

Bill No. SB 2346

Barcode 310486

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Haridopolos) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (a) of subsection (2) of section 316.1974, Florida Statutes, is amended to read:

316.1974 Funeral procession right-of-way and liability.--

(2) EQUIPMENT.--

(a) All non-law enforcement funeral escort vehicles and funeral lead vehicles shall be equipped with at least one lighted circulation lamp exhibiting an amber or purple light or lens visible under normal atmospheric conditions for a distance of 500 feet from the front of the vehicle. Flashing amber or purple lights may be used only when such vehicles are used in a funeral procession.

Section 2. Section 497.005, as amended by chapter 2004-301, Laws of Florida, is amended to read:

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1 497.005 Definitions.--As used in this chapter, the
2 term:

3 (1) "Alternative container" means an unfinished wood
4 box or other nonmetal receptacle or enclosure, without
5 ornamentation or a fixed interior lining, which is designed
6 for the encasement of human remains and which is made of
7 fiberboard, pressed wood, composition materials (with or
8 without an outside covering), or like materials ~~a nonmetal~~
9 ~~receptacle or enclosure which is less expensive than a casket~~
10 ~~and of sufficient strength to be used to hold and transport a~~
11 ~~dead human body.~~

12 (2) "At-need solicitation" means any uninvited contact
13 by a licensee or her or his agent for the purpose of the sale
14 of burial services or merchandise to the family or next of kin
15 of a person after her or his death has occurred.

16 (3) "Bank of belowground crypts" means any
17 construction unit of belowground crypts which is acceptable to
18 the department and which a cemetery uses to initiate its
19 belowground crypt program or to add to existing belowground
20 crypt structures.

21 (4) "Belowground crypts" consist of interment space in
22 preplaced chambers, either side by side or multiple depth,
23 covered by earth and sod and known also as "lawn crypts,"
24 "westminsters," or "turf-top crypts."

25 (5) "Board" means the Board of Funeral, Cemetery, and
26 Consumer Services.

27 ~~(6) "Body parts" means:~~

28 ~~(a) Limbs or other portions of the anatomy which are~~
29 ~~removed from a person or human remains for medical purposes~~
30 ~~during treatment, surgery, biopsy, autopsy, or medical~~
31 ~~research; or~~

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

3 ~~(6)(7)~~ "Burial merchandise," "funeral merchandise," or
4 "merchandise" means any personal property offered or sold by
5 any person for use in connection with the final disposition,
6 memorialization, interment, entombment, or inurnment of human
7 remains or cremated remains, including, but not limited to,
8 caskets, outer burial containers, alternative containers,
9 cremation containers, cremation interment containers, urns,
10 monuments, private mausoleums, flowers, benches, vases,
11 acknowledgment cards, register books, memory folders, prayer
12 cards, and clothing .

13 ~~(7)(8)~~ "Burial right" means the right to use a grave
14 space, mausoleum, columbarium, ossuary, or scattering garden
15 for the interment, entombment, inurnment, or other disposition
16 of human or cremated remains.

17 ~~(8)(9)~~ "Burial service," "funeral service," "funeral,"
18 or "service" means any service offered or provided ~~by any~~
19 ~~person~~ in connection with the final disposition,
20 memorialization, interment, entombment, or inurnment of human
21 or cremated remains.

22 ~~(9)(10)~~ "Care and maintenance" means the perpetual
23 process of keeping a cemetery and its lots, graves, grounds,
24 landscaping, roads, paths, parking lots, fences, mausoleums,
25 columbaria, vaults, crypts, utilities, and other improvements,
26 structures, and embellishments in a well-cared-for and
27 dignified condition, so that the cemetery does not become a
28 nuisance or place of reproach and desolation in the community.
29 As specified in the rules of the licensing authority, "care
30 and maintenance" may include, but is not limited to, any or
31 all of the following activities: mowing the grass at

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1 reasonable intervals; raking and cleaning the grave spaces and
 2 adjacent areas; pruning of shrubs and trees; suppression of
 3 weeds and exotic flora; and maintenance, upkeep, and repair of
 4 drains, water lines, roads, buildings, and other improvements.
 5 "Care and maintenance" may include, but is not limited to,
 6 reasonable overhead expenses necessary for such purposes,
 7 including maintenance of machinery, tools, and equipment used
 8 for such purposes. "Care and maintenance" may also include
 9 repair or restoration of improvements necessary or desirable
 10 as a result of wear, deterioration, accident, damage, or
 11 destruction. "Care and maintenance" does not include expenses
 12 for the construction and development of new grave spaces or
 13 interment structures to be sold to the public.

14 ~~(10)(11)~~ "Casket" means a rigid container which is
 15 designed for the encasement of human remains and which is
 16 usually constructed of wood or metal, ornamented, and lined
 17 with fabric.

18 ~~(11)(12)~~ "Cemetery" means a place dedicated to and
 19 used or intended to be used for the permanent interment of
 20 human or cremated remains. A cemetery may contain land or
 21 earth interment; mausoleum, vault, or crypt interment; a
 22 columbarium, ossuary, scattering garden, or other structure or
 23 place used or intended to be used for the interment or
 24 disposition of cremated remains; or any combination of one or
 25 more of such structures or places.

26 ~~(12)(13)~~ "Cemetery company" means any legal entity
 27 that owns or controls cemetery lands or property.

28 ~~(13)(14)~~ "Centralized embalming facility" means a
 29 facility, ~~not physically connected with a funeral~~
 30 ~~establishment~~, in which embalming takes place which operates
 31 independently of a funeral establishment licensee and which

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1 offers embalming services to funeral directors for a fee.

2 ~~(14)(15)~~ "Cinerator" means a facility where dead human
3 bodies are subjected to cremation. ~~reduced to a residue,~~
4 ~~including bone fragments, by direct flame, also known as~~
5 ~~"cremation," or by intense heat, also known as "calcination."~~

6 ~~(15)(16)~~ "Closed container" means any container in
7 which cremated remains can be placed and closed in a manner so
8 as to prevent leakage or spillage of the remains.

9 ~~(16)(17)~~ "Columbarium" means a structure or building
10 which is substantially exposed above the ground and which is
11 intended to be used for the inurnment of cremated remains.

12 ~~(17)(18)~~ "Common business enterprise" means a group of
13 two or more business entities that share common ownership in
14 excess of 50 percent.

15 ~~(18)(19)~~ "Control" means the possession, directly or
16 indirectly, through the ownership of voting shares, by
17 contract, arrangement, understanding, relationship, or
18 otherwise, of the power to direct or cause the direction of
19 the management and policies of a person or entity. However, a
20 person or entity shall not be deemed to have control if the
21 person or entity holds voting shares, in good faith and not
22 for the purpose of circumventing this definition, as an agent,
23 bank, broker, nominee, custodian, or trustee for one or more
24 beneficial owners who do not individually or as a group have
25 control.

26 ~~(19)(20)~~ "Cremated remains" means all the remains of
27 the human body recovered after the completion of the cremation
28 process, including processing or pulverization which leaves
29 only bone fragments reduced to unidentifiable dimensions and
30 may include the residue of any foreign matter, including
31 casket material, bridgework, or eyeglasses that were cremated

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1 with the human remains.

2 ~~(20)(21)~~ "Cremation" means any mechanical or thermal
3 process whereby a dead human body is reduced to ashes and bone
4 fragments. Cremation also includes any other mechanical or
5 thermal process whereby human remains are pulverized, burned,
6 recremated, or otherwise further reduced in size or quantity
7 the technical process, using direct flame and heat or chemical
8 means, which reduces human remains to bone fragments through
9 heat and evaporation. Cremation includes the processing and
10 usually includes the pulverization of the bone fragments.

11 ~~(21)(22)~~ "Cremation chamber" means the enclosed space
12 within which the cremation process takes place. Cremation
13 chambers covered by these procedures must be used exclusively
14 for the cremation of human remains.

15 ~~(22)(23)~~ "Cremation container" means the casket or
16 alternative container in which the human remains are
17 transported to and placed in the cremation chamber for a
18 cremation. A cremation container should meet substantially all
19 of the following standards:

20 (a) Be composed of readily combustible materials
21 suitable for cremation.

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

24 (c) Be resistant to leakage or spillage.

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

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

28 ~~(23)(24)~~ "Cremation interment container" means a rigid
29 outer container that, subject to a cemetery's rules and
30 regulations, is composed of concrete, steel, fiberglass, or
31 some similar material in which an urn is placed prior to being

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1 interred in the ground and that is designed to support the
2 earth above the urn.

3 ~~(24)(25)~~ "Department" means the Department of
4 Financial Services.

