

THE FLORIDA SENATE
2016 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/SB 854 — Funeral, Cemetery, and Consumer Services

by Regulated Industries Committee; Banking and Insurance Committee; and Senator Hukill

The bill amends ch. 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act, and the licensure requirements related to funerals and cemeteries regulated by the Department of Financial Services and the Board of Funeral, Cemetery, and Consumer Services.

The bill:

- o Amends definitions in s. 497.005, F.S.
- o Requires an applicant for embalmer apprentice to be of good character.
- o Requires an e-mail address for licensure and allows email as a means of notification.
- o Requires the department adopt rules on discipline for miscellaneous financial errors.
- o Specifies disputes regarding cremated remains must be resolved by the courts.
- o Specifies cremated remains are not property and not subject to partition by a court unless a legally authorized person consents.
- o Provides a consistent deposit requirement for graves, mausoleums, and columbaria.
- o Specifies that care and maintenance (C&M) trusts must be maintained by a cemetery company so that the grounds, structures, and improvements of a cemetery are maintained.
- o Requires withdrawals from C&M trusts to cemetery companies must be done through a net income withdrawal or total return withdrawal method.
- o Requires the board and department to adopt rules concerning C&M trusts.
- o Clarifies that the C&M trust annual report must include the fair market value of the trust.
- o Prohibits a trustee from investing in or counting as assets life insurance policies or annuity contracts and allows the trustee to allocate and divide capital gains and losses.
- o Grants the board rulemaking authority to classify items sold in preneed contracts as services, cash advances, or merchandise.
- o Requires a preneed licensee to deposit all preneed contract funds into a trust upon electing inactive status.
- o Clarifies when a preneed contract may be made irrevocable, for purposes of a person qualifying for assistance programs such as Medicaid and Supplemental Security Income.
- o Requires preneed licensees to provide an annual trust reports to the department.
- o Repeals the servicing agent exemption from preneed licensure.
- o Repeals the use of surety bonding in lieu of establishing a trust for the deposit of funds. Those licensees that have bonds in place prior to July 1, 2016, may continue to use them.
- o Requires cemetery companies to remit unexpended monies paid on irrevocable preneed contracts to the Agency Health Care Administration for deposit into the Medical Care Trust Fund after the beneficiary's final disposition.

If approved by the Governor, these provisions take effect July 1, 2016.

Vote: Senate 40-0; House 117-0