

CHAMBER ACTION

1 The Committee on Insurance recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to funeral directing, embalming, direct
7 disposition, and cemetery services; amending s. 20.121,
8 F.S.; removing the Bureau of Funeral and Cemetery Services
9 from the Division of Consumer Services within the
10 Department of Financial Services; establishing the
11 Division of Funeral, Cemetery, and Consumer Services and
12 the Board of Funeral, Cemetery, and Consumer Services
13 within the department; amending s. 20.165, F.S.;
14 abolishing the Board of Funeral Directors and Embalmers
15 within the Department of Business and Professional
16 Regulation; amending s. 497.101, F.S.; creating the Board
17 of Funeral, Cemetery, and Consumer Services; providing for
18 the appointment of board members; providing terms of
19 office; providing grounds for removal or suspension of a
20 member; providing immunity from liability for members
21 acting in an official capacity; specifying the
22 headquarters for the board; providing for compensation and
23 reimbursement for per diem expenses; creating s. 497.102,

24 F.S.; providing for the authority of the board; creating
25 s. 497.1021, F.S.; providing duties of the Division of
26 Funeral, Cemetery, and Consumer Services; providing powers
27 of enforcement; providing for deposit and use of funds
28 received from settlements with regulated entities and
29 persons; creating s. 497.1022, F.S.; establishing the
30 office of the director of the division; providing duties;
31 providing that the director shall also be the executive
32 director of the board; renumbering and amending s.
33 455.2226, F.S., relating to instruction on HIV and AIDS
34 for funeral directors and embalmers; conforming references
35 and terminology; amending s. 497.105, F.S.; removing duty
36 of the department to appoint the executive director of the
37 board, to conform; providing duties of the Chief Financial
38 Officer under ch. 470, F.S.; providing for type two
39 transfer of the Board of Funeral Directors and Embalmers
40 and the Board of Funeral and Cemetery Services to the
41 Board of Funeral, Cemetery, and Consumer Services within
42 the Department of Financial Services; providing for the
43 use of the licensing system of the Department of Business
44 and Professional Regulation; providing for validity of
45 judicial and administrative actions; providing for
46 validity of licenses; providing for continuity of rules;
47 abolishing the Board of Funeral and Cemetery Services and
48 the Board of Funeral Directors and Embalmers; repealing
49 ss. 470.003, 497.107, and 497.109, F.S., relating to the
50 Board of Funeral Directors and Embalmers and the Board of
51 Funeral and Cemetery Services, to conform; creating s.

52 | 470.0365, F.S.; providing for disposition of fees and
53 | penalties collected pursuant to ch. 470, F.S.; providing
54 | for conforming of statutes; amending s. 470.002, F.S.;
55 | revising and providing definitions applicable to
56 | regulation of funeral directing, embalming, and direct
57 | disposition; amending s. 470.0085, F.S.; extending the
58 | embalmer apprentice period; amending s. 470.015, F.S.;
59 | conforming a reference; amending s. 470.018, F.S.;
60 | increasing continuing education requirements for direct
61 | disposers; conforming a reference; amending s. 470.021,
62 | F.S.; providing additional requirements to be a direct
63 | disposal establishment; providing inspection requirements
64 | and criteria; amending s. 470.024, F.S.; revising
65 | requirements to be a funeral establishment; amending s.
66 | 470.025, F.S.; revising cremation requirements for
67 | cinerator facilities relating to simultaneous cremations,
68 | body parts, cremation containers, and the cremation
69 | chamber; providing exemption from liability for
70 | unintentional or incidental commingling of remains under
71 | certain conditions; amending s. 470.0255, F.S.; providing
72 | for cremation of parts of human bodies incidental to final
73 | disposition; amending s. 470.028, F.S.; providing for
74 | control and supervision of preneed agents; amending s.
75 | 470.029, F.S.; extending the filing time for reports of
76 | bodies embalmed or handled; amending s. 470.031, F.S.;
77 | prohibiting any guarantee on the future price of any goods
78 | or services; providing penalties; amending s. 470.0355,
79 | F.S.; revising requirements for identification of human

80 | remains prior to final disposition; providing requirements
 81 | for identification of human remains in unlicensed and
 82 | licensed cemeteries and by direct disposal establishments;
 83 | reenacting s. 470.036(1)(a), F.S., relating to
 84 | disciplinary proceedings, to incorporate the amendment to
 85 | s. 470.031, F.S., in a reference thereto; amending s.
 86 | 497.005, F.S.; revising and providing definitions
 87 | applicable to regulation of funeral and cemetery services;
 88 | amending s. 497.305, F.S.; requiring cemetery company
 89 | bylaws to include minimum standards for access to install
 90 | burial merchandise; requiring that a cemetery company
 91 | comply with its adopted bylaws; creating s. 497.306, F.S.;
 92 | providing dimension and spacing standards for grave
 93 | spaces; requiring a map of reference markers and a land
 94 | survey for areas proposed to be developed by a licensed
 95 | cemetery company; exempting adult grave spaces previously
 96 | established; creating s. 497.307, F.S.; providing
 97 | requirements for identification of human remains in
 98 | licensed cemeteries; amending s. 497.325, F.S., relating
 99 | to illegal tying arrangements; providing for procedures
 100 | established by other entities operating a cemetery
 101 | regarding monuments; amending s. 497.333, F.S.; providing
 102 | for disclosure to customers of information relating to
 103 | placement of monuments, markers, or memorializations at
 104 | gravesites; amending s. 497.361, F.S., relating to
 105 | registration of monument establishments; specifying
 106 | conditions constituting breach of contract and providing
 107 | for refunds; requiring departmental approval of contract

108 forms; creating s. 497.365, F.S.; providing for regulation
 109 of monument establishments; providing for inspections;
 110 providing for rules; providing that the department may not
 111 unreasonably restrict commerce; creating s. 497.371, F.S.;
 112 providing requirements for monument establishment business
 113 locations; creating s. 497.379, F.S.; requiring monument
 114 establishments selling preneed contracts to obtain a
 115 certificate of authority and providing requirements
 116 therefor; prohibiting transfer or assignment of a
 117 certificate of authority; creating s. 497.385, F.S.;
 118 requiring registration of sales representatives of
 119 monument establishments; creating s. 497.391, F.S.;
 120 requiring board approval of preneed contract forms by
 121 monument dealers or monument establishments; creating s.
 122 497.395, F.S.; providing financial requirements for
 123 monument establishments; providing requirements for
 124 minimum net worth; providing for submission of financial
 125 statements; providing for annual fees based on sales
 126 volume with respect to preneed contracts; providing for
 127 guarantee agreements; providing for additional oversight
 128 in lieu of financial requirements; amending s. 497.405,
 129 F.S.; prohibiting any person from advertising for sale or
 130 making any arrangement for a preneed contract without
 131 having a valid certificate of authority; expanding the
 132 exemption from the required certificate of authority for
 133 certain religious-institution-owned cemeteries to include
 134 the sale and opening or closing of cremation interment
 135 containers to members and family members of the religious

136 institution; amending s. 497.419, F.S.; requiring preneed
 137 contracts to include in the refund notice the exclusion
 138 for amounts allocable to burial rights, merchandise, and
 139 services used by the purchaser; providing condition for
 140 breach of contract by certificateholder and for rights of
 141 purchaser; amending s. 497.436, F.S.; authorizing the
 142 board to review the trust funds, trust agreements, and
 143 outstanding preneed contracts of, and perform other
 144 procedures at its discretion with respect to, a
 145 certificateholder filing notice to become inactive;
 146 providing effective dates.

147

148 Be It Enacted by the Legislature of the State of Florida:

149

150 Section 1. Paragraph (h) of subsection (2) of section
 151 20.121, Florida Statutes, is amended, paragraph (n) is added to
 152 said subsection, subsection (4) is renumbered as subsection (5),
 153 and a new subsection (4) is added to said section, to read:

154 20.121 Department of Financial Services.--There is created
 155 a Department of Financial Services.

156 (2) DIVISIONS.--The Department of Financial Services shall
 157 consist of the following divisions:

158 (h) The Division of Consumer Services, ~~which shall include~~
 159 ~~a Bureau of Funeral and Cemetery Services.~~

160 1. The Division of Consumer Services shall perform the
 161 following functions concerning products or services regulated by
 162 the Department of Financial Services or by either office of the
 163 Financial Services Commission:

- 164 a. Receive inquiries and complaints from consumers~~.~~†
- 165 b. Prepare and disseminate such information as the
- 166 department deems appropriate to inform or assist consumers~~.~~†
- 167 c. Provide direct assistance and advocacy for consumers
- 168 who request such assistance or advocacy~~.~~†
- 169 d. With respect to apparent or potential violations of law
- 170 or applicable rules by a person or entity licensed by the
- 171 department or by either office of the commission, report such
- 172 apparent or potential violation to the appropriate division of
- 173 the department or office of the commission, which may take such
- 174 further action as it deems appropriate.
- 175 2. Any person licensed or issued a certificate of
- 176 authority by the department or by the Office of Insurance
- 177 Regulation shall respond, in writing, to the Division of
- 178 Consumer Services within 20 days after receipt of a written
- 179 request for information from the division concerning a consumer
- 180 complaint. The response must address the issues and allegations
- 181 raised in this complaint. The division may, in its discretion,
- 182 impose an administrative penalty for failure to comply with this
- 183 subparagraph in an amount up to \$2,500 per violation upon any
- 184 entity licensed by the department or the Office of Insurance
- 185 Regulation and \$250 for the first violation, \$500 for the second
- 186 violation and up to \$1,000 per violation thereafter upon any
- 187 individual licensed by the department or the Office of Insurance
- 188 Regulation.
- 189 3. The department may adopt rules to implement the
- 190 provisions of this paragraph.

191 4. The powers, duties, and responsibilities expressed or
 192 granted in this paragraph shall not limit the powers, duties,
 193 and responsibilities of the Department of Financial Services,
 194 the Financial Services Commission, the Office of Insurance
 195 Regulation, or the Office of Financial Regulation set forth
 196 elsewhere in the Florida Statutes.