5 ~~(25)(26)~~ "Direct disposal establishment" means a
6 facility licensed under this chapter where a direct disposer
7 practices direct disposition.

8 ~~(26)(27)~~ "Direct disposer" means any person licensed
9 under this chapter to practice direct disposition in this
10 state.

11 ~~(27)(28)~~ "Director" means the director of the Division
12 of Funeral, Cemetery, and Consumer Services.

13 ~~(28)(29)~~ "Disinterment" means removal of a dead human
14 body from earth interment or aboveground interment.

15 ~~(29)(30)~~ "Division" means the Division of Funeral,
16 Cemetery, and Consumer Services within the Department of
17 Financial Services.

18 ~~(30)(31)~~ "Embalmer" means any person licensed under
19 this chapter to practice embalming in this state.

20 ~~(31)(32)~~ "Final disposition" means the final disposal
21 of a dead human body by earth interment, aboveground
22 interment, cremation, burial at sea, or delivery to a medical
23 institution for lawful dissection if the medical institution
24 assumes responsibility for disposal. "Final disposition" does
25 not include the disposal or distribution of cremated remains
26 ~~ashes~~ and residue of cremated remains.

27 ~~(33)~~ ~~"Funeral" or "funeral service" means the~~
28 ~~observances, services, or ceremonies held to commemorate the~~
29 ~~life of a specific deceased human being and at which the human~~
30 ~~remains are present.~~

31 ~~(32)(34)~~ "Funeral director" means any person licensed

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1 under this chapter to practice funeral directing in this
2 state.

3 ~~(33)(35)~~ "Funeral establishment" means a facility
4 licensed under this chapter where a funeral director or
5 embalmer practices funeral directing or embalming.

6 ~~(36)~~ "Funeral merchandise" or "merchandise" means any
7 merchandise commonly sold in connection with the funeral,
8 final disposition, or memorialization of human remains,
9 including, but not limited to, caskets, outer burial
10 containers, alternative containers, cremation containers,
11 cremation interment containers, urns, monuments, private
12 mausoleums, flowers, benches, vases, acknowledgment cards,
13 register books, memory folders, prayer cards, and clothing.

14 ~~(34)(37)~~ "Grave space" means a space of ground in a
15 cemetery intended to be used for the interment in the ground
16 of human remains.

17 ~~(35)(38)~~ "Human remains" or "remains," or "dead human
18 body" or "dead human bodies," means the body of a deceased
19 human person for which a death certificate or fetal death
20 certificate is required under chapter 382 and includes the
21 body in any stage of decomposition ~~and the residue of cremated~~
22 ~~human bodies.~~

23 ~~(36)(39)~~ "Legally authorized person" means, in the
24 priority listed, the decedent, when written inter vivos
25 authorizations and directions are provided by the decedent;
26 the surviving spouse, unless the spouse has been arrested for
27 committing against the deceased an act of domestic violence as
28 defined in s. 741.28 which resulted in or contributed to the
29 death of the deceased; a son or daughter who is 18 years of
30 age or older; a parent; a brother or sister who is 18 years of
31 age or older; a grandchild who is 18 years of age or older; a

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1 grandparent; or any person in the next degree of kinship. In
 2 addition, the term may include, if no family member exists or
 3 is available, the guardian of the dead person at the time of
 4 death; the personal representative of the deceased; the
 5 attorney in fact of the dead person at the time of death; the
 6 health surrogate of the dead person at the time of death; a
 7 public health officer; the medical examiner, county
 8 commission, or administrator acting under part II of chapter
 9 406 or other public administrator; a representative of a
 10 nursing home or other health care institution in charge of
 11 final disposition; or a friend or other person not listed in
 12 this subsection who is willing to assume the responsibility as
 13 the legally authorized person. Where there is a person in any
 14 priority class listed in this subsection, the funeral
 15 establishment shall rely upon the authorization of any one
 16 legally authorized person of that class if that individual
 17 represents that she or he is not aware of any objection to the
 18 cremation of the deceased's human remains by others in the
 19 same class of the person making the representation or of any
 20 person in a higher priority class.

21 ~~(37)(40)~~ "License" includes all authorizations
 22 required or issued under this chapter, except where expressly
 23 indicated otherwise, and shall be understood to include
 24 authorizations previously referred to as registrations or
 25 certificates of authority in chapters 470 and 497 as those
 26 chapters appeared in the 2004 edition of the Florida Statutes.

27 ~~(38)(41)~~ "Licensee" means the person or entity holding
 28 any license or other authorization issued under this chapter,
 29 except where expressly indicated otherwise.

30 ~~(39)(42)~~ "Mausoleum" means a structure or building
 31 which is substantially exposed above the ground and which is

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1 intended to be used for the entombment of human remains.

2 ~~(40)(43)~~ "Mausoleum section" means any construction
3 unit of a mausoleum which is acceptable to the department and
4 which a cemetery uses to initiate its mausoleum program or to
5 add to its existing mausoleum structures.

6 ~~(41)(44)~~ "Monument" means any product used for
7 identifying a grave site and cemetery memorials of all types,
8 including monuments, markers, and vases.

9 ~~(42)(45)~~ "Monument establishment" means a facility
10 that operates independently of a cemetery or funeral
11 establishment and that offers to sell monuments or monument
12 services to the public for placement in a cemetery.

13 ~~(43)(46)~~ "Net assets" means the amount by which the
14 total assets of a licensee, excluding goodwill, franchises,
15 customer lists, patents, trademarks, and receivables from or
16 advances to officers, directors, employees, salespersons, and
17 affiliated companies, exceed total liabilities of the
18 licensee. For purposes of this definition, the term "total
19 liabilities" does not include the capital stock, paid-in
20 capital, or retained earnings of the licensee.

21 ~~(44)(47)~~ "Net worth" means total assets minus total
22 liabilities pursuant to generally accepted accounting
23 principles.

24 ~~(45)(48)~~ "Niche" means a compartment or cubicle for
25 the memorialization or permanent placement of a container or
26 urn containing cremated remains.

27 ~~(46)(49)~~ "Ossuary" means a receptacle used for the
28 communal placement of cremated remains without benefit of an
29 urn or any other container in which cremated remains may be
30 commingled with other cremated remains and are nonrecoverable.
31 It may or may not include memorialization.

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1 ~~(47)(50)~~ "Outer burial container" means an enclosure
 2 into which a casket is placed and includes, but is not limited
 3 to, vaults made of concrete, steel, fiberglass, or copper;
 4 sectional concrete enclosures; crypts; and wooden enclosures.

5 ~~(48)(51)~~ "Person," when used without qualification
 6 such as "natural" or "individual," includes both natural
 7 persons and legal entities.

8 ~~(49)(52)~~ "Personal residence" means any residential
 9 building in which one temporarily or permanently maintains her
 10 or his abode, including, but not limited to, an apartment or a
 11 hotel, motel, nursing home, convalescent home, home for the
 12 aged, or a public or private institution.

13 ~~(50)(53)~~ "Practice of direct disposition" means the
 14 cremation of human remains without preparation of the human
 15 remains by embalming and without any attendant services or
 16 rites such as funeral or graveside services or the making of
 17 arrangements for such final disposition.

18 ~~(51)(54)~~ "Practice of embalming" means disinfecting or
 19 preserving or attempting to disinfect or preserve dead human
 20 bodies by replacing certain body fluids with preserving and
 21 disinfecting chemicals.

22 ~~(52)(55)~~ "Practice of funeral directing" means the
 23 performance by a licensed funeral director of any of those
 24 functions authorized by s. 497.372.

25 ~~(53)(56)~~ "Preneed contract" means any arrangement or
 26 method, of which the provider of funeral merchandise or
 27 services has actual knowledge, whereby any person agrees to
 28 furnish funeral merchandise or service in the future.

29 ~~(54)(57)~~ "Preneed sales agent" means any person who is
 30 licensed under this chapter to sell preneed burial or funeral
 31 service and merchandise contracts or direct disposition

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1 contracts in this state.

2 ~~(55)(58)~~ "Principal" means and includes the sole
3 proprietor of a sole proprietorship; all partners of a
4 partnership; all members of a limited liability company;
5 regarding a corporation, all directors and officers, and all
6 stockholders controlling more than 10 percent of the voting
7 stock; and all other persons who can exercise control over the
8 person or entity.

9 ~~(56)(59)~~ "Processing" means the reduction of
10 identifiable bone fragments after the completion of the
11 cremation process to unidentifiable bone fragments by manual
12 means.

