Governor's Office of Management and Budget

Alexis Sturm
Director

IL Regulatory Sunset Act Review
of
The Cemetery Oversight Act

March 18, 2021

To the Honorable JB Pritzker
Governor of Illinois

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Cemetery Oversight Act (225 ILCS 411). Public Act 101-639 extended this sunset until January 1, 2022 due to COVID-19. As a result of this review, GOMB makes the following recommendation:

The Cemetery Oversight Act (225 ILCS 411) should be continued.

GOMB's examination of this Act was conducted taking into account the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

Criteria (1) "The extent to which the agency or program has permitted qualified applicants to serve the public."

Active Licensee Report August 1, 2019				
Board - Cemetery	**Profession**	**In State**	**Out Of State**	**Total Active**
	(250) LICENSED CEMETERY AUTHORITY	149	24	173
	(251) LICENSED CEMETERY EXEMPT	1747	4	1751
	(252) LICENSED CEMETERY PARTIALLY EXEMPT	1146	4	1150
	(253) LICENSED CEMETERY MANAGER	186	6	192
	(254) LICENSED CEMETERY CUSTOMER SERVICE EMPLOYEE	235	5	240
	(255) LICENSED CEMETERY CE SPONSOR	5	0	5

The current licensure fee structure is as follows:

Type	Fee Amount
Cemetery Authority License Application fee	$75
Partial Exemption fee	$150
Fully Licensed Renewal fee	$75/two years
Partial License Renewal fee	$150/four years
Cemetery Manager fee	$25/two years
Customer Service Employee fee	$25/two years
Restoration fee	$50 plus lapsed payment
Renewal of Continuing Education Sponsor fee	$100

Criteria (2) "The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services."
According to the Illinois Department of Financial and Professional Regulation (IDFPR), the Department adheres to strict guidelines and requirements established for each profession that it regulates. Licensing decisions are based on an applicant's ability to meet the requirements established by statute and administrative rule. Race or any other identifiers are not a consideration for licensure under any of the professional licenses regulated by the Department. As such, DFPR does not collect information from applicants to disclose their race or other social identifiers that could potentially lead to the act or perception of discrimination in licensing decisions.

Criteria (3) "The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters."

IDFPR is tasked with processing applications for licenses and renewal licenses for over 1 million professionals practicing in the state of Illinois. Since the period of last review or extension of this Act, the Department has adopted internal policies, successfully sought legislative and administrative rule changes, and developed enhanced licensing processes to maintain efficiency and efficacy. IDFPR stresses the importance of personnel resources needed to maintain and improve licensing efficiencies. The agency maintains that personnel rules and laws often make it difficult to fill vacant positions in a timely manner.

Criteria (4) "The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates."

In 2017, IDFPR sponsored Public Act 100-262, the purpose of which was to streamline and modernize the Agency's licensure and administrative case processes. The Act enhances the Department's e-license initiative to streamline initial licensure and renewal, as well as to allow recipients to learn the results of an administrative case more quickly so they can respond appropriately. This legislation ensures that regulated professions are able to use their time to address the needs of their clients, rather than addressing regulatory requirements. Furthermore, it benefits members of the public in that it enables the Department to more efficiently suspend the licenses of licensees determined to be in violation of rules and statutes. The agency maintains that this provides a fairer marketplace for the consumer.

In 2018, IDFPR supported Public Act 100-872, which removed the requirement that IDFPR refuse professional licenses to individuals who default on student loan debt that is guaranteed by the state. The agency believes this change removed a barrier to employment that can help people pay such debts.

Criteria (5) "The extent to which the agency or program has required the persons it regulates to report to it concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service."

According to IDFPR, the Department adheres to the guidelines and requirements established by the Joint Committee on Administrative Rules (JCAR), the administrative body responsible for approving rule proposals by state agencies. This process allows for the input from industry and community stakeholders impacted by the Department's proposed changes.

Criteria (6) "The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public."

IDFPR reports that they do not collect information concerning what extent regulated persons have been required to assess problems in their industry.

Criteria (7) "The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority."

The Department maintains it adheres to the guidelines and requirements established by the Joint Committee on Administrative Rules (JCAR) and the Illinois General Assembly (ILGA) for approving rule proposals, legislative changes, and internal policies. These rules include the requirement to seek public and stakeholder input on proposed rule changes. In addition, the Department adheres to the requirements established in the Illinois Open Meetings Act (5 ILCS 120).

Criteria (8) "The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government."

With regard to filing a complaint, DFPR provides a link on the Department's public website which provides all the information for filing a complaint and the means by which it can be done. The link is as follows:

https://www.idfpr.com/admin/DPR/DPRcomplaint.asp.

The Department will also take complaints over the phone at the number listed on the Department's public website. The average time from the point the complaint is received until an investigation begins is 5 business days. The average time to complete an investigation (Please note this is aggregated data across all professions under the jurisdiction of the Division of Professional Regulation within the Department):
Average time for cases closed at Investigations: 9 months
Average time for cases referred from Investigations to Prosecutions: 4 months
Average time for cases closed at Prosecutions: 13 months
Average time for cases closed at Prosecutions with Discipline: 35 months

Criteria (9) "The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section."

In each relevant sunset extension proposed by IDFPR, the language provides for modernizations necessary to implement more streamlined and efficient regulation of this profession, which will ensure public safety and ease the burden of regulatory compliance.
One such modification to the statutory language proposed by IDFPR was to add a definition of "Email address of record," which would conform with IDFPR's initiative to become more efficient & paperless.

Conclusion:

For those who grieve the loss of a loved one, a properly regulated cemetery is a sanctuary, providing dignity and respect for their loved ones' final resting place. Without regulation of cemeteries, incidents in which cemetery owners do not maintain the cemetery or execute burials over existing occupied plots will only exacerbate the grieving process. Regulation of cemeteries is different in that the consumer here is the deceased, and therefore there is no direct harm to the individual interred, but rather those who mourn or grieve the loss of that loved one.

The Cemetery Oversight Act seeks to provide adequate protection in upholding the sanctity of the handling and disposition of human remains and the preservation of final resting places without unduly restricting family, ethnic, cultural, and religious traditions. Without these protections, IDFPR believes the safety and welfare of the people of Illinois is put at jeopardy.

Consequently, GOMB recommends the continuation of the Cemetery Oversight Act.