197 (n) The Division of Funeral, Cemetery, and Consumer
 198 Services.

199 (4) BOARD OF FUNERAL, CEMETERY, AND CONSUMER
 200 SERVICES.--There is created within the Department of Financial
 201 Services the Board of Funeral, Cemetery, and Consumer Services.

202 Section 2. Paragraph (a) of subsection (4) of section
 203 20.165, Florida Statutes, is amended to read:

204 20.165 Department of Business and Professional
 205 Regulation.--There is created a Department of Business and
 206 Professional Regulation.

207 (4)(a) The following boards are established within the
 208 Division of Professions:

209 1. Board of Architecture and Interior Design, created
 210 under part I of chapter 481.

211 2. Florida Board of Auctioneers, created under part VI of
 212 chapter 468.

213 3. Barbers' Board, created under chapter 476.

214 4. Florida Building Code Administrators and Inspectors
 215 Board, created under part XII of chapter 468.

216 5. Construction Industry Licensing Board, created under
 217 part I of chapter 489.

218 6. Board of Cosmetology, created under chapter 477.

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219 7. Electrical Contractors' Licensing Board, created under
220 part II of chapter 489.

221 8. Board of Employee Leasing Companies, created under part
222 XI of chapter 468.

223 ~~9. Board of Funeral Directors and Embalmers, created under~~
224 ~~chapter 470.~~

225 ~~9.10.~~ Board of Landscape Architecture, created under part
226 II of chapter 481.

227 ~~10.11.~~ Board of Pilot Commissioners, created under chapter
228 310.

229 ~~11.12.~~ Board of Professional Engineers, created under
230 chapter 471.

231 ~~12.13.~~ Board of Professional Geologists, created under
232 chapter 492.

233 ~~13.14.~~ Board of Professional Surveyors and Mappers,
234 created under chapter 472.

235 ~~14.15.~~ Board of Veterinary Medicine, created under chapter
236 474.

237 Section 3. Section 497.101, Florida Statutes, is amended
238 to read:

239 (Substantial rewording of section. See
240 s. 497.101, F.S., for present text.)

241 497.101 Board of Funeral, Cemetery, and Consumer Services;
242 membership; appointment; terms.--

243 (1) The Board of Funeral, Cemetery, and Consumer Services
244 is created within the Department of Financial Services and shall
245 consist of 10 members, nine of whom shall be appointed by the
246 Governor from nominations made by the Chief Financial Officer

247 and confirmed by the Senate. The Chief Financial Officer shall
248 nominate three persons for each of the nine vacancies on the
249 board, and the Governor shall fill each vacancy on the board by
250 appointing one of the three persons nominated by the Chief
251 Financial Officer to fill that vacancy. If the Governor objects
252 to each of the three nominations for a vacancy, she or he shall
253 inform the Chief Financial Officer in writing. Upon notification
254 of an objection by the Governor, the Chief Financial Officer
255 shall submit three additional nominations for that vacancy until
256 the vacancy is filled. One member must be the State Health
257 Officer or her or his designee.

258 (2) Two members of the board must be funeral directors
259 licensed under chapter 470 who are associated with a funeral
260 establishment. One member of the board must be a funeral
261 director licensed under chapter 470 who is associated with a
262 funeral establishment licensed pursuant to chapter 470 which has
263 a valid certificate of authority issued pursuant to this chapter
264 and who owns or operates a cinerator facility approved pursuant
265 to chapters 403 and 470. Two members of the board must be
266 persons whose primary occupation is associated with a cemetery
267 company licensed pursuant to this chapter. Three members of the
268 board must be consumers who are residents of the state who have
269 never been licensed as funeral directors or embalmers and not
270 connected with a cemetery or cemetery company licensed pursuant
271 to this chapter, the death care industry, or the practice of
272 embalming, funeral directing, or direct disposition. One of the
273 consumer members must be at least 60 years of age or older and
274 one must be licensed as a certified public accountant pursuant

275 | to chapter 473. One member of the board must be a monument
 276 | dealer licensed under this chapter. One member must be the State
 277 | Health Officer or her or his designee.

278 | (3) Board members shall be appointed for terms of 4 years
 279 | and the State Health Officer shall serve as long as that person
 280 | holds that office. The designee of the State Health Officer
 281 | shall serve at the pleasure of the Governor. When the terms of
 282 | the initial board members expire, the Chief Financial Officer
 283 | shall stagger the terms of the successor members as follows: one
 284 | funeral director, one cemetery representative, the monument
 285 | dealer, and one consumer member shall be appointed for terms of
 286 | 2 years, and the remaining members shall be appointed for terms
 287 | of 4 years. All subsequent terms shall be for 4 years.

288 | (4) The Governor may suspend any board member for
 289 | malfeasance or misfeasance, neglect of duty, incompetence,
 290 | substantial inability to perform official duties, commission of
 291 | a crime, or other substantial cause as determined by the
 292 | Governor to evidence a lack of fitness to sit on the board. The
 293 | Senate may remove any board member for malfeasance or
 294 | misfeasance, neglect of duty, incompetence, substantial
 295 | inability to perform official duties, commission of a crime, or
 296 | other substantial cause as determined by the Senate to lack a
 297 | fitness to sit on the board. A board member shall be deemed to
 298 | have resigned her or his board membership, and that position
 299 | shall be deemed vacant, upon the failure of the member to attend
 300 | three consecutive meetings of the board or at least half of the
 301 | meetings of the board during any 12-month period, unless the
 302 | Chief Financial Officer determines that there was good and

303 adequate justification for the absences and that such absences
 304 are not likely to continue.

305 (5) A current or former board member and a person serving
 306 on the board's probable cause panels are exempt from any civil
 307 liability for any act or omission when acting in good faith in
 308 her or his official capacity, and the Department of Legal
 309 Affairs and the Division of Risk Management shall defend such
 310 board member in any civil action against such person arising
 311 from any such act or omission.

312 (6) The headquarters and records of the board shall be in
 313 the Division of Funeral, Cemetery, and Consumer Services of the
 314 Department of Financial Services in Tallahassee. The Chief
 315 Financial Officer shall annually appoint from among the board
 316 members a chairperson and vice chairperson of the board. The
 317 board shall meet at least every 6 months, and more often as it
 318 deems necessary. Special meetings of the board shall be convened
 319 upon the direction of the Chief Financial Officer. A quorum is
 320 necessary for the conduct of business by the board. Unless
 321 otherwise provided by law, six board members other than the
 322 board's executive director shall constitute a quorum for the
 323 conduct of the board's business.

324 (7) A board member shall be compensated \$50 for each day
 325 the member attends an official meeting and each day the member
 326 participates at the request of the board's executive director in
 327 any other business involving the board. To the extent authorized
 328 by the s. 112.061, a board member is entitled to reimbursement
 329 for expenses incurred in connection with official duties. Out-
 330 of-state travel by board members on official business shall in

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331 each specific instance require the advance approval of the
332 board's executive director in order for the travel to be
333 eligible for reimbursement of expenses.

334 Section 4. Section 497.102, Florida Statutes, is created
335 to read:

336 497.102 Authority of the board.--

337 (1) The board shall enforce and administer the provisions
338 of chapter 470 and this chapter. Notwithstanding s. 455.017, the
339 board shall administer those powers, duties, and functions in
340 chapter 455 which are necessary to enforce the provisions of
341 chapter 470.

342 (2) For purposes of enforcement of chapter 455 regarding
343 chapter 470, on and after January 1, 2005, references in chapter
344 455 to the Department of Business and Professional Regulation or
345 the secretary of that department shall be read as referring to
346 the Department of Financial Services or the Chief Financial
347 Officer, as the context may indicate to be appropriate.

348 (3) The Department of Financial Services shall not adopt
349 any rule or publish any notice of proposed rule development as
350 provided in ss. 120.536-120.551 which affects the provisions of
351 chapter 455, chapter 470, or this chapter without first
352 presenting the rule or rules proposed for development to the
353 board for its review and recommendation, if any. This subsection
354 does not apply to emergency rulemaking under s. 120.54(4).

355 Section 5. Section 497.1021, Florida Statutes, is created
356 to read:

357 497.1021 Division of Funeral, Cemetery, and Consumer
358 Services; duties; oversight and enforcement.--

359 (1) There is created within the Department of Financial
 360 Services the Division of Funeral, Cemetery, and Consumer
 361 Services. The division shall enforce the provisions of chapter
 362 470 and this chapter and perform such other acts as may be
 363 necessary to carry out the provisions of chapter 470 and this
 364 chapter.

365 (2) The division shall provide all services concerning
 366 chapter 470 and this chapter, including, but not limited to,
 367 recordkeeping, examination, legal, and investigative services.
 368 Those services in chapter 455 necessary to perform the duties of
 369 chapter 470 shall be provided by the division.

370 (3) Funds received as a result of settlements with
 371 regulated entities and persons may be used by the division for
 372 contracting for the training of auditors and the conduct of
 373 examinations in order to enhance oversight and enforcement of
 374 laws and regulations governing the activities of licensees. All
 375 funds received under this subsection shall be deposited in the
 376 Regulatory Trust Fund of the department for use only by the
 377 division.

378 Section 6. Section 497.1022, Florida Statutes, is created
 379 to read:

380 497.1022 Director of the Division of Funeral, Cemetery,
 381 and Consumer Services.--

382 (1) The office of the Director of the Division of Funeral,
 383 Cemetery, and Consumer Services is created. The director is the
 384 agency head of the division. The director shall be appointed by
 385 the Chief Financial Officer and shall serve at the pleasure of
 386 the Chief Financial Officer.

387 (2) The director shall be responsible for preparation of
 388 the board agenda, presentation of division staff
 389 recommendations, and reports of the activities of the division
 390 to the board and shall serve as the executive director of the
 391 board and perform such other duties as may be assigned by the
 392 Chief Financial Officer.