13 ~~(57)(60)~~ "Profession" and "occupation" are used
14 interchangeably in this chapter. The use of the word
15 "profession" in this chapter with respect to any activities
16 regulated under this chapter shall not be deemed to mean that
17 such activities are not occupations for other purposes in
18 state or federal law.

19 ~~(58)(61)~~ "Pulverization" means the reduction of
20 identifiable bone fragments after the completion of the
21 cremation and processing to granulated particles by manual or
22 mechanical means.

23 ~~(59)(62)~~ "Refrigeration facility" means a facility
24 that is operated independently of ~~not physically connected~~
25 ~~with~~ a funeral establishment, crematory, or direct disposal
26 establishment, that maintains space and equipment for the
27 storage and refrigeration of dead human bodies, and that
28 offers its service to funeral directors, ~~and~~ funeral
29 establishments, direct disposers, direct disposal
30 establishments, or crematories for a fee.

31 ~~(60)(63)~~ "Religious institution" means an organization

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1 formed primarily for religious purposes which has qualified
 2 for exemption from federal income tax as an exempt
 3 organization under the provisions of s. 501(c)(3) of the
 4 Internal Revenue Code of 1986, as amended.

5 ~~(61)(64)~~ "Removal service" means any service that
 6 operates independently of a funeral establishment or a direct
 7 disposal establishment, that handles the initial removal of
 8 dead human bodies, and that offers its service to funeral
 9 establishments and direct disposal establishments for a fee.

10 ~~(62)(65)~~ "Rules" refers to rules adopted under this
 11 chapter unless expressly indicated to the contrary.

12 ~~(63)(66)~~ "Scattering garden" means a location set
 13 aside, within a cemetery, which is used for the spreading or
 14 broadcasting of cremated remains that have been removed from
 15 their container and can be mixed with or placed on top of the
 16 soil or ground cover or buried in an underground receptacle on
 17 a commingled basis and that are nonrecoverable. It may or may
 18 not include memorialization.

19 ~~(64)(67)~~ "Servicing agent" means any person acting as
 20 an independent contractor whose fiduciary responsibility is to
 21 assist both the trustee and licensee in administrating their
 22 responsibilities pursuant to this chapter.

23 ~~(65)(68)~~ "Solicitation" means any communication which
 24 directly or implicitly requests an immediate oral response
 25 from the recipient.

26 ~~(66)(69)~~ "Statutory accounting" means generally
 27 accepted accounting principles, except as modified by this
 28 chapter.

29 ~~(67)(70)~~ "Temporary container" means a receptacle for
 30 cremated remains usually made of cardboard, plastic, or
 31 similar material designated to hold the cremated remains until

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1 an urn or other permanent container is acquired.

2 ~~(68)(71)~~ "Urn" means a receptacle designed to
3 permanently encase cremated remains.

4 Section 3. Subsection (2) of section 497.101, Florida
5 Statutes, as amended by chapter 2004-301, Laws of Florida, is
6 amended, and subsection (8) is added to that section, to read:

7 497.101 Board of Funeral, Cemetery, and Consumer
8 Services; membership; appointment; terms.--

9 (2) Two members of the board must be funeral directors
10 licensed under part III of this chapter who are associated
11 with a funeral establishment. One member of the board must be
12 a funeral director licensed under part III of this chapter who
13 is associated with a funeral establishment licensed under part
14 III of this chapter which has a valid preneed license issued
15 pursuant to this chapter and who owns or operates a cinerator
16 facility approved under chapter 403 and licensed under part VI
17 of this chapter. Two members of the board must be persons
18 whose primary occupation is associated with a cemetery company
19 licensed pursuant to this chapter. Three members of the board
20 must be consumers who are residents of the state, have never
21 been licensed as funeral directors or embalmers, are not
22 connected with a cemetery or cemetery company licensed
23 pursuant to this chapter, and are not connected with the death
24 care industry or the practice of embalming, funeral directing,
25 or direct disposition. One of the consumer members must be at
26 least 60 years of age, and one must be licensed as a certified
27 public accountant under chapter 473. One member of the board
28 must be a monument establishment dealer licensed under this
29 chapter as a monument builder or, for board appointments made
30 before June 1, 2006, a licensed monument establishment
31 certified by the department to be eligible for licensure as a

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1 monument builder. One member must be the State Health Officer
 2 or her or his designee. There shall not be two or more board
 3 members who are principals or directors, employees, partners,
 4 ~~shareholders, or members~~ of the same company or partnership or
 5 group of companies or partnerships under common control.

6 (8) The department shall adopt rules establishing
 7 forms by which persons may apply for membership on the board
 8 and procedures for applying for such membership. Such forms
 9 must require disclosure of the existence and nature of all
 10 current and past employments by or contracts with, and direct
 11 or indirect affiliations with or interests in, any entity or
 12 business that at any time was licensed by the board or by the
 13 former Board of Funeral and Cemetery Services or the former
 14 Board of Funeral Directors and Embalmers or that is or was
 15 otherwise involved in the death care industry, as specified by
 16 department rule.

17 Section 4. Paragraph (m) of subsection (2) of section
 18 497.103, Florida Statutes, as amended by chapter 2004-301,
 19 Laws of Florida, is amended, and paragraph (e) is added to
 20 subsection (4) of that section, to read:

21 497.103 Rulemaking authority of board and
 22 department.--

23 (2) DEPARTMENT AUTHORITY.--All authority provided by
 24 this chapter and not expressly vested in the board by
 25 subsection (1) is vested in the department, and the department
 26 shall be deemed to be the licensing authority as to such
 27 matters. Without limiting the generality of the foregoing
 28 vesting of authority in the department, the authority provided
 29 by this chapter which is vested solely in the department
 30 includes:

31 (m) Authority to take emergency action against any

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1 | licensee under this chapter, without prior consultation with
 2 | the board, when the department determines that there is an
 3 | imminent danger to the health, safety, or welfare of the
 4 | residents of the state.

5 | (4) RECOMMENDATIONS BY THE CHIEF FINANCIAL OFFICER.--

6 | (e) The Chief Financial Officer shall have no
 7 | authority by recommendation or otherwise to set fees, rates,
 8 | or prices to be used by any licensee under this chapter, and
 9 | notwithstanding this subsection, a licensee under this chapter
 10 | may not be required to set fees, rates, or prices in
 11 | accordance with any recommendation of the Chief Financial
 12 | Officer.

13 | Section 5. Paragraphs (b) and (c) of subsection (1) of
 14 | section 497.140, Florida Statutes, as renumbered and amended
 15 | by section 10 of chapter 2004-301, Laws of Florida, are
 16 | amended, and subsection (8) is added to that section, to read:

17 | 497.140 Fees.--

18 | (1)

19 | (b) It is the legislative intent that the costs of
 20 | regulation under this chapter be provided for by fees
 21 | collected under this chapter. The board shall ensure that fees
 22 | are adequate to cover all anticipated costs of implementation
 23 | of this chapter. The department shall at least every other
 24 | year provide the board with estimates as to projected costs in
 25 | implementing this chapter and projected fee collections under
 26 | this chapter for the following 2 years, information as to
 27 | balances of regulatory trusts from fees collected, other
 28 | information which the department deems material to the setting
 29 | of fees by the board at proper levels, and a department
 30 | recommendation as to action, if any, regarding changing fee
 31 | levels. The board shall review such information provided by

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1 the department and make such changes in fees, up or down, as
 2 the board determines appropriate. If sufficient action is not
 3 taken by the board within 6 months ~~1 year~~ after notification
 4 by the department that fees are projected to be inadequate,
 5 the department shall set fees on behalf of the board to cover
 6 anticipated costs.

7 (c) The board may from time to time by rule assess and
 8 collect a one-time fee from each active and each voluntary
 9 inactive licensee under this chapter in an amount necessary to
 10 correct an inadequacy of fees received to implement regulation
 11 required by this chapter, provided that no such assessments
 12 may be made after October 1, 2007 ~~more than one such~~
 13 ~~assessment may be made in any 4-year period without specific~~
 14 ~~legislative authorization.~~

15 (8) A delinquency fee shall be charged and collected
 16 from a licensee for the failure to timely renew a license
 17 issued under this chapter. The amount of such a delinquency
 18 fee shall be \$50 unless a different amount is specified for a
 19 particular category of licensure under this chapter.

