and Cemetery Service; 832 IAC 8-1-4; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

832 IAC 8-1-5 Interest
Authority: IC 25-15-9-8; IC 30-2-13-34
Affected: IC 30-2
Sec. 5. (a) The amount of restitution shall include interest, calculated at the statutory rate, on the gross amount owed, compounded annually, for each year for which restitution is owed starting from the date of the original preneed contract.
(b) Restitution paid to a funeral home, funeral director, or cemetery owner that performs a defaulted contract shall not exceed the gross amount of the cost of services actually rendered. *(State Board of Funeral and Cemetery Service; 832 IAC 8-1-5; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)*

Rule 2. Consumer Protection Fund for Cemetery Maintenance

832 IAC 8-2-1 Definitions
Authority: IC 25-15-9-8
Affected: IC 23-14; IC 30-2-13
Sec. 1. The definitions in IC 30-2-13, except for the following, apply throughout this article:
(1) "Cemetery" means a cemetery as defined at IC 23-14-33-7 that is eligible for coverage under IC 23-14-48.5-1.
(2) "Consumer protection fund for cemetery maintenance" means the fund established under IC 23-14-48.5-4.
(3) "Fund" means the consumer protection fund for cemetery maintenance.
(4) "Maintenance" means the care of cemetery grounds and graves in keeping with a properly maintained cemetery and includes the following:
(A) Cutting grass at reasonable intervals.
(B) Raking and cleaning cemetery plots at reasonable intervals.
(C) Pruning shrubs and tress *[sic]*.
(D) Keeping in repair and preserving the following:
(i) Drains.
(ii) Water lines.
(iii) Roads.
(iv) Buildings.
(v) Fences.
(vi) Other structures.
(5) "Request for maintenance assistance" or "request" means a verified complaint filed under IC 23-14-48.5.
(State Board of Funeral and Cemetery Service; 832 IAC 8-2-1; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

832 IAC 8-2-2 Purpose of the consumer protection fund for cemetery maintenance
Authority: IC 25-15-9-8
Affected: IC 23-14-48-10; IC 23-14-48.5
Sec. 2. The purpose of the consumer protection fund for cemetery maintenance is to provide funding for cemetery maintenance when:
(1) a cemetery owner is unable to maintain a cemetery;
(2) the perpetual care fund of a cemetery is depleted or otherwise unavailable; and
(3) interested persons have not organized under IC 23-14-48-10 in order to take over the management, care, and general supervision of the cemetery.
(State Board of Funeral and Cemetery Service; 832 IAC 8-2-2; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)

832 IAC 8-2-3 Request for maintenance assistance
Authority: IC 25-15-9-8
Affected: IC 23-14-48-7; IC 23-14-48.5
Sec. 3. (a) A request for maintenance assistance at a cemetery must be in writing and on a form prescribed by the board.
(b) A request may be filed by the cemetery owner. If the cemetery owner is unable to be determined, the request may be filed by:
(1) the owner of a lot in the cemetery;
(2) the next of kin of a lot owner; or
(3) any other interested person.
(c) The following documentation shall also be considered with the request:
(1) The accounting and report of the cemetery's perpetual care fund filed with the board under IC 23-14-48-7.
(2) Other information the board may require in order to determine the validity of the request, including personal appearances as requested.
(State Board of Funeral and Cemetery Service; 83

832 IAC 8-2-4 Approval or disapproval; notice of termination
Authority: IC 25-15-9-8
Affected: IC 23-14-48.5
Sec. 4. (a) The board shall issue its written findings of fact approving or disapproving a request for maintenance assistance within thirty (30) days of its receipt.
(b) An approved request shall be reviewed and revised as necessary at least every ninety (90) days.
(c) Upon the termination of its approval for maintenance assistance, the board shall issue a written notice to the cemetery owner or the person who filed the request under section 3(b) of this rule.
(State Board of Funeral and Cemetery Service; 832 IAC 8-2-4; filed Mar 11, 2013, 2:50 p.m.: 20130410-IR-832120198FRA)