393 Section 7. Section 455.2226, Florida Statutes, is
 394 renumbered as section 470.0145, Florida Statutes, and amended to
 395 read:

396 470.0145 ~~455.2226~~ Funeral directors and embalmers;
 397 instruction on HIV and AIDS.--

398 (1) The Board of Funeral, Cemetery, and Consumer Services
 399 ~~Funeral Directors and Embalmers~~ shall require each person
 400 licensed or registered ~~certified~~ under this chapter ~~470~~ to
 401 complete a continuing educational course, approved by the board,
 402 on human immunodeficiency virus and acquired immune deficiency
 403 syndrome as part of biennial relicensure or reregistration
 404 ~~recertification~~. The course shall consist of education on the
 405 modes of transmission, infection control procedures, clinical
 406 management, and prevention of human immunodeficiency virus and
 407 acquired immune deficiency syndrome. Such course shall include
 408 information on current Florida law on acquired immune deficiency
 409 syndrome and its impact on testing, confidentiality of test
 410 results, and treatment of patients.

411 (2) Each such licensee or registrant ~~certificateholder~~
 412 shall submit confirmation of having completed said course, on a
 413 form as provided by the board, when submitting fees for each
 414 biennial renewal.

415 (3) The board shall have the authority to approve
 416 additional equivalent courses that may be used to satisfy the
 417 requirements in subsection (1) and ~~Each licensing board that~~
 418 ~~requires a licensee to complete an educational course pursuant~~
 419 ~~to this section~~ may count the hours required for completion of
 420 the course included in the total continuing educational
 421 requirements as required by law.

422 (4) Any person holding two or more licenses or
 423 registrations subject to the provisions of this section shall be
 424 permitted to show proof of having taken one board-approved
 425 course on human immunodeficiency virus and acquired immune
 426 deficiency syndrome, for purposes of relicensure or
 427 recertification for additional licenses or registrations.

428 (5) Failure to comply with the above requirements shall
 429 constitute grounds for disciplinary action under ~~each respective~~
 430 ~~licensing chapter and s. 470.036 455.227(1)(e)~~. In addition to
 431 discipline by the board, the licensee shall be required to
 432 complete said course.

433 (6) The board shall require as a condition of granting a
 434 license or registration under this chapter ~~the chapters~~
 435 ~~specified in subsection (1)~~ that an applicant making initial
 436 application for licensure or registration complete an
 437 educational course acceptable to the board on human
 438 immunodeficiency virus and acquired immune deficiency syndrome.
 439 An applicant who has not taken a course at the time of licensure
 440 or registration shall, upon an affidavit showing good cause, be
 441 allowed 6 months to complete this requirement.

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442 (7) The board shall have the authority to adopt rules to
443 carry out the provisions of this section.

444 (8) The board shall report to the Legislature by March 1
445 of each year as to the implementation and compliance with the
446 requirements of this section.

447 Section 8. Section 497.105, Florida Statutes, is amended
448 to read:

449 497.105 Department; powers and duties.--The department
450 shall:

451 (1) Adopt rules establishing procedures for the renewal of
452 licenses, registrations, and certificates of authority.

453 ~~(2) Appoint the executive director of the Board of Funeral~~
454 ~~and Cemetery Services, subject to the approval of the board.~~

455 (2)~~(3)~~ With the advice of the board, submit a biennial
456 budget to the Legislature at a time and in the manner provided
457 by law.

458 (3)~~(4)~~ Develop a training program for persons newly
459 appointed to membership on the board. The program shall
460 familiarize such persons with the substantive and procedural
461 laws and rules which relate to the regulation under chapter 470
462 and this chapter and with the structure of the department.

463 (4)~~(5)~~ Adopt rules pursuant to ss. 120.536(1) and 120.54
464 to implement the provisions of this chapter conferring duties
465 upon it.

466 (5)~~(6)~~ Establish by rule procedures by which the
467 department shall use the expert or technical advice of the
468 board, for the purposes of investigation, inspection, audit,

469 evaluation of applications, other duties of the department, or
470 any other areas the department may deem appropriate.

471 ~~(6)~~(7) Require all proceedings of the board or panels
472 thereof within the department and all formal or informal
473 proceedings conducted by the department, an administrative law
474 judge, or a hearing officer with respect to licensing,
475 registration, certification, or discipline to be electronically
476 recorded in a manner sufficient to ensure the accurate
477 transcription of all matters so recorded.

478 ~~(7)~~(8) Select only those investigators approved by the
479 board. Such investigators shall report to and work in
480 coordination with the executive director of the board and are
481 responsible for all inspections and investigations other than
482 financial examinations.

483 Section 9. All duties performed by the Secretary of
484 Business and Professional Regulation under chapter 470, Florida
485 Statutes, shall be performed by the Chief Financial Officer
486 under the provisions of this act and may be delegated by the
487 Chief Financial Officer to the Director of the Division of the
488 Funeral, Cemetery, and Consumer Services.

489 Section 10. (1)(a) All of the statutory powers, duties,
490 and functions, records, personnel, property, and unexpended
491 balances of appropriations, allocations, or other funds for the
492 administration of chapter 470, Florida Statutes, related to the
493 Board of Funeral Directors and Embalmers shall be transferred by
494 a type two transfer, as defined in s. 20.06(2), Florida
495 Statutes, from the Department of Business and Professional

496 Regulation to the Board of Funeral, Cemetery, and Consumer
497 Services within the Department of Financial Services.

498 (b) Notwithstanding the transfers provided in paragraph
499 (a), all licenses issued pursuant to chapter 470, Florida
500 Statutes, must be processed, issued, and maintained through the
501 Department of Business and Professional Regulation's licensing
502 system. The Department of Financial Services shall reimburse the
503 Department of Business and Professional Regulation for the
504 contract costs associated with the licensing system.

505 (c) The transfer of regulatory authority over chapter 470,
506 Florida Statutes, provided by this act shall not affect the
507 validity of any judicial or administrative action involving the
508 Board of Funeral Directors and Embalmers or the Department of
509 Business and Professional Regulation pending on December 31,
510 2004, and the Department of Financial Services or the Board of
511 Funeral, Cemetery, and Consumer Services shall be substituted as
512 a party in interest in any such action.

513 (d) Notwithstanding the transfer of regulatory authority
514 over chapter 470, Florida Statutes, provided by this act, all
515 licenses and registrations issued pursuant to chapter 470,
516 Florida Statutes, that are valid on December 31, 2004, shall
517 remain in effect subject to the provisions of chapters 470 and
518 455, Florida Statutes.

519 (e) The rules of the Board of Funeral Directors and
520 Embalmers and the Department of Business and Professional
521 Regulation which were in effect on midnight, December 31, 2004,
522 shall become the rules of the Department of Financial Services
523 as is appropriate to the corresponding regulatory function and

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524 shall remain in effect until specifically amended or repealed in
525 the manner provided by law.

526 (2)(a) All of the statutory powers, duties, and functions,
527 records, personnel, property, and unexpended balances of
528 appropriations, allocations, or other funds for the
529 administration of chapter 497, Florida Statutes, related to the
530 Board of Funeral and Cemetery Services shall be transferred by a
531 type two transfer, as defined in s. 20.06(2), Florida Statutes,
532 to the Board of Funeral, Cemetery, and Consumer Services within
533 the Department of Financial Services.

534 (b) The transfer of regulatory authority over chapter 497,
535 Florida Statutes, provided by this act shall not affect the
536 validity of any judicial or administrative action involving the
537 Board of Funeral and Cemetery Services pending on December 31,
538 2004, and the Board of Funeral, Cemetery, and Consumer Services
539 shall be substituted as a party in interest in any such action.

540 (c) Notwithstanding the transfer of regulatory authority
541 over chapter 497, Florida Statutes, provided by this act, all
542 licenses and registrations issued pursuant to chapter 497,
543 Florida Statutes, which are valid on December 31, 2004, shall
544 remain in effect subject to the provisions of chapter 497,
545 Florida Statutes.

546 (d) The rules of the Board of Funeral and Cemetery
547 Services which were in effect on midnight, December 31, 2004,
548 shall become the rules of the Board of Funeral, Cemetery, and
549 Consumer Services and shall remain in effect until specifically
550 amended or repealed in the manner provided by law.

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551 Section 11. Effective midnight December 31, 2004, the
552 Board of Funeral and Cemetery Services and the Board of Funeral
553 Directors and Embalmers are abolished.

554 Section 12. Sections 470.003, 497.107, and 497.109,
555 Florida Statutes, are repealed.

556 Section 13. Section 470.0365, Florida Statutes, is created
557 to read:

558 470.0365 Disposition of fees and penalties.--All fees and
559 penalties collected pursuant to this chapter shall be deposited
560 in the Regulatory Trust Fund of the department.

561 Section 14. The Legislature recognizes that there is a
562 need to conform the Florida Statutes to the policy decisions
563 reflected in the provisions of this act. The Division of
564 Statutory Revision is directed to provide the relevant
565 substantive committees of the Senate and the House of
566 Representatives with assistance, upon request, to enable such
567 committees to prepare draft legislation to conform the Florida
568 Statutes to the provisions of this act.

569 Section 15. Section 470.002, Florida Statutes, is amended
570 to read:

571 470.002 Definitions.--As used in this chapter:

572 (1)(15) "Alternative container" means a nonmetal
573 receptacle or enclosure which is less expensive than a casket
574 and of sufficient strength to be used to hold and transport a
575 dead human body.

576 (2)(22) "At-need solicitation" means any uninvited contact
577 by a funeral director or direct disposer for the purpose of the

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578 sale of funeral services or merchandise to the family or next of
579 kin of a person after that person has died.

580 (3)~~(2)~~ "Board" means the Board of Funeral, Cemetery, and
581 Consumer Services ~~Funeral Directors and Embalmers.~~

582 (4) "Body parts" means:

583 (a) Limbs or other portions of the anatomy that are
584 removed from a person or human remains for medical purposes
585 during treatment, surgery, biopsy, autopsy, or medical research;
586 or

587 (b) Human bodies or any portions of human bodies which
588 have been donated to science for medical research purposes.

589 (5)~~(16)~~ "Casket" means a rigid container which is designed
590 for the encasement of human remains for burial, ~~and~~ which is
591 usually constructed of wood or metal, ornamented, and lined with
592 fabric, and which may or may not be combustible.