20 Section 6. Subsection (2) of section 497.141, Florida
 21 Statutes, as created by chapter 2004-301, Laws of Florida, is
 22 amended, and subsection (12) is added to that section, to
 23 read:

24 497.141 Licensing; general application procedures.--

25 (2) Any person desiring to be licensed shall apply to
 26 the licensing authority in writing using such forms and
 27 procedures as may be prescribed by rule. The application for
 28 licensure shall include the applicant's social security number
 29 if the applicant is a natural person; otherwise, the
 30 applicant's federal tax identification number. Notwithstanding
 31 any other provision of law, the department is the sole

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1 authority for determining the forms and form contents to be
2 submitted for initial licensure and licensure renewal
3 application. Such forms and the information and materials
4 required by such forms may include, as appropriate,
5 demographics, education, work history, personal background,
6 criminal history, finances, business information, signature
7 notarization, performance periods, reciprocity, local
8 government approvals, supporting documentation, periodic
9 reporting requirements, fingerprint requirements, continuing
10 education requirements, business plans, character references,
11 and ongoing education monitoring. Such forms and the
12 information and materials required by such forms may also
13 include, to the extent such information or materials are not
14 already in the possession of the department or the board,
15 records or information as to complaints, inspections,
16 investigations, discipline, and bonding,~~and photographs~~. The
17 application shall be supplemented as needed to reflect any
18 material change in any circumstance or condition stated in the
19 application which takes place between the initial filing of
20 the application and the final grant or denial of the license
21 and which might affect the decision of the department or the
22 board. After an application by an individual for licensure
23 under this chapter is approved, the licensing authority may
24 require the successful applicant to provide a photograph of
25 the applicant for permanent lamination onto the license card
26 to be issued to the applicant, pursuant to rules and fees
27 adopted by the licensing authority.

28 (12)(a) The following licenses may be applied for and
29 issued only to a natural person:

- 30 1. Embalmer apprentice.
- 31 2. Embalmer intern.

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1 3. Funeral director intern.

2 4. Funeral director.

3 5. Funeral director and embalmer.

4 6. Direct disposer.

5 7. Monument establishment sales agent.

6 8. Preneed sales agent.

7 (b) The following licenses may be applied for and
8 issued to a natural person, a corporation, a limited liability
9 company, or a partnership:

10 1. Funeral establishment.

11 2. Centralized embalming facility.

12 3. Refrigeration facility.

13 4. Direct disposal establishment.

14 5. Monument establishment.

15 6. Cinerator facility.

16 7. Removal service.

17 8. Preneed sales business under s. 497.453.

18 (c) A cemetery license may be applied for and issued
19 only to a corporation, partnership, or limited liability
20 company.

21 (d) A license may not be issued to any applicant that
22 is a corporation, limited liability company, or partnership
23 unless the applicant is organized and in good standing under
24 the laws of this state or another state of the United States
25 and provides written proof of same issued by the applicable
26 state office or official in the state concerned. Each
27 applicant that is a corporation, limited liability company, or
28 partnership shall file with its application a written
29 statement, signed by the same person who signs the
30 application, identifying by name and business functional title
31 the following persons, as applicable to the type of entity

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1 applying: officers, managers, managing members, partners,
 2 general partners, limited partners, managing partners,
 3 directors, all stockholders controlling more than 10 percent
 4 of the voting stock, and all other persons who can exercise
 5 control over the applicant. The licensing authority may
 6 require the filing of the applicant's articles of
 7 incorporation or other organizational documents and a resume
 8 concerning any person identified pursuant to this paragraph.

9 (e) All applications shall be signed by the applicant.

10 Signatures of the applicant shall be as follows:

11 1. If the applicant is a natural person, the
 12 application shall be signed by the applicant.

13 2. If the applicant is a corporation, the application
 14 shall be signed by the corporation's president.

15 3. If the applicant is a partnership, the application
 16 shall be signed by a partner, who shall provide proof
 17 satisfactory to the licensing authority of that partner's
 18 authority to sign on behalf of the partnership.

19 4. If the applicant is a limited liability company,
 20 the application shall be signed by a member of the company,
 21 who shall provide proof satisfactory to the licensing
 22 authority of that member's authority to sign on behalf of the
 23 company.

24 (f) The licensing authority may adopt rules for the
 25 administration of this section, including required procedures
 26 and forms.

27 (g) A license regulated under this chapter is not
 28 assignable or transferable except as provided in this chapter.

29 Section 7. Section 497.142, Florida Statutes, as
 30 created by chapter 2004-301, Laws of Florida, is amended to
 31 read:

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1 497.142 Licensing; fingerprinting and criminal
2 background checks.--

3 (1) In any instance that this chapter requires
4 submission of fingerprints in connection with an application
5 for license, the provisions of this section shall apply.

6 (2) The fingerprints must be taken by a law
7 enforcement agency or other agency or entity approved by the
8 department and in such a way as to allow their use to obtain a
9 criminal history check through the Department of Law
10 Enforcement.

11 (3) The department shall submit the fingerprints to or
12 cause them to be submitted to the Department of Law
13 Enforcement for the purpose of ascertaining whether the person
14 fingerprinted has a criminal history in any state or before
15 the Federal Government and, if so, the nature of the criminal
16 history.

17 (4) The Department of Law Enforcement may accept
18 fingerprints of any applicant under this chapter, any
19 principal of any such applicant, and any other person who is
20 examined or investigated or who is subject to examination or
21 investigation under the provisions of this chapter.

22 (5) The Department of Law Enforcement may, to the
23 extent provided for by federal law, exchange state,
24 multistate, and federal criminal history records with the
25 department and the board for the purpose of the issuance,
26 denial, suspension, or revocation of any license or other
27 application under this chapter.

28 ~~(6) The Department of Law Enforcement may accept~~
29 ~~fingerprints of any other person required by statute or rule~~
30 ~~to submit fingerprints to the department or board or any~~
31 ~~applicant or licensee regulated by the department or board who~~

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1 ~~is required to demonstrate that she or he has not been~~
2 ~~convicted of or pled guilty or nolo contendere to a felony or~~
3 ~~a misdemeanor.~~

4 ~~(6)(7)~~ The Department of Law Enforcement shall, upon
5 receipt of fingerprints from the department, submit the
6 fingerprints to the Federal Bureau of Investigation to check
7 federal criminal history records.

8 ~~(7)(8)~~ Statewide criminal records obtained through the
9 Department of Law Enforcement, federal criminal records
10 obtained through the Federal Bureau of Investigation, and
11 local criminal records obtained through local law enforcement
12 agencies shall be used by the department and board for the
13 purpose of issuance, denial, suspension, or revocation of
14 ~~certificates of authority, certifications, or licenses issued~~
15 to operate in this state.

16 ~~(8)(9)~~ For the purposes of criminal background checks,
17 applicants and principals of applicants for any approval or
18 license under this chapter may be required to disclose whether
19 they have ever had their name legally changed and any prior
20 name or names they have used.

21 ~~(9)(10)~~ If any applicant under this chapter has been,
22 within the 10 years preceding the application under this
23 chapter, convicted or found guilty of, or entered a plea of
24 nolo contendere to, regardless of adjudication, any crime in
25 any jurisdiction, the application shall not be deemed complete
26 until such time as the applicant provides such certified true
27 copies of the court records evidencing the conviction,
28 finding, or plea, as the licensing authority may by rule
29 require.

30 ~~(10)(a)~~ When applying for any license under this
31 chapter, every applicant shall be required to disclose the

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1 applicant's criminal records in accordance with this
2 subsection.

3 (b) The criminal record required to be disclosed shall
4 be any crime listed in paragraph (c) of which the person or
5 entity required to make disclosure has been convicted or to
6 which that person or entity entered a plea in the nature of no
7 contest. Disclosure shall be required pursuant to this
8 subsection regardless of whether adjudication was entered or
9 withheld by the court in which the case was prosecuted.

10 (c) Crimes to be disclosed are:

11 1. Any felony or misdemeanor, no matter when
12 committed, which was directly or indirectly related to or
13 involving any aspect of the practice or business of funeral
14 directing, embalming, direct disposition, cremation, funeral
15 or cemetery preneed sales, funeral establishment operations,
16 cemetery operations, or cemetery monument or marker sales or
17 installation.

18 2. Any other felony not already disclosed under
19 subparagraph 1. which was committed within the 20 years
20 immediately preceding the application under this chapter.

21 3. Any other misdemeanor not already disclosed under
22 subparagraph 1. which was committed within the 5 years
23 immediately preceding the application under this chapter.

24 (d) Criminal records falling within paragraphs (b) and
25 (c) shall be disclosed regardless of whether the criminal
26 conduct occurred inside or outside the state and regardless of
27 whether the criminal prosecution occurred in state court or
28 the court of another state, the United States, or a foreign
29 country. As to crimes prosecuted in courts other than the
30 courts of this state, the designation of the crime as a felony
31 or misdemeanor by the law of the jurisdiction prosecuting the

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1 crime shall control. If the prosecuting jurisdiction does not
 2 use the term "felony" or "misdemeanor" in classifying the
 3 crime, the crime shall be deemed a felony for purposes of this
 4 subsection if punishable under the law of the prosecuting
 5 jurisdiction by a term of imprisonment in excess of 1 year;
 6 otherwise, the crime shall be classified as a misdemeanor for
 7 purposes of this subsection. Excessive speed in the operation
 8 of a motor vehicle and other noncriminal traffic infractions
 9 are not required to be reported under this section.

10 (e) For purposes of this subsection, the persons
 11 required to make disclosure of their criminal records in
 12 relation to an application shall be as follows:

13 1. If the applicant is a natural person, only the
 14 natural person making application has the duty to disclose.

15 2. If the applicant is a corporation, all officers and
 16 directors of that corporation have the duty to disclose.

17 3. If the applicant is a limited liability company,
 18 all managers and members of the limited liability company have
 19 the duty to disclose.

20 4. If the applicant is a partnership, all partners
 21 have the duty to disclose.

22 5. If the applicant is required by this chapter to
 23 identify in the application the individual licensee under this
 24 chapter who will be in charge of the applicant, the identified
 25 individual licensee in charge must make disclosure of criminal
 26 records as part of the application, in addition to the
 27 applicant.

28 (f) In addition to persons identified in paragraph (e)
 29 as being required to provide a criminal history in relation to
 30 an application for license, the department may during its
 31 prelicensing investigation of the applicant pursuant to

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1 subsection (3), on a case-by-case basis, require disclosure of
 2 criminal records from any other employee or principal of the
 3 applicant, if the department has grounds to believe that the
 4 employee or principal has committed any crime and that the
 5 person's relationship to the applicant may render the
 6 applicant a danger to the public if the license applied for is
 7 issued.

8 (g) The licensing authority may adopt rules specifying
 9 forms and procedures to be used by persons required to
 10 disclose criminal records under this subsection. The licensing
 11 authority may conduct investigation and further inquiry of any
 12 person regarding any criminal record disclosed pursuant to
 13 this section.

14 (11)(a) Whenever in this chapter an applicant is
 15 required to submit fingerprints in applying for a license, the
 16 persons whose fingerprints must be submitted shall be as
 17 follows:

18 1. If the applicant is a natural person, the
 19 fingerprints of the natural person making application.

20 2. If the applicant is a corporation, the fingerprints
 21 of the persons serving in the following capacities: chief
 22 executive officer and president, or both persons if the
 23 positions are filled by different persons; chief financial
 24 officer; chief of operations; general counsel if a corporation
 25 employee; and members of the board.

26 3. If the applicant is a limited liability company,
 27 the fingerprints of all managers and members of the limited
 28 liability company.

29 4. If the applicant is a partnership, the fingerprints
 30 of all partners.

31 (b) In addition to persons identified in paragraph (a)

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1 as being required to provide fingerprints, the department may
 2 during its prelicensing investigation of the applicant
 3 pursuant to subsection (3), on a case-by-case basis, require
 4 fingerprints from any other employee of the applicant, if the
 5 department has grounds to believe that any such person may
 6 have committed any crime and that the person's relationship to
 7 the applicant may render the applicant a danger to the public
 8 if the license applied for is issued.

9 (12) The licensing authority may by rule establish
 10 forms, procedures, and fees for the submission and processing
 11 of fingerprints required to be submitted in accordance with
 12 this chapter. The licensing authority may by rule waive the
 13 requirement for submission of fingerprints otherwise required
 14 by this chapter if the person has within the preceding 24
 15 months submitted fingerprints to the licensing authority and
 16 the licensing authority has obtained a criminal history report
 17 utilizing those prior fingerprints. The cost for the
 18 fingerprint processing must be paid to the Department of Law
 19 Enforcement and may be borne by the department, the employer,
 20 or the person subject to the background check.

21 Section 8. Subsection (2) of section 497.143, Florida
 22 Statutes, as created by chapter 2004-301, Laws of Florida, is
 23 amended to read:

24 497.143 Licensing; limited licenses for retired
 25 professionals.--

26 (2) Any person desiring to obtain a limited license,
 27 when permitted by rule, shall submit to the department an
 28 application and fee, not to exceed \$300, and an affidavit
 29 stating that the applicant has been licensed to practice in
 30 any jurisdiction in the United States for at least 10 years in
 31 the profession for which the applicant seeks a limited

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1 license. The affidavit shall also state that the applicant has
 2 retired or intends to retire from the practice of that
 3 profession and intends to practice only pursuant to the
 4 restrictions of the limited license granted pursuant to this
 5 section. If the applicant for a limited license submits a
 6 notarized statement from the employer stating that the
 7 applicant will not receive monetary compensation for any
 8 service involving the practice of her or his profession, the
 9 application and all licensure fees shall be waived. A person
 10 holding a limited license under this section may not engage in
 11 preneed sales under such a limited license.

12 Section 9. Subsection (13) of section 497.144, Florida
 13 Statutes, as created by chapter 2004-301, Laws of Florida, is
 14 amended to read:

15 497.144 Licensing; examinations, general provisions.--

16 (13) When any licensed applicant under this chapter
 17 requests a hearing to challenge a decision that the
 18 applicant's answer to any licensure test question was not a
 19 correct answer, or to seek a determination that a challenged
 20 question should be struck, unless the ~~an~~ applicant notifies
 21 the department at least 5 days prior to the ~~an~~ examination
 22 hearing of the applicant's inability to attend or unless the
 23 ~~an~~ applicant can demonstrate an extreme emergency for failing
 24 to attend, the department may require the ~~an~~ applicant who
 25 fails to attend to pay reasonable attorney's fees, costs, and
 26 court costs of the department for the examination hearing.

27 Section 10. Paragraph (c) of subsection (1) of section
 28 497.149, Florida Statutes, as created by chapter 2004-301,
 29 Laws of Florida, is amended to read:

30 497.149 Investigations, hearings, and inspections.--

31 (1) INVESTIGATIONS.--Investigations shall be conducted

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1 by the department. The following provisions shall apply
2 concerning investigations:

3 (c) If the department finds any accounts or records of
4 a licensee required by this chapter to be created and
5 maintained by the licensee to be inadequate or inadequately
6 kept or posted, it may employ experts to reconstruct, rewrite,
7 post, or balance them at the expense of the person being
8 investigated, provided the person has failed to maintain,
9 complete, or correct such records or accounting after the
10 department has given the licensee ~~her or him~~ notice and a
11 reasonable opportunity to do so.

12 Section 11. Subsection (1) of section 497.151, Florida
13 Statutes, as created by chapter 2004-301, Laws of Florida, is
14 amended, and subsection (4) is added to that section, to read:

15 497.151 Complaints; logs; procedures.--

16 (1) This section shall be applicable to all licensed
17 entities under this chapter ~~licensees under this chapter~~
18 ~~except preneed sales agent licensees.~~

19 (4) For purposes of this section, the response of a
20 customer recorded by the customer on a customer satisfaction
21 questionnaire or survey form sent to the customer by the
22 licensee, and returned by the customer to the licensee, shall
23 not be deemed to be a complaint.

24 Section 12. Section 497.152, Florida Statutes, as
25 created by chapter 2004-301, Laws of Florida, is amended to
26 read:

27 497.152 Disciplinary grounds.--This section sets forth
28 conduct which is prohibited and which shall constitute grounds
29 for denial of any application, imposition of discipline, or
30 ~~and~~ other enforcement action against the licensee or other
31 person committing such conduct. For purposes of this section,

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1 the requirements of this chapter include the requirements of
2 rules adopted under authority of this chapter. No subsection
3 heading in this section shall be interpreted as limiting the
4 applicability of any paragraph within the subsection.

5 (1) GENERAL PROVISIONS.--The generality of the
6 provisions of this subsection shall not be deemed to be
7 limited by the provisions of any other subsection.

8 (a) Violating any provision of this chapter or any
9 lawful order of the board or department or of the statutory
10 predecessors to the board or department.

11 (b) Committing fraud, deceit, negligence,
12 incompetency, or misconduct in the practice of any of the
13 activities regulated under this chapter.

14 (c) Failing while holding a license under this chapter
15 to maintain one or more of the qualifications for such
16 license.

17 (d) Refusing to sell or issue a contract or provide
18 services to any person because of the person's race, color,
19 creed, marital status, sex, or national origin.

20 (2) CRIMINAL ACTIVITY.--Being convicted or found
21 guilty of, or entering a plea of nolo contendere to,
22 regardless of adjudication, a crime in any jurisdiction which
23 relates to the practice of, or the ability to practice, a
24 licensee's profession or occupation under this chapter.