593 (6)~~(27)~~ "Centralized embalming facility" means a facility,
594 not physically connected with a funeral establishment, in which
595 embalming takes place.

596 (7)~~(14)~~ "Cinerator" means a facility where dead human
597 bodies are reduced to a residue, including bone fragments, by
598 direct flame, also known as "cremation," or by intense heat,
599 also known as "calcination."

600 (8) "Closed container" means any container in which
601 cremated remains can be placed and closed in a manner so as to
602 prevent leakage or spillage of the remains.

603 (9) "Cremated remains" means all the remains of the human
604 body recovered after the completion of the cremation process,
605 including processing or pulverization which leaves only bone

606 fragments reduced to unidentifiable dimensions and may include
 607 the residue of any foreign matter, including casket material,
 608 bridgework, or eyeglasses that were cremated with the human
 609 remains.

610 (10)~~(24)~~ "Cremation" means the technical process, using
 611 direct flame and heat or chemical means, that reduces human
 612 remains to bone fragments through heat and evaporation.
 613 Cremation includes the processing and usually includes the
 614 pulverization of the bone fragments ~~includes any mechanical or~~
 615 thermal process whereby a dead human body is reduced to ashes
 616 and bone fragments. ~~Cremation also includes any other mechanical~~
 617 or thermal process whereby human remains are pulverized, burned,
 618 recremated, or otherwise further reduced in size or quantity.

619 (11) "Cremation chamber" means the enclosed space within
 620 which the cremation process takes place. Cremation chambers
 621 covered by these procedures must be used exclusively for the
 622 cremation of human remains.

623 (12) "Cremation container" means the container in which
 624 the human remains are transported to and placed in the cremation
 625 chamber for a cremation. A cremation container should meet
 626 substantially all of the following standards:

627 (a) Be composed of readily combustible materials suitable
 628 for cremation.

629 (b) Be able to be closed in order to provide a complete
 630 covering for the human remains.

631 (c) Be resistant to leakage or spillage.

632 (d) Be rigid enough to be handled with ease.

633 (e) Be able to provide protection for the health, safety,
634 and personal integrity of crematory personnel.

635 (13) "Cremation interment container" means a rigid outer
636 container that, subject to a cemetery's rules and regulations,
637 is composed of concrete, steel, fiberglass, or some similar
638 material in which an urn is placed prior to being interred in
639 the ground and that is designed to support the earth above the
640 urn.

641 (14)~~(1)~~ "Department" means the Department of Financial
642 Services ~~Business and Professional Regulation.~~

643 (15)~~(8)~~ "Direct disposal establishment" means a facility
644 registered under this chapter where a direct disposer practices
645 direct disposition.

646 (16)~~(9)~~ "Direct disposer" means any person registered
647 under this chapter to practice direct disposition in this state.

648 (17)~~(28)~~ "Disinterment" means removal of a dead human body
649 from earth interment or aboveground interment.

650 (18)~~(5)~~ "Embalmer" means any person licensed under this
651 chapter to practice embalming in this state.

652 (19)~~(11)~~ "Final disposition" means the final disposal of a
653 dead human body by earth interment, aboveground interment,
654 cremation, burial at sea, or delivery to a medical institution
655 for lawful dissection if the medical institution assumes
656 responsibility for disposal. "Final disposition" does not
657 include the disposal or distribution of ashes and residue of
658 cremated human remains.

659 (20)~~(13)~~ "Funeral" or "funeral service" means the
660 observances, services, or ceremonies held to commemorate the

661 life of a specific deceased human being, and at which the human
662 remains are present.

663 (21)~~(3)~~ "Funeral director" means any person licensed under
664 this chapter to practice funeral directing in this state.

665 (22)~~(7)~~ "Funeral establishment" means a facility licensed
666 under this chapter where a funeral director or embalmer
667 practices funeral directing or embalming.

668 (23)~~(12)~~ "Funeral merchandise" or "merchandise" means any
669 merchandise commonly sold in connection with the funeral, final
670 disposition, or memorialization of human remains, including, but
671 not limited to, caskets, outer burial containers, alternative
672 containers, cremation containers, cremation interment
673 containers, urns, monuments, private mausoleums, flowers,
674 shrubs, benches, vases, acknowledgment cards, register books,
675 memory folders, prayer cards, and clothing.

676 (24)~~(23)~~ "Human remains" or "remains," "dead human body"
677 or "dead human bodies," means the body of a deceased human
678 person for which a death certificate or fetal death certificate
679 is required under chapter 382 and includes the body in any stage
680 of decomposition and the residue of cremated human bodies.

681 (25)~~(18)~~ "Legally authorized person" means, in the
682 priority listed, the decedent, when written inter vivos
683 authorizations and directions are provided by the decedent, the
684 surviving spouse, unless the spouse has been arrested for
685 committing against the deceased an act of domestic violence as
686 defined in s. 741.28 that resulted in or contributed to the
687 death of the deceased, a son or daughter who is 18 years of age
688 or older, a parent, a brother or sister 18 years of age or over,

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689 a grandchild who is 18 years of age or older, or a grandparent;
 690 or any person in the next degree of kinship. In addition, the
 691 term may include, if no family exists or is available, the
 692 following: the guardian of the dead person at the time of death;
 693 the personal representative of the deceased; the attorney in
 694 fact of the dead person at the time of death; the health
 695 surrogate of the dead person at the time of death; a public
 696 health officer; the medical examiner, county commission or
 697 administrator acting under part II of chapter 406, or other
 698 public administrator; a representative of a nursing home or
 699 other health care institution in charge of final disposition; or
 700 a friend or other person not listed in this subsection who is
 701 willing to assume the responsibility as authorized person. When
 702 there is a person in any priority class listed in this
 703 subsection, the funeral establishment shall rely upon the
 704 authorization of any one legally authorized person of that class
 705 if that individual represents that he or she is not aware of any
 706 objection to the cremation of the deceased's human remains by
 707 others in the same class of the person making the representation
 708 or of any person in a higher priority class.

709 (26) "Niche" means a compartment or cubicle for the
 710 memorialization or permanent placement of a container or urn
 711 containing cremated remains.

712 (27)~~(19)~~ "Outer burial container" means an enclosure into
 713 which a casket is placed, including, but not limited to, a vault
 714 made of concrete, steel, fiberglass, or copper, a sectional
 715 concrete enclosure, a crypt, or a wooden enclosure.

716 ~~(28)~~~~(20)~~ "Personal residence" means any residential
 717 building in which one temporarily or permanently maintains his
 718 or her abode, including, but not limited to, an apartment or a
 719 hotel, motel, nursing home, convalescent home, home for the
 720 aged, or a public or private institution.

721 ~~(29)~~~~(10)~~ "Practice of direct disposition" means the
 722 cremation of human remains without preparation of the human
 723 remains by embalming and without any attendant services or rites
 724 such as funeral or graveside services or the making of
 725 arrangements for such final disposition.

726 ~~(30)~~~~(6)~~ "Practice of embalming" means disinfecting or
 727 preserving or attempting to disinfect or preserve dead human
 728 bodies by replacing certain body fluids with preserving and
 729 disinfecting chemicals.

730 ~~(31)~~~~(4)~~ "Practice of funeral directing" means the
 731 performance by a licensed funeral director of any of those
 732 functions authorized by s. 470.0087.

733 ~~(32)~~~~(21)~~ "Preneed sales agent" means any person who is
 734 registered under chapter 497 to sell preneed burial or funeral
 735 service and merchandise contracts or direct disposition
 736 contracts in this state.

737 (33) "Processing" means the reduction of identifiable bone
 738 fragments after the completion of the cremation process to
 739 unidentifiable bone fragments by manual means.

740 (34) "Pulverization" means the reduction of identifiable
 741 bone fragments after the completion of the cremation and
 742 processing to granulated particles by manual or mechanical
 743 means.

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744 ~~(35)(25)~~ "Refrigeration facility" means a facility that is
 745 not physically connected with a funeral establishment, crematory
 746 or direct disposal establishment, that maintains space and
 747 equipment for the storage and refrigeration of dead human
 748 bodies, and that offers its service to funeral directors and
 749 funeral establishments for a fee.

750 ~~(36)(26)~~ "Removal service" means any service that operates
 751 independently of a funeral establishment, that handles the
 752 initial removal of dead human bodies, and that offers its
 753 service to funeral establishments and direct disposal
 754 establishments for a fee.

755 ~~(37)(17)~~ "Solicitation" means any communication which
 756 directly or implicitly requests an immediate oral response from
 757 the recipient.

758 (38) "Temporary container" means a receptacle for cremated
 759 remains usually made of cardboard, plastic, or similar material
 760 designated to hold the cremated remains until an urn or other
 761 permanent container is acquired.

762 (39) "Urn" means a receptacle designed to permanently
 763 encase cremated remains.

764 Section 16. Section 470.0085, Florida Statutes, is amended
 765 to read:

766 470.0085 Establishment of embalmer apprentice
 767 program.--The board may adopt rules establishing an embalmer
 768 apprentice program. An embalmer apprentice may perform only
 769 those tasks, functions, and duties relating to embalming which
 770 are performed under the direct supervision of a licensed
 771 embalmer. An embalmer apprentice shall be eligible to serve in

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772 an apprentice capacity for a period not to exceed 3 years ~~1 year~~
 773 as may be determined by board rule or for a period not to exceed
 774 5 ~~3~~ years if the apprentice is enrolled in and attending a
 775 course in mortuary science or funeral service education at any
 776 mortuary college or funeral service education college or school.
 777 An embalmer apprentice shall be registered with the board upon
 778 payment of a registration fee not to exceed \$50.