25 (3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.--Having
26 a license or the authority to practice a profession or
27 occupation revoked, suspended, fined, denied, or otherwise
28 acted against or disciplined by the licensing authority of
29 another ~~any~~ jurisdiction, including its agencies or
30 subdivisions, for conduct that would constitute a violation of
31 this chapter if committed in this state or upon grounds which

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1 | directly relate to the ability to practice under this chapter.
 2 | The licensing authority's acceptance of a relinquishment of
 3 | licensure, stipulation, consent order, or other settlement
 4 | offered in response to or in anticipation of the filing of
 5 | charges against the license shall be construed as action
 6 | against the license.

7 | (4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT
 8 | AGENCIES.--

9 | (a) Improperly interfering with an investigation or
 10 | inspection authorized by statute or with any disciplinary
 11 | proceeding.

12 | (b) Failure to comply with a lawfully issued subpoena
 13 | of the department.

14 | (c) Refusal to produce records to the department or
 15 | board in connection with any activity regulated pursuant to
 16 | this chapter.

17 | (d) Failing to report to the department any violation
 18 | of this chapter by another person or entity which violation is
 19 | known to the licensee to have created or be creating a serious
 20 | and immediate danger to the public health, safety, or welfare
 21 | person who the licensee knows is in violation of this chapter.

22 | (e) Knowingly concealing information relative to
 23 | violations of this chapter.

24 | (f) Attempting to obtain, obtaining, or renewing a
 25 | license under this chapter by bribery, false or forged
 26 | evidence, or misrepresentation, or through an error of the
 27 | department or board known to the applicant.

28 | (g) Making or filing a report or statement to or with
 29 | any government entity which the licensee knows or has reason
 30 | to know to be false; or intentionally or negligently failing
 31 | to file a report or record required to be filed with any

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1 government entity, or willfully impeding or obstructing
2 another person to do so, or inducing another person to impede
3 or obstruct such filing.

4 (h) Failing to perform any statutory or legal
5 obligation placed upon a licensee.

6 (5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED
7 PRACTICE.--

8 (a) Practicing or offering to practice beyond the
9 scope permitted by this chapter and rules adopted under this
10 chapter for the type of licensure held or accepting and
11 performing professional responsibilities the licensee knows,
12 or has reason to know, the licensee is not competent to
13 perform.

14 (b) Practicing or attempting to practice with a
15 revoked, suspended, inactive, or delinquent license.

16 (c) Representing as her or his own the license of
17 another.

18 (d) Aiding, assisting, procuring, employing, or
19 advising any person or entity to practice a profession or
20 occupation regulated by this chapter without required
21 licensure under this chapter.

22 (e) Aiding, assisting, procuring, employing, or
23 advising any person or entity to operate or in operating an
24 establishment regulated by this chapter without the required
25 licensure under this chapter.

26 (f) Delegating to any person the performance of
27 professional activities, or contracting with any person for
28 the performance of professional activities by such person,
29 when the licensee knows or has reason to know the person is
30 not qualified by training, experience, and authorization to
31 perform such responsibilities.

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1 (g) Using the name or title "funeral director,"
 2 "embalmer," "direct disposer," or other title suggesting
 3 licensure which the person using such name or title does not
 4 hold.

5 (h) Engaging by a direct disposer in the practice of
 6 direct burial or offering the at-need or preneed service of
 7 direct burial.

8 (6) EDUCATIONAL REQUIREMENTS.--

9 (a) Failing to comply with applicable educational
 10 course requirements pursuant to this chapter or rules adopted
 11 under this chapter regarding human immunodeficiency virus and
 12 acquired immune deficiency syndrome.

13 (b) Failing to timely comply with applicable
 14 continuing education requirements of this chapter.

15 (7) RELATIONS WITH OTHER LICENSEES.--

16 (a) Having been found liable in a civil proceeding for
 17 knowingly filing a false report or complaint against another
 18 licensee with the department or the board.

19 (b) Making any misleading statements or
 20 misrepresentations as to the financial condition of any
 21 person, or which are falsely and maliciously critical of any
 22 person for the purpose of damaging that person's business
 23 regulated under this chapter.

24 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF
 25 HUMAN REMAINS.--

26 (a) Violation of any state law or rule or any
 27 municipal or county ordinance or regulation affecting the
 28 handling, custody, care, or transportation of dead human
 29 bodies.

30 (b) Refusing to surrender promptly the custody of a
 31 dead human body upon the express order of the person legally

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1 authorized to its custody; however, this provision shall be
2 subject to any state or local laws or rules governing custody
3 or transportation of dead human bodies.

4 (c) Taking possession of a dead human body without
5 first having obtained written or oral permission from a
6 legally authorized person. If oral permission is granted, the
7 licensee must obtain written permission within a reasonable
8 time as established by rule.

9 (d) Embalming human remains without first having
10 obtained written or oral permission from a legally authorized
11 person; however, washing and other public health procedures,
12 such as closing of the orifices by placing cotton soaked in a
13 disinfectant in such orifices until authorization to embalm is
14 received, shall not be precluded. If oral permission is
15 granted, the licensee must obtain written permission within a
16 reasonable time as established by board rule.

17 (e) Failing to obtain written authorization from the
18 family or next of kin of the deceased prior to entombment,
19 interment, disinterment, disentombment, or disinurnment of the
20 remains of any human being.

21 (9) SALES PRACTICES IN GENERAL.--

22 (a) Soliciting by the licensee, or by her or his
23 agent, assistant, or employee, through the use of fraud, undue
24 influence, intimidation, overreaching, or other means which
25 takes advantage of a customer's ignorance or emotional
26 vulnerability.

27 (b) Exercising undue influence on a client for the
28 purpose of financial gain of the licensee or a third party in
29 connection with any transaction regulated by this chapter.

30 (c) Discouraging a customer's purchase of any funeral
31 merchandise or service which is advertised or offered for

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1 sale, with the purpose of encouraging the purchase of
 2 additional or more expensive merchandise or service, by
 3 disparaging its quality or appearance, except that true
 4 factual statements concerning features, design, or
 5 construction do not constitute disparagement; by
 6 misrepresenting its availability or any delay involved in
 7 obtaining it; or by suggesting directly or by implication that
 8 a customer's concern for price or expressed interest in
 9 inexpensive funeral merchandise or services is improper,
 10 inappropriate, or indicative of diminished respect or
 11 affection for the deceased.

12 (d) Misrepresenting the benefits, advantages,
 13 conditions, or terms of any contract to provide any services
 14 or merchandise regulated under this chapter.

15 (e) Advertising goods and services in a manner that is
 16 fraudulent, deceptive, or misleading in form or content.

17 (f) Directly or indirectly making any deceptive,
 18 misleading, or untrue representations, whether oral or
 19 written, or employing any trick, scheme, or artifice, in or
 20 related to the practice of a profession or occupation
 21 regulated under this chapter, including in the advertising or
 22 sale of any merchandise or services related to the practice of
 23 the profession or occupation.

24 (10) SPECIFIC MISREPRESENTATIONS.--

25 (a) Making any false or misleading statement of the
 26 legal requirement as to the necessity of any particular burial
 27 or funeral merchandise or services.

28 (b) Making any oral, written, or visual
 29 representations, directly or indirectly, that any funeral
 30 merchandise or service is offered for sale when such is not a
 31 bona fide offer to sell such merchandise or service.

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1 (c) Making any misrepresentation for the purpose of
2 inducing, or tending to induce, the lapse, forfeiture,
3 exchange, conversion, or surrender of any preneed contract or
4 any life insurance policy pledged or assigned to secure
5 payment for funeral or burial goods or services.

6 (d) Misrepresenting pertinent facts or prepaid
7 contract provisions relating to funeral or burial merchandise
8 or services.

9 (e) Misrepresenting the amount advanced on behalf of a
10 customer for any item of service or merchandise, including,
11 but not limited to, cemetery or crematory services,
12 pallbearers, public transportation, clergy honoraria, flowers,
13 musicians or singers, nurses, obituary notices, gratuities,
14 and death certificates, described as cash advances,
15 accommodations, or words of similar import on the contract,
16 final bill, or other written evidence of agreement or
17 obligation furnished to customers; however, nothing in this
18 paragraph shall require disclosure of a discount or rebate
19 which may accrue to a licensee subsequent to making a cash
20 advance.

21 (f) Making any false or misleading statement or claim
22 that natural decomposition or decay of human remains can be
23 prevented or substantially delayed by embalming, use of a
24 gasketed or ungasketed casket, or use of an adhesive or
25 nonadhesive closure on an outer burial container.

26 (g) Making any false or misleading statement, oral or
27 written, directly or indirectly, regarding any law or rule
28 pertaining to the preparation for disposition, transportation
29 for disposition, or disposition of dead human bodies.

30 (h) Making any false or misleading statements of the
31 legal requirement as to the conditions under which

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1 preservation of a dead human body is required or as to the
2 necessity of a casket or outer burial container.

3 (11) SPECIFIC SALES PRACTICES.--

4 (a) Failing to furnish, for retention, to each
5 purchaser of burial rights, burial or funeral merchandise, or
6 burial or funeral services a written agreement, the form of
7 which has been previously approved if and as required by this
8 chapter, which lists in detail the items and services
9 purchased together with the prices for the items and services
10 purchased; the name, address, and telephone number of the
11 licensee; the signatures of the customer and the licensee or
12 her or his representative; and the date signed.

13 (b) Filling in any contract form for use with a
14 particular customer, using language that ~~Using any name or~~
15 ~~title in any contract regulated under this chapter which~~
16 misrepresents the true nature of the contract.

17 (c) Selling an irrevocable preneed contract to a
18 person who is not an applicant for or recipient of
19 Supplemental Security Income or Aid to Families with Dependent
20 Children or pursuant to s. 497.459(6)(a).

21 (d) Except as authorized in part IV of this chapter,
22 guaranteeing the price of goods and services at a future date.

23 (e) Requiring that a casket be purchased for cremation
24 or claiming directly or by implication that a casket is
25 required for cremation.

26 (f) When displaying any caskets for sale, failing to
27 display the least expensive casket offered for sale or use in
28 adult funerals in the same general manner as the funeral
29 service industry member's other caskets are displayed.

30 (g) Assessing fees and costs that have not been
31 disclosed to the customer in connection with any transaction

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1 regulated by this chapter.

2 (h) Failure by a cemetery licensed under this chapter
3 to provide to any person, upon request, a copy of the cemetery
4 bylaws.

5 (i) Requirements by a cemetery licensee that lot
6 owners or current customers make unnecessary visits to the
7 cemetery company office for the purpose of solicitation.

8 (12) DISCLOSURE REQUIREMENTS.--

9 (a) Failure to disclose, when such disclosure is
10 desired, the components of the prices for alternatives offered
11 by the licensee from whom disclosure is requested, such as
12 graveside service, direct disposition, and body donation
13 without any rites or ceremonies prior to the delivery of the
14 body and prices of service if there are to be such after the
15 residue has been removed following the use thereof.

16 (b) Failing to furnish, for retention, to anyone who
17 inquires in person about burial rights, burial or funeral
18 merchandise, or burial or funeral services, before any
19 discussion of selection, a printed or typewritten list
20 specifying the range of retail prices for such rights,
21 merchandise, or services. At a minimum, the list shall itemize
22 the highest and lowest priced product and service regularly
23 offered and shall include the name, address, and telephone
24 number of the licensee and statements that the customer may
25 choose only the items the customer desires, that the customer
26 will be charged for only those items selected, and that there
27 may be other charges for other items or other services.

28 (c) Failing to reasonably provide by telephone, upon
29 request, accurate information regarding the retail prices of
30 funeral merchandise and services offered for sale by that
31 licensee.

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1 (d) Failure by a funeral director to make full
 2 disclosure in the case of a funeral or direct disposition with
 3 regard to the use of funeral merchandise which is not to be
 4 disposed of with the body or failure to obtain written
 5 permission from the purchaser regarding disposition of such
 6 merchandise.

7 (e) Failure by any funeral director to fully disclose
 8 all of her or his available services and merchandise prior to
 9 the selection of a casket offered by a licensee. The full
 10 disclosure required shall identify what is included in the
 11 funeral or direct disposition and the prices of all services
 12 and merchandise provided by the licensee or registrant.

13 (f) Failing to have the price of any casket offered
 14 for sale clearly marked on or in the casket, whether the
 15 casket is displayed at a funeral establishment or at any other
 16 location, regardless of whether the licensee is in control of
 17 such location. If a licensee uses books, catalogs, brochures,
 18 or other printed display aids, the price of each casket shall
 19 be clearly marked.

20 (g) Failing to disclose all fees and costs the
 21 customer may incur to use the burial rights or merchandise
 22 purchased.

23 (13) CONTRACT OBLIGATIONS.--

24 (a) Failing without reasonable justification to timely
 25 honor contracts entered into by the licensee or under the
 26 licensee's license for funeral or burial merchandise or
 27 services.

28 (b) Failure to honor preneed contract cancellation
 29 requests and make refunds as required by the chapter.

30 (14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY
 31 CUSTOMERS.--

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1 (a) Failing to adopt and implement standards for the
 2 proper investigation and resolution of claims and complaints
 3 received by a licensee relating to the licensee's activities
 4 regulated by this chapter.

5 (b) Committing or performing with such frequency as to
 6 indicate a general business practice any of the following:

7 1. Failing to acknowledge and act promptly upon
 8 communications from a licensee's customers and their
 9 representatives with respect to claims or complaints relating
 10 to the licensee's activities regulated by this chapter.

11 2. Denying claims or rejecting complaints received by
 12 a licensee from a customer or customer's representative,
 13 relating to the licensee's activities regulated by this
 14 chapter, without first conducting reasonable investigation
 15 based upon available information.

16 3. Attempting to settle a claim or complaint on the
 17 basis of a material document which was altered without notice
 18 to, or without the knowledge or consent of, the contract
 19 purchaser or her or his representative or legal guardian.

20 4. Failing within a reasonable time to affirm or deny
 21 coverage of specified services or merchandise under a contract
 22 entered into by a licensee upon written request of the
 23 contract purchaser or her or his representative or legal
 24 guardian.

25 5. Failing to promptly provide, in relation to a
 26 contract for funeral or burial merchandise or services entered
 27 into by the licensee or under the licensee's license, a
 28 reasonable explanation to the contract purchaser or her or his
 29 representative or legal guardian of the licensee's basis for
 30 denying or rejecting all or any part of a claim or complaint
 31 submitted.

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1 (c) Making a material misrepresentation to a contract
 2 purchaser or her or his representative or legal guardian for
 3 the purpose and with the intent of effecting settlement of a
 4 claim or complaint or loss under a prepaid contract on less
 5 favorable terms than those provided in, and contemplated by,
 6 the prepaid contract.

7 (d) Failing to maintain a complete copy of every
 8 complaint received by the licensee since the date of the last
 9 examination of the licensee by the department. For purposes of
 10 this subsection, the term "complaint" means any written
 11 communication primarily expressing a grievance and which
 12 communication is from:

13 1. A representative or family member of a deceased
 14 person interred at the licensee's facilities or using the
 15 licensee's services, or which deceased's remains were the
 16 subject of any service provided by the licensee or licensee's
 17 business; or

18 2. A person, or such person's family member or
 19 representative, who inquired of the licensee or licensee's
 20 business concerning the purchase of, or who purchased or
 21 contracted to purchase, any funeral or burial merchandise or
 22 services from the licensee or licensee's business.

23
 24 For purposes of this subsection, the response of a customer
 25 recorded by the customer on a customer satisfaction
 26 questionnaire or survey form sent to the customer by the
 27 licensee, and returned by the customer to the licensee, shall
 28 not be deemed to be a complaint.

29 (15) MISCELLANEOUS FINANCIAL MATTERS.--

30 (a) Failing to timely pay any fee required by this
 31 chapter.

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1 (b) Failing to timely remit as required by this
2 chapter the required amounts to any trust fund required by
3 this chapter. The board may, by rule, provide criteria for
4 identifying minor, nonwillful trust remittance deficiencies;
5 remittance deficiencies falling within such criteria, if fully
6 corrected within 30 days after notice to the licensee by the
7 department, do not constitute a disciplinary violation.

8 (c) Paying to or receiving from any organization,
9 agency, or person, either directly or indirectly, any
10 commission, bonus, kickback, or rebate in any form whatsoever
11 for any business regulated under this chapter, whether such
12 payments are made or received by the licensee, or her or his
13 agent, assistant, or employee; however, this provision shall
14 not prohibit the payment of commissions by a funeral director,
15 funeral establishment, cemetery, or monument establishment to
16 its preneed agents licensed pursuant to this chapter or to
17 licensees under this chapter.