779 Section 17. Subsection (1) of section 470.015, Florida
 780 Statutes, is amended to read:

781 470.015 Renewal of funeral director and embalmer
 782 licenses.--

783 (1) The department shall renew a funeral director or
 784 embalmer license upon receipt of the renewal application and fee
 785 set by the board not to exceed \$250. The board may prescribe by
 786 rule continuing education requirements of up to 12 classroom
 787 hours and may by rule establish criteria for accepting
 788 alternative nonclassroom continuing education on an hour-for-
 789 hour basis, in addition to a board-approved course on
 790 communicable diseases that includes the course on human
 791 immunodeficiency virus and acquired immune deficiency syndrome
 792 required by s. 470.0145 ~~455.2226~~, for the renewal of a funeral
 793 director or embalmer license. The board may provide for the
 794 waiver of continuing education requirements in circumstances
 795 that would justify the waiver, such as hardship, disability, or
 796 illness. The continuing education requirement is not required
 797 after July 1, 1996, for a licensee who is over the age of 75
 798 years if the licensee does not qualify as the sole person in
 799 charge of an establishment or facility.

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800 Section 18. Subsection (2) of section 470.018, Florida
801 Statutes, is amended to read:

802 470.018 Renewal of registration of direct disposer.--

803 (2) The department shall adopt rules establishing a
804 procedure for the biennial renewal of registrations. The board
805 shall prescribe by rule continuing education requirements of up
806 to 6 ~~3~~ classroom hours and may by rule establish criteria for
807 accepting alternative nonclassroom continuing education on an
808 hour-for-hour basis, in addition to a board-approved course on
809 communicable diseases that includes the course on human
810 immunodeficiency virus and acquired immune deficiency syndrome
811 required by s. 470.0145 ~~455.2226~~, for the renewal of a
812 registration.

813 Section 19. Subsections (2) and (5) of section 470.021,
814 Florida Statutes, are amended to read:

815 470.021 Direct disposal establishment; standards and
816 location; registration.--

817 (2) The practice of direct disposition must be engaged in
818 at a fixed location of at least 625 interior contiguous square
819 feet and must maintain or make arrangements for suitable
820 capacity for the refrigeration and storage of dead human bodies
821 handled and stored by the establishment. No person may open or
822 maintain an establishment at which to engage in or hold himself
823 or herself out as engaging in the practice of direct disposition
824 unless such establishment is registered with the board. Any
825 change in location of such establishment shall be reported
826 promptly to the board as prescribed by rule of the board.

827 (5)(a) Each direct disposal establishment shall at all
 828 times be subject to the inspection of all its buildings,
 829 grounds, and vehicles used in the conduct of its business, by
 830 the department, the Department of Health, and local government
 831 inspectors and by their agents. The board shall adopt rules
 832 which establish such inspection requirements.

833 (b) The board shall set by rule an annual inspection fee
 834 not to exceed \$100, payable upon application for registration
 835 and upon each renewal of such registration.

836 (c) Each cinerator facility shall be inspected prior to
 837 the issuance and renewal of its license and shall:

838 1. Maintain one or more retorts for the reduction of dead
 839 human bodies.

840 2. Maintain refrigeration which satisfies the standards
 841 set by the Department of Health and which contains a sufficient
 842 number of shelves for the average daily number of bodies stored,
 843 if unembalmed bodies are kept at the site.

844 3. Maintain sufficient pollution control equipment to
 845 comply with requirements of the Department of Environmental
 846 Protection in order to secure annual approved certification.

847 4. Either have on site or immediately available sufficient
 848 sealed containers of a type required for the transportation of
 849 bodies.

850 5. Maintain the premises in a clean and sanitary
 851 condition.

852 6. Have appropriate Department of Environmental Protection
 853 permits.

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854 7. Retain all signed contracts for a period of at least 2
855 years.

856 Section 20. Subsection (1) of section 470.024, Florida
857 Statutes, is amended to read:

858 470.024 Funeral establishment; licensure.--

859 (1) A funeral establishment shall be a place at a specific
860 street address or location consisting of at least 1,250
861 contiguous interior square feet and must maintain or make
862 arrangements for ~~either~~ suitable capacity for the refrigeration
863 and storage of dead human bodies handled and stored by the
864 establishment and ~~or~~ a preparation room equipped with necessary
865 ventilation and drainage and containing necessary instruments
866 for embalming dead human bodies or must make arrangements for a
867 preparation room as established by board rule.

868 Section 21. Subsections (6), (13), (14), and (15) of
869 section 470.025, Florida Statutes, are amended, and subsection
870 (16) is added to said section, to read:

871 470.025 Cinerator facility; licensure.--

872 (6) No more than one dead human body may be placed in a
873 retort at one time, unless written permission has been received
874 from a legally authorized person for each body. The operator of
875 a cinerator facility shall be entitled to rely on the permission
876 of a legally authorized person to cremate more than one human
877 body.

878 (13) A cinerator facility shall not place human remains or
879 body parts in a retort or cremation chamber unless the human
880 remains are in an alternative container, cremation container, or
881 casket. Human remains may be transported in a cremation

882 container or stored if they are completely covered, and at all
 883 times treated with dignity and respect. Cremation may include
 884 the processing and pulverization of bone fragments. Cremated
 885 remains may be placed in a temporary container following
 886 cremation. None of the provisions contained in this subsection
 887 require the purchase of a casket for cremation. This subsection
 888 applies to at-need contracts and preneed contracts entered into
 889 pursuant to chapter 497 after June 1, 1996.

890 (14) Each cinerator facility shall ensure that all
 891 alternative containers, cremation containers, or caskets used
 892 for cremation contain no amount of chlorinated plastics not
 893 authorized by the Department of Environmental Protection, that
 894 they also are composed of readily combustible materials suitable
 895 for cremation, able to be closed to provide a complete covering
 896 for the human remains, resistant to leakage or spillage, rigid
 897 enough for handling with ease, and able to provide for the
 898 health, safety, and personal integrity of the public and
 899 crematory personnel.

900 (15) The board shall adopt, by rule, criteria for
 901 acceptable cremation and alternative containers.

902 (16) The operator of a cinerator facility shall establish
 903 written procedures for the removal of remains and bone
 904 fragments, to the extent possible, resulting from the cremation
 905 of a human body and the postcremation processing, shipping,
 906 packing, or identifying of those remains. If an operator follows
 907 these procedures, the operator is not liable for the
 908 unintentional or incidental commingling of human remains and
 909 bone fragments resulting from more than one cremation cycle or

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910 from postcremation processing, shipping, packing, or identifying
 911 of those remains. A copy of the procedures shall be available,
 912 upon request, to the department and legally authorized persons.

913 Section 22. Subsection (3) is added to section 470.0255,
 914 Florida Statutes, to read:

915 470.0255 Cremation; procedure required.--

916 (3) Pursuant to the request of a legally authorized person
 917 and incidental to final disposition, cremation may be performed
 918 on parts of human remains. This subsection does not authorize
 919 the cremation of body parts as defined in s. 470.002.

920 Section 23. Section 470.028, Florida Statutes, is amended
 921 to read:

922 470.028 Preneed sales; registration of agents; control and
 923 supervision of agents.--

924 (1) All sales of preneed funeral service contracts or
 925 direct disposition contracts shall be made pursuant to chapter
 926 497.

927 (2) No person may act as an agent for a funeral
 928 establishment or direct disposal establishment with respect to
 929 the sale of preneed contracts unless such person is registered
 930 pursuant to chapter 497.

931 (3) Each licensee or registrant shall be subject to
 932 discipline if his or her agent violates any provision of this
 933 chapter applicable to such licensee or registrant as established
 934 by board rule.

935 (4)(a) The funeral director in charge of a funeral
 936 establishment shall be responsible for the control and
 937 activities of the establishment's preneed agents.

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938 (b) The direct disposer in charge or a funeral director
 939 acting as a direct disposer in charge of a direct disposal
 940 establishment shall be responsible for the control and
 941 activities of the establishment's preneed agents.

942 Section 24. Subsection (1) of section 470.029, Florida
 943 Statutes, is amended to read:

944 470.029 Reports of cases embalmed and bodies handled.--

945 (1) Each funeral establishment, direct disposal
 946 establishment, cinerator facility, and centralized embalming
 947 facility shall report on a form prescribed and furnished by the
 948 department the name of the deceased and such other information
 949 as may be required with respect to each dead human body embalmed
 950 or otherwise handled by the establishment or facility. Such
 951 forms shall be signed by the embalmer who performs the
 952 embalming, if the body is embalmed, and the funeral director in
 953 charge of the establishment or facility or by the direct
 954 disposer who disposes of the body. The board shall prescribe by
 955 rule the procedures in submitting such documentation. Reports
 956 required by this subsection shall be filed by the 20th ~~10th~~ day
 957 of each month for final dispositions handled the preceding
 958 month.

959 Section 25. Section 470.031, Florida Statutes, is amended
 960 to read:

961 470.031 Prohibitions; penalties.--

962 (1) No person may:

963 (a) Practice funeral directing, embalming, or direct
 964 disposition unless the person holds an active license or
 965 registration under this chapter.

966 (b) Use the name or title "funeral director," "embalmer,"
967 or "direct disposer" when the person has not been licensed or
968 registered pursuant to this chapter.

969 (c) Represent as his or her own the license or
970 registration of another.

971 (d) Give false or forged evidence to the board, a member
972 thereof, or the department for the purpose of obtaining a
973 license or registration.

974 (e) Use or attempt to use a license or registration which
975 has been suspended or revoked.

976 (f) Knowingly employ unlicensed persons in the practice of
977 funeral directing, embalming, or direct disposing.

978 (g) Knowingly conceal information relative to violations
979 of this chapter.

980 (h) Operate an unlicensed cinerator facility.

981 (i) Except as provided for in chapter 497, guarantee the
982 price of goods and services at a future date.

983 (2) Any person who violates the provisions of this section
984 commits a misdemeanor of the second degree, punishable as
985 provided in s. 775.082 or s. 775.083.

986 Section 26. Section 470.0355, Florida Statutes, is amended
987 to read:

988 470.0355 Identification of human remains.--

989 (1) PRIOR TO FINAL DISPOSITION.--

990 (a)~~(1)~~ The licensee or registrant in charge of the final
991 disposition of dead human remains shall, prior to final
992 disposition of such dead human remains, affix on the ankle or
993 wrist of the deceased, and ~~or~~ in the casket or alternative

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994 container or cremation container, proper identification of the
 995 dead human remains. The identification or tag shall be encased
 996 in or consist of durable and long-lasting material containing
 997 the name, date of birth, and date of death, ~~and social security~~
 998 ~~number~~ of the deceased, if available. If the dead human remains
 999 are cremated, proper identification shall be placed in the
 1000 container or urn containing the remains.

1001 ~~(b)(2)~~ Any licensee or registrant responsible for removal
 1002 of dead human remains to any establishment, facility, or
 1003 location shall ensure that the remains are identified by a tag
 1004 or other means of identification that is affixed to the ankle or
 1005 wrist of the deceased at the time the remains are removed from
 1006 the place of death or other location.

1007 ~~(c)(3)~~ Any licensee or registrant may rely on the
 1008 representation of a legally authorized person to establish the
 1009 identity of dead human remains.

1010 (2) IN UNLICENSED CEMETERIES.--Effective April 1, 2005,
 1011 the identification of human remains interred in an unlicensed
 1012 cemetery shall be the responsibility of the licensed funeral
 1013 establishment in charge of the funeral arrangements for the
 1014 deceased person. The licensed funeral establishment in charge of
 1015 the funeral arrangements for the interment in an unlicensed
 1016 cemetery of human remains shall place on the outer burial
 1017 container, cremation internment container, or other container or
 1018 on the inside of a crypt or niche a tag or permanent identifying
 1019 mark containing the name of the decedent and the date of death,
 1020 if available. The materials and locations of the tag or mark
 1021 shall be more specifically described by the rule of the board.

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1022 (3) IN LICENSED CEMETERIES.--Effective April 1, 2005,
 1023 human remains at licensed cemeteries shall be identified as
 1024 follows:

1025 (a) Each licensed cemetery shall place on the outer burial
 1026 container, cremation interment container, or other container or
 1027 on the inside of a crypt or niche a tag or permanent identifying
 1028 marker containing the name of the decedent and the date of
 1029 death, if available. The materials and the location of the tag
 1030 or marker shall be more specifically described by rule of the
 1031 board.

1032 (b) Each licensed cemetery may rely entirely on the
 1033 identity stated on the burial transit permit or on the
 1034 identification supplied by a person licensed under chapter 470
 1035 to establish the identity of the dead human remains delivered by
 1036 such person for burial and shall not be liable for any
 1037 differences between the identity shown on the burial transit
 1038 permit or identification and the actual identity of the dead
 1039 human remains delivered by such person and buried in the
 1040 cemetery.

1041 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
 1042 establishments shall establish a system of identification of
 1043 human remains received which shall be designed to track the
 1044 identity of the remains from the time of receipt until delivery
 1045 of the remains to the authorized persons. This is in addition to
 1046 the requirements for identification of human remains set forth
 1047 in subsection (1). A copy of the identification procedures shall
 1048 be available, upon request, to the department and legally
 1049 authorized persons.

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1050 Section 27. For the purpose of incorporating the amendment
1051 to section 470.031, Florida Statutes, in a reference thereto,
1052 paragraph (a) of subsection (1) of section 470.036, Florida
1053 Statutes, is reenacted to read:

1054 470.036 Disciplinary proceedings.--

1055 (1) The following acts constitute grounds for which the
1056 disciplinary actions in subsection (2) may be taken:

1057 (a) Violation of any provision of s. 455.227(1) or s.
1058 470.031.

1059 Section 28. Section 497.005, Florida Statutes, is amended
1060 to read:

1061 497.005 Definitions.--As used in this chapter:

1062 (1) "At-need solicitation" means any uninvited contact by
1063 a licensee or her or his agent for the purpose of the sale of
1064 burial services or merchandise to the family or next of kin of a
1065 person after her or his death has occurred.

1066 (2) "Bank of belowground crypts" means any construction
1067 unit of belowground crypts which is acceptable to the department
1068 and which a cemetery uses to initiate its belowground crypt
1069 program or to add to existing belowground crypt structures.

1070 (3) "Belowground crypts" consist of interment space in
1071 preplaced chambers, either side by side or multiple depth,
1072 covered by earth and sod and known also as "lawn crypts,"
1073 "westminsters," or "turf-top crypts."

1074 (4) "Board" means the Board of Funeral, Cemetery, and
1075 Consumer Services ~~Funeral and Cemetery Services~~.

1076 (5) "Burial merchandise," "funeral merchandise," or
1077 "merchandise" means any personal property offered or sold by any

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1078 person for use in connection with the final disposition,
1079 memorialization, interment, entombment, or inurnment of human
1080 remains.

1081 (6) "Burial right" means the right to use a grave space,
1082 mausoleum, columbarium, ossuary, or scattering garden for the
1083 interment, entombment, inurnment, or other disposition of human
1084 remains.

1085 (7) "Burial service," "funeral service," or "service"
1086 means any service offered or provided by any person in
1087 connection with the final disposition, memorialization,
1088 interment, entombment, or inurnment of human remains.

1089 (8) "Care and maintenance" means the perpetual process of
1090 keeping a cemetery and its lots, graves, grounds, landscaping,
1091 roads, paths, parking lots, fences, mausoleums, columbaria,
1092 vaults, crypts, utilities, and other improvements, structures,
1093 and embellishments in a well-cared-for and dignified condition,
1094 so that the cemetery does not become a nuisance or place of
1095 reproach and desolation in the community. As specified in the
1096 rules of the board, "care and maintenance" may include, but is
1097 not limited to, any or all of the following activities: mowing
1098 the grass at reasonable intervals; raking and cleaning the grave
1099 spaces and adjacent areas; pruning of shrubs and trees;
1100 suppression of weeds and exotic flora; and maintenance, upkeep,
1101 and repair of drains, water lines, roads, buildings, and other
1102 improvements. "Care and maintenance" may include, but is not
1103 limited to, reasonable overhead expenses necessary for such
1104 purposes, including maintenance of machinery, tools, and
1105 equipment used for such purposes. "Care and maintenance" may

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1106 | also include repair or restoration of improvements necessary or
 1107 | desirable as a result of wear, deterioration, accident, damage,
 1108 | or destruction. "Care and maintenance" does not include expenses
 1109 | for the construction and development of new grave spaces or
 1110 | interment structures to be sold to the public.

1111 | (9) "Casket" means a rigid container which is designed for
 1112 | the encasement of human remains, ~~and~~ which is usually
 1113 | constructed of wood or metal, ornamented, and lined with fabric,
 1114 | and which may or may not be combustible.

1115 | (10) "Cemetery" means a place dedicated to and used or
 1116 | intended to be used for the permanent interment of human
 1117 | remains. A cemetery may contain land or earth interment;
 1118 | mausoleum, vault, or crypt interment; a columbarium, ossuary,
 1119 | scattering garden, or other structure or place used or intended
 1120 | to be used for the interment or disposition of cremated human
 1121 | remains; or any combination of one or more of such structures or
 1122 | places.

1123 | (11) "Cemetery company" means any legal entity that owns
 1124 | or controls cemetery lands or property.

1125 | (12) "Certificateholder" or "licensee" means the person or
 1126 | entity that is authorized under this chapter to sell preneed
 1127 | funeral or burial services, preneed funeral or burial
 1128 | merchandise, or burial rights. Each term shall include the
 1129 | other, as applicable, as the context requires. For the purposes
 1130 | of chapter 120, all certificateholders, licensees, and
 1131 | registrants shall be considered licensees.

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1132 (13) "Columbarium" means a structure or building which is
1133 substantially exposed above the ground and which is intended to
1134 be used for the inurnment of cremated human remains.

1135 (14) "Common business enterprise" means a group of two or
1136 more business entities that share common ownership in excess of
1137 50 percent.

1138 (15) "Cremation" means the technical process, using direct
1139 flame and heat or chemical means, that reduces human remains to
1140 bone fragments through heat and evaporation. Cremation includes
1141 the processing and usually includes the pulverization of the
1142 bone fragments ~~includes any mechanical or thermal process~~
1143 ~~whereby a dead human body is reduced to ashes. Cremation also~~
1144 ~~includes any other mechanical or thermal process whereby human~~
1145 ~~remains are pulverized, burned, reinterred, or otherwise further~~
1146 ~~reduced in size or quantity.~~

1147 (16) "Department" means the Department of Financial
1148 Services.

1149 (17) "Direct disposer" means any person who is registered
1150 in this state to practice direct disposition pursuant to the
1151 provisions of chapter 470.

1152 (18) "Director" means the director of the Division of
1153 Funeral, Cemetery, and Consumer Services.

1154 (19) "Division" means the Division of Funeral, Cemetery,
1155 and Consumer Services within the Department of Financial
1156 Services.

1157 (20)~~(18)~~ "Final disposition" means the final disposal of a
1158 dead human body whether by interment, entombment, burial at sea,
1159 cremation, or any other means and includes, but is not limited

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1160 to, any other disposition of remains for which a segregated
1161 charge is imposed.

1162 (21)~~(19)~~ "Funeral director" means any person licensed in
1163 this state to practice funeral directing pursuant to the
1164 provisions of chapter 470.

1165 (22)~~(20)~~ "Grave space" means a space of ground in a
1166 cemetery intended to be used for the interment in the ground of
1167 human remains.

1168 (23)~~(21)~~ "Human remains" means the bodies of deceased
1169 persons and includes bodies in any stage of decomposition and
1170 cremated remains.

1171 (24)~~(22)~~ "Mausoleum" means a structure or building which
1172 is substantially exposed above the ground and which is intended
1173 to be used for the entombment of human remains.

1174 (25)~~(23)~~ "Mausoleum section" means any construction unit
1175 of a mausoleum which is acceptable to the department and which a
1176 cemetery uses to initiate its mausoleum program or to add to its
1177 existing mausoleum structures.

1178 (26)~~(24)~~ "Monument" means any product used for identifying
1179 a grave site and cemetery memorials of all types, including
1180 monuments, markers, and vases.

1181 (27)~~(25)~~ "Monument establishment" means a facility that
1182 operates independently of a cemetery or funeral establishment
1183 and that offers to sell monuments or monument services to the
1184 public for placement in a cemetery.

1185 (28)~~(26)~~ "Net assets" means the amount by which the total
1186 assets of a certificateholder, excluding goodwill, franchises,
1187 customer lists, patents, trademarks, and receivables from or

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1188 advances to officers, directors, employees, salespersons, and
 1189 affiliated companies, exceed total liabilities of the
 1190 certificateholder. For purposes of this definition, the term
 1191 "total liabilities" does not include the capital stock, paid-in
 1192 capital, or retained earnings of the certificateholder.

1193 (29)~~(27)~~ "Net worth" means total assets minus total
 1194 liabilities pursuant to generally accepted accounting
 1195 principles.

1196 (30) "Niche" means a compartment or cubicle for the
 1197 memorialization or permanent placement of an urn containing
 1198 cremated remains.

1199 (31)~~(28)~~ "Ossuary" means a receptacle used for the
 1200 communal placement of cremated human remains without benefit of
 1201 an urn or any other container in which remains will be
 1202 commingled with other cremated human remains and are
 1203 nonrecoverable. It may or may not include memorialization.

1204 (32)~~(29)~~ "Outer burial container" means an enclosure into
 1205 which a casket is placed and includes, but is not limited to,
 1206 vaults made of concrete, steel, fiberglass, or copper; sectional
 1207 concrete enclosures; crypts; and wooden enclosures.

1208 (33)~~(30)~~ "Preneed contract" means any arrangement or
 1209 method, of which the provider of funeral merchandise or services
 1210 has actual knowledge, whereby any person agrees to furnish
 1211 funeral merchandise or service in the future.

1212 (34)~~(31)~~ "Religious institution" means an organization
 1213 formed primarily for religious purposes which has qualified for
 1214 exemption from federal income tax as an exempt organization

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1215 | under the provisions of s. 501(c)(3) of the Internal Revenue
1216 | Code of 1986, as amended.

1217 | ~~(35)~~~~(32)~~ "Scattering garden" means a location set aside,
1218 | within a cemetery, which is used for the spreading or
1219 | broadcasting of cremated remains that have been removed from
1220 | their container and can be mixed with or placed on top of the
1221 | soil or ground cover or buried in an underground receptacle on a
1222 | commingled basis and that are nonrecoverable. It may or may not
1223 | include memorialization.

1224 | ~~(36)~~~~(33)~~ "Servicing agent" means any person acting as an
1225 | independent contractor whose fiduciary responsibility is to
1226 | assist both the trustee and certificateholder hereunder in
1227 | administrating their responsibilities pursuant to this chapter.

1228 | ~~(37)~~~~(34)~~ "Solicitation" means any communication that ~~which~~
1229 | directly or implicitly requests an immediate oral response from
1230 | the recipient.

1231 | ~~(38)~~~~(35)~~ "Statutory accounting" means generally accepted
1232 | accounting principles, except as modified by this chapter.

1233 | ~~(39)~~ "Urn" means a receptacle designed to permanently
1234 | encase cremated remains.

1235 | Section 29. Subsection (3) of section 497.305, Florida
1236 | Statutes, is amended to read:

1237 | 497.305 Cemetery companies; authorized functions.--

1238 | (3) A cemetery company may adopt bylaws establishing
1239 | minimum standards for burial merchandise or the installation
1240 | thereof. Such bylaws shall include minimum standards for access
1241 | to install burial merchandise. A cemetery company must comply
1242 | with its adopted bylaws.

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1243 Section 30. Section 497.306, Florida Statutes, is created
1244 to read:

1245 497.306 Standards for grave spaces.--

1246 (1) A standard adult grave space shall measure at least 42
1247 inches in width and 96 inches in length, except for preinstalled
1248 vaults in designated areas. For interments, except cremated
1249 remains, the covering soil shall measure no less than 12 inches
1250 from the top of the outer burial container, unless such level of
1251 soil is not physically possible. In any interment, the family or
1252 next of kin may waive the 12-inch coverage minimum.

1253 (2)(a) Effective April 1, 2005, and prior to the sale of
1254 grave spaces in any undeveloped areas of a licensed cemetery,
1255 the cemetery company shall prepare a map documenting the
1256 establishment of recoverable internal survey reference markers
1257 installed by the cemetery company no more than 100 feet apart in
1258 the areas planned for development. The internal reference
1259 markers shall be established with reference to survey markers
1260 that are no more than 200 feet apart which have been set by a
1261 surveyor and mapper licensed under chapter 472 and documented in
1262 a certified land survey. Both the map and the certified land
1263 survey shall be maintained by the cemetery company and shall be
1264 made available upon request to the department or members of the
1265 public.

1266 (b) The map of the area proposed to be developed shall
1267 show:

- 1268 1. The number of grave spaces available for sale.
- 1269 2. The location of each grave space.
- 1270 3. The number designation assigned to each grave space.

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1271 4. The dimensions of a standard adult grave space.
 1272 (3) Adult grave spaces established prior to April 1, 2005,
 1273 are not required to meet the standards established under this
 1274 section for the dimensions or separation of grave spaces.

1275 Section 31. Section 497.307, Florida Statutes, is created
 1276 to read:

1277 497.307 Identification of human remains in licensed
 1278 cemeteries.--On and after April 1, 2005, human remains interred,
 1279 entombed, scattered, or otherwise placed for final rest at
 1280 licensed cemeteries shall be identified as follows:

1281 (1) Each licensed cemetery shall place on the outer burial
 1282 container, cremation interment container, or other container, or
 1283 on the inside of a crypt or niche, a tag or a permanent
 1284 identifying marker containing the name of the decedent and the
 1285 date of death, if available. The materials and location of the
 1286 tag or marker shall be more specifically described by rule of
 1287 the board.

1288 (2) Each licensed cemetery may rely entirely on the
 1289 identity stated on the burial transit permit or on the
 1290 identification supplied by a person licensed under chapter 470
 1291 to establish the identity of the dead human remains delivered by
 1292 such person for burial and shall not be liable for any
 1293 differences between the identity shown on the burial transit
 1294 permit or other identification and the actual identity of the
 1295 dead human remains delivered by such person and buried in the
 1296 cemetery.

1297 Section 32. Subsection (2) of section 497.325, Florida
 1298 Statutes, is amended to read:

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1299 497.325 Illegal tying arrangements.--
 1300 (2)(a) Noncemetery licensed persons and firms shall have
 1301 the right to sell monuments and to perform or provide on
 1302 cemetery property foundation, preparation, and installation
 1303 services for monuments. However, a cemetery company or any other
 1304 entity owning and operating a cemetery may establish reasonable
 1305 rules regarding the style and size of a monument or its
 1306 foundation, provided such rules are applicable to all monuments
 1307 from whatever source obtained and are enforced uniformly as to
 1308 all monuments. Such rules shall be conspicuously posted and
 1309 readily accessible to inspection and copy by interested persons.
 1310 (b) No person who is authorized to sell grave space and no
 1311 cemetery company or other entity owning and operating a cemetery
 1312 may:
 1313 1. Require the payment of a setting or service charge, by
 1314 whatever name known, from third party installers for the
 1315 placement of a monument;
 1316 2. Refuse to provide care or maintenance for any portion
 1317 of a gravesite on which a monument has been placed; or
 1318 3. Waive liability with respect to damage caused by
 1319 cemetery employees or agents to a monument after installation,
 1320
 1321 where the monument or installation service is not purchased from
 1322 the person authorized to sell grave space or the cemetery
 1323 company or other legal entity providing grave space or from or
 1324 through any other person or corporation designated by the person
 1325 authorized to sell grave space or the cemetery company or other
 1326 legal entity providing grave space. ~~A No~~ cemetery company or

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1327 other entity owning and operating a cemetery may not be held
 1328 liable for the improper installation of a monument where the
 1329 monument is not installed by the cemetery company or its agents
 1330 or by such other entity or its agents.

1331 Section 33. Subsection (9) is added to section 497.333,
 1332 Florida Statutes, to read:

1333 497.333 Disclosure of information to public.--A licensee
 1334 offering to provide burial rights, merchandise, or services to
 1335 the public shall:

1336 (9) Provide to each customer a complete description of any
 1337 monument, marker, or memorialization to be placed at the
 1338 gravesite.

1339 Section 34. Section 497.361, Florida Statutes, is amended
 1340 to read:

1341 497.361 Registration of monument establishments;
 1342 contracts.--

1343 (1) No person shall conduct, maintain, manage, or operate
 1344 a monument establishment, unless such an establishment pays a
 1345 registration fee of \$200 and is registered with the department
 1346 in accordance with this section.

1347 ~~(2) A monument establishment shall be a physical structure~~
 1348 ~~that is located at a specific street address.~~

1349 (2)(3) No person may engage in the retail sale of
 1350 monuments or monument services to consumers, unless they are
 1351 affiliated with a monument establishment, funeral establishment,
 1352 or cemetery.

1353 (3)(4) The department, by rule, shall provide for biennial
 1354 renewal of registrants and a renewal fee of \$150.

1355 ~~(4)(5)~~ Failure to deliver a monument within the specified
 1356 timeframe shall be considered a breach of contract unless the
 1357 monument establishment has a written agreement to extend the
 1358 delivery date. The purchaser shall be entitled to a refund of
 1359 all money paid for the merchandise. Such refund shall be made
 1360 within 30 days after receipt by the monument establishment of
 1361 the purchaser's written request for a refund. This subsection
 1362 does not preclude the purchase and installation of a new
 1363 monument from any other registered monument establishment or
 1364 certificateholder. Monuments shall be delivered as established
 1365 by this chapter and installed no later than 120 days after the
 1366 date of sale. The establishment may request two 30-day
 1367 extensions. Extensions may be granted by the executive director.

1368 (5) The forms for all contracts with the public must be
 1369 approved by the department, and each such contract must provide
 1370 a complete description of any monument, marker, or related
 1371 product to be delivered.

1372 Section 35. Section 497.365, Florida Statutes, is created
 1373 to read:

1374 497.365 Regulation of monument establishments.--

1375 (1) The department shall establish an inspection program
 1376 for all monument establishments in accordance with the
 1377 requirements of this chapter.

1378 (2) The department shall adopt rules that shall include
 1379 requirements for the approval of contracts for memorials and
 1380 related products, written complaint procedures and mandatory
 1381 response to consumer complaints, disclosure to the public as to

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1382 the form of ownership, the fingerprinting of owners, and
 1383 appropriate recordkeeping.

1384 (3) Nothing in the department's authority or any other
 1385 provisions of this chapter shall unreasonably restrict
 1386 competition or permit the restraint of trade and commerce.

1387 Section 36. Section 497.371, Florida Statutes, is created
 1388 to read:

1389 497.371 Monument establishments; business location.--

1390 (1) A monument establishment shall be a place at a
 1391 specific street address or location consisting of an office and
 1392 display area for monuments, markers, and related products. The
 1393 place where the establishment is located must comply with the
 1394 local government zoning regulations and may not be located on
 1395 tax-exempt property.

1396 (2) The monument establishment must be a full-service
 1397 monument location open to the public during normal business
 1398 hours, with facilities to design, inscribe, and install
 1399 monuments and related products.

1400 (3) A person may not operate a monument establishment or
 1401 install monuments, markers, and related products in this state
 1402 unless the person is registered by the department under s.
 1403 497.361 or holds a valid certificate of authority issued under
 1404 s. 497.379.

1405 Section 37. Section 497.379, Florida Statutes, is created
 1406 to read:

1407 497.379 Monument establishments; certificate of authority
 1408 required to sell preneed contracts.--A monument establishment,
 1409 including an existing registered or unregistered monument

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1410 establishment, may not sell a preneed contract without first
 1411 having obtained a valid certificate of authority from the
 1412 department. A person may not be issued a certificate of
 1413 authority as a monument establishment to sell preneed contracts
 1414 unless such person has at least 3 years' experience in the
 1415 operation and management of an establishment selling monuments,
 1416 markers, and related products. A certificate of authority may
 1417 not be transferred or assigned.

1418 Section 38. Section 497.385, Florida Statutes, is created
 1419 to read:

1420 497.385 Monument establishments; sales
 1421 representatives.--Each person selling monuments, markers, and
 1422 related products for a monument establishment must register with
 1423 the board, including any person otherwise registered or licensed
 1424 pursuant to chapter 470 or this chapter. A person selling
 1425 monuments, markers, and related products for a monument
 1426 establishment that has been issued a certificate of authority
 1427 must register as a preneed agent pursuant to the requirements of
 1428 this chapter.

1429 Section 39. Section 497.391, Florida Statutes, is created
 1430 to read:

1431 497.391 Monument establishments; preneed contracts.--A
 1432 monument dealer or establishment may not write a preneed
 1433 contract unless that contract form has been approved by the
 1434 board. Any monument dealer or establishment that is paid,
 1435 collects, or receives funds under a preneed contract for
 1436 services or merchandise must comply with the provisions of ss.
 1437 497.413 and 497.417.

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1438 Section 40. Section 497.395, Florida Statutes, is created
1439 to read:

1440 497.395 Monument establishments; financial requirements.--

1441 (1) For the purposes of qualifying for a certificate of
1442 authority, a monument establishment must have a minimum net
1443 worth of \$10,000. A monument establishment holding a certificate
1444 of authority or an applicant for such certificate of authority
1445 must meet and maintain the requirements of this section on an
1446 annual basis in order to perform its obligation for all existing
1447 preneed contracts.

1448 (2) All monument establishments holding a certificate of
1449 authority or an applicant must submit its most recent year-end
1450 financial statements, including a balance sheet and income
1451 statement, with the certificate of authority application and
1452 annually thereafter as provided in s. 497.407(1). The financial
1453 statement must be prepared in accordance with generally accepted
1454 accounting principles, as those principles have been defined by
1455 the Florida Board of Accountancy in the Florida Administrative
1456 Code. If the applicant does not have the minimum net worth as
1457 set forth in subsection (1), lacks sufficient liquid assets to
1458 satisfy current liabilities, or does not appear to have any
1459 substantial long-term assets, the department shall request
1460 additional financial information concerning financial statements
1461 and the statement of cash flow.

1462 (3) For the purposes of this section, the term "total
1463 preneed contracts" means the total retail value of all
1464 outstanding preneed contracts. There shall be an annual fee for
1465 the renewal of the monument establishment certificate of

1466 authority based on the following sales volume for total preneed
 1467 contracts:

1468 (a) For a certificateholder that has total sales of \$1 or
 1469 more but not more than \$50,000.....\$500.

1470 (b) For a certificateholder that has total sales of more
 1471 than \$50,000 but not more than \$250,000.....\$750.

1472 (c) For a certificateholder that has total sales of more
 1473 than \$250,000 but not more than \$500,000.....\$1,000.

1474 (d) For a certificateholder that has total sales of more
 1475 than \$500,000.....\$1,250.

1476 (4) In the case of a monument establishment holding a
 1477 certificate of authority or a licensed dealer applicant offering
 1478 preneed sales through a subsidiary agent as provided in Rule
 1479 69K-5.0015, Florida Administrative Code, the certificateholder
 1480 or applicant must execute a guarantee agreement with respect to
 1481 any contract obligations resulting from preneed sales of such a
 1482 selling agent.

1483 (5) If the certificateholder or applicant does not meet
 1484 the financial requirements in subsection (1), the entity may
 1485 voluntarily submit to the board additional evidence or agree to
 1486 additional oversight as to meeting the requirements of
 1487 subsection (1) as a condition of receiving or retaining a
 1488 certificate of authority. Such additional evidence or oversight
 1489 shall include, as appropriate:

1490 (a) An agreement to submit monthly financial statements of
 1491 the entity;

1492 (b) An agreement to submit quarterly financial statements
 1493 of the entity;

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- 1494 (c) An appraisal of the entity's property or broker's
- 1495 opinion of the entity's assets;
- 1496 (d) A credit report of the entity or its principal owners;
- 1497 (e) Subordination-of-debt agreement from the entity's
- 1498 principal owners;
- 1499 (f) An indemnification or subrogation agreement binding
- 1500 the entity and principal owners;
- 1501 (g) A guarantee agreement for the entity from its
- 1502 principal owners;
- 1503 (h) Written explanation of past financial activity;
- 1504 (i) Submission of the 12-month projected business plan
- 1505 that includes:
- 1506 1. A statement of cash flows;
- 1507 2. Pro forma income statements, with sources of revenues
- 1508 identified; and
- 1509 3. Marketing initiatives;
- 1510 (j) Submission of previous department examination reports;
- 1511 or
- 1512 (k) An agreement of 100-percent voluntary trust by the
- 1513 entity.

1514 Section 41. Subsections (1), (3), and (4) of section

1515 497.405, Florida Statutes, are amended to read:

1516 497.405 Certificate of authority required.--

1517 (1)(a) No person, including any cemetery exempt under s.

1518 497.003, may sell, advertise to sell, or make an arrangement for

1519 a preneed contract without first having a valid certificate of

1520 authority.

1521 (b) No person, including any cemetery exempt under s.
 1522 497.003, may sell , advertise to sell, or make an arrangement
 1523 for services, merchandise, or burial rights on a preneed basis
 1524 unless such person is authorized pursuant to this chapter to
 1525 provide such services, merchandise, or burial rights on an at-
 1526 need basis.

1527 (3) No person may obtain a certificate of authority under
 1528 this chapter for the preneed sale of services unless such person
 1529 or its agent, in the case of a corporate entity, holds a license
 1530 as a funeral establishment or cemetery company, ~~or~~ registration
 1531 as a direct disposal establishment under chapter 470, or
 1532 certification as a monument establishment under this chapter.

1533 (4) The provisions of this section do not apply to
 1534 religious-institution-owned cemeteries exempt under s.
 1535 497.003(1)(d), in counties with a population of at least 960,000
 1536 persons on July 1, 1996, with respect to the sale to the
 1537 religious institution's members and their families of interment
 1538 rights, mausoleums, crypts, cremation niches, cremation
 1539 interment containers, vaults, liners, urns, memorials, vases,
 1540 foundations, memorial bases, floral arrangements, monuments,
 1541 markers, engraving, and the opening and closing of interment
 1542 rights, mausoleums, crypts, ~~and~~ cremation niches, and cremation
 1543 interment containers, if such cemeteries have engaged in the
 1544 sale of preneed contracts prior to October 1, 1993, and maintain
 1545 a positive net worth at the end of each fiscal year of the
 1546 cemetery.

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1547 Section 42. Subsection (4) of section 497.419, Florida
1548 Statutes, is amended, and subsection (11) is added to said
1549 section, to read:

1550 497.419 Cancellation of, or default on, preneed
1551 contracts.--

1552 (4) Each certificateholder shall provide in conspicuous
1553 type in its contract that the contract purchaser may cancel the
1554 contract and receive a full refund within 30 days after ~~of~~ the
1555 date of execution of the contract, except for those amounts
1556 allocable to any burial rights, merchandise, or services that
1557 have been used by the purchaser. The failure to make such
1558 provision shall not impair the contract purchaser's right to
1559 cancellation and refund as provided in this section.

1560 (11) Failure to install a monument within 180 days after
1561 interment shall be considered a breach of contract unless the
1562 certificateholder has a written agreement to extend the
1563 installation date. The purchaser shall be entitled to a refund
1564 of all money paid for the merchandise. Such refund shall be made
1565 within 30 days after receipt by the certificateholder of the
1566 purchaser's written request for a refund. Nothing in this
1567 subsection shall preclude the purchase and installation of a new
1568 monument from any other registered monument establishment or
1569 certificateholder.

1570 Section 43. Subsection (4) of section 497.436, Florida
1571 Statutes, is amended to read:

1572 497.436 Inactive and revoked certificateholders.--

1573 (4) Upon receipt of the notice, in order to protect the
1574 contract purchaser, the board may:

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1575 | (a) ~~shall~~ Review the certificateholder's:
 1576 | 1.~~(a)~~ Trust funds.
 1577 | 2.~~(b)~~ Trust agreements.
 1578 | 3.~~(c)~~ Evidence of all outstanding preneed contracts.
 1579 | (b) Perform other procedures the board deems necessary.
 1580 | Section 44. Except as otherwise provided herein, this act
 1581 | shall take effect January 1, 2005.