18 Section 13. Subsection (1), paragraph (b) of
19 subsection (2), and paragraph (c) of subsection (4) of section
20 497.153, Florida Statutes, as created by chapter 2004-301,
21 Laws of Florida, are amended to read:

22 497.153 Disciplinary procedures and penalties.--

23 (1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE
24 AND PROSECUTE.--The expiration, nonrenewal, or surrender of
25 licensure under this chapter shall not eliminate jurisdiction
26 in the licensing authority to investigate and prosecute for
27 violations committed by a licensee while licensed under this
28 chapter. The prosecution of any matter may be initiated or
29 continued notwithstanding the withdrawal of any complaint.

30 (2) DETERMINATION OF PROBABLE CAUSE.--

31 (b) Prior to submitting a matter to the probable cause

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1 panel, the licensee who is the subject of the matter shall be
2 provided by the department with a copy of any written
3 complaint received by the department in the matter and shall
4 be advised that the licensee ~~she or he~~ may, within 20 days
5 after receipt of a copy of such complaint from the department,
6 submit to the department a written response. Any response
7 timely received by the department shall be provided by the
8 department to the probable cause panel. Licensees may not
9 appear in person or through a representative at any probable
10 cause panel proceeding. This paragraph shall not apply to
11 emergency action.

12 (4) ACTION AFTER PROBABLE CAUSE FOUND.--

13 (c) The department may at any time present to the
14 board a proposed settlement by consent order or otherwise of
15 any matter as to which probable cause has been found. If the
16 board accepts the proposed settlement, it may execute and file
17 the consent order as its final order in the matter or may
18 otherwise issue its final order in the matter ~~shall issue its~~
19 ~~final order adopting the settlement~~. If the board does not
20 accept such settlement, the prosecution of the matter shall be
21 resumed. No settlement of any disciplinary matter as to which
22 probable cause has been found may be entered into by the board
23 prior to receipt of a recommended order of an administrative
24 law judge without the department's concurrence.

25 Section 14. Subsection (1) of section 497.158, Florida
26 Statutes, as renumbered and amended by section 28 of chapter
27 2004-301, Laws of Florida, is amended to read:

28 497.158 Court enforcement actions; powers; abatement
29 of nuisances.--

30 (1) In addition to or in lieu of other actions
31 authorized by this chapter, the department may petition the

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1 courts of this state for injunctive or other relief against
 2 any licensed or unlicensed person for the enforcement of this
 3 chapter and orders issued under this chapter. The court shall
 4 be authorized to impose a fine of up to \$5,000 per violation
 5 on any licensee under this chapter and up to \$10,000 on any
 6 person not licensed under this chapter, payable to the
 7 department, upon any person determined by the court to have
 8 violated this chapter, and may order payment to the department
 9 of the department's attorney's fees and litigation costs, by
 10 any person found to have violated this chapter.

11 Section 15. Subsections (1), (3), and (4) and
 12 paragraph (a) of subsection (5) of section 497.159, Florida
 13 Statutes, as created by chapter 2004-301, Laws of Florida, are
 14 amended to read:

15 497.159 Crimes.--

16 (1) The theft ~~of an examination~~ in whole or in part or
 17 the act of unauthorized reproducing, circulating, or copying
 18 of any questions or answers on, from, or for any prelicensure
 19 examination administered by the department or the board,
 20 whether such examination is reproduced or copied in part or in
 21 whole and by any means, constitutes a felony of the third
 22 degree, punishable as provided in s. 775.082, s. 775.083, or
 23 s. 775.084.

24 (3) Any individual who willfully obstructs the
 25 department or its examiner in any examination or investigation
 26 authorized by this chapter is guilty of a misdemeanor of the
 27 second degree and is, in addition to any disciplinary action
 28 under this chapter, punishable as provided in s. 775.082 or s.
 29 775.083. The initiation of action in any court by or on behalf
 30 of any licensee to terminate or limit any examination or
 31 investigation under this chapter shall not constitute a

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1 violation under this subsection.

2 (4) Any officer or director, or person occupying
3 similar status or performing similar functions, of a preneed
4 licensee who fails licensee under this chapter who knowingly
5 directs or causes the failure to make required deposits to any
6 trust fund required by this chapter; any director, officer,
7 agent, or employee of a preneed licensee who makes any
8 unlawful withdrawal of funds from any such account or who
9 knowingly discloses to the department or an employee thereof
10 any false report made pursuant to this chapter; or any person
11 who willfully violates any of the provisions of part II, part
12 IV or part V, or with knowledge that such required deposits
13 are not being made as required by law fails to report such
14 failure to the department, or who knowingly directs or causes
15 the unlawful withdrawal of funds from any trust fund required
16 by this chapter, commits a felony of the third degree,
17 punishable as provided in s. 775.082, s. 775.083, or s.
18 775.084.

19 (5)(a) A ~~No~~ cemetery company or other legal entity
20 conducting or maintaining any public or private cemetery may
21 not deny burial space to any person because of race, creed,
22 marital status, sex, national origin, or color. A cemetery
23 company or other entity operating any cemetery may designate
24 parts of cemeteries or burial grounds for the specific use of
25 persons whose religious code requires isolation. Religious
26 institution cemeteries may limit burials to members of the
27 religious institution and their families.

28 Section 16. Paragraphs (g) and (h) of subsection (1)
29 and subsection (3) of section 497.161, Florida Statutes, as
30 created by chapter 2004-301, Laws of Florida, are amended to
31 read:

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1 497.161 Other rulemaking provisions.--

2 (1) In addition to such other rules as are authorized
3 or required under this chapter, the following additional
4 rules, not inconsistent with this chapter, shall be authorized
5 by the licensing authority.

6 ~~(g) Rules establishing procedures by which the
7 department may use the expert or technical advice of the board
8 or members of the board for the purposes of any investigation,
9 inspection, or financial examination, without thereby
10 disqualifying the board member from voting on final action in
11 the matter.~~

12 ~~(g)(h)~~ In connection with the statutory revisions by
13 the 2004 ~~2005~~ Regular Session of the Legislature merging
14 chapters 470 and 497 as those chapters appeared in the 2003
15 ~~2004~~ edition of the Florida Statutes and the elimination of
16 the former boards under those chapters and the movement of
17 regulation out of the Department of Business and Professional
18 Regulation, the licensing authority shall through July 1,
19 2006, be deemed to have extraordinary rulemaking authority to
20 adopt any and all rules jointly agreed by the board and the
21 department to be necessary for the protection of the public
22 concerning the regulation of the professions and occupations
23 regulated under this chapter, or for the relief of licensees
24 regulated under this chapter concerning any impacts which the
25 department and the board jointly agree were unintended or not
26 contemplated in the enactment of the 2004 ~~2005~~ legislative
27 changes. The authority under this paragraph and any rules
28 adopted under authority of this paragraph shall expire July 1,
29 2006.

30 (3) The department and the board shall each have
31 standing under chapter 120 for the purposes of challenging

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1 | rules or proposed rules under this chapter. This subsection
 2 | shall not be interpreted to deny standing to a licensee to
 3 | challenge any rule under this chapter if the licensee would
 4 | otherwise have standing.

5 | Section 17. Section 497.165, Florida Statutes, as
 6 | renumbered and amended by chapter 2004-30, Florida Statutes,
 7 | is amended to read:

8 | 497.165 Liability of owners, directors, and officers
 9 | regarding trust funds.--The owners, officers, and directors of
 10 | any licensee under this chapter may be held jointly and
 11 | severally liable for any deficiency in any trust fund required
 12 | by this chapter, to the extent the deficiency arose during the
 13 | period they were owners, officers or directors of the
 14 | licensee, if they intentionally or through gross their
 15 | ~~conduct, or their~~ negligence in the performance of their
 16 | duties, caused the deficiency or substantially contributed to
 17 | conditions that allowed the deficiency to arise or increase.

18 | Section 18. Subsections (1) and (3) of section
 19 | 497.166, Florida Statutes, as created by chapter 2004-301,
 20 | Laws of Florida, are amended to read:

21 | 497.166 Preneed sales.--

22 | (1) Regulation of preneed sales shall be as set forth
 23 | in part IV of this chapter. ~~A No~~ person may not act as an
 24 | agent for a preneed licensee ~~funeral establishment or direct~~
 25 | ~~disposal establishment~~ with respect to preneed contracts
 26 | unless the ~~such~~ person is licensed as a preneed sales agent
 27 | pursuant to part IV of this chapter or is a licensed funeral
 28 | director acting as a preneed sales agent.

29 | (3)(a) The funeral director in charge of a funeral
 30 | establishment shall be responsible for the control and
 31 | activities of the establishment's preneed sales agents.

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1 (b) The direct disposer in charge or a funeral
 2 director acting as a direct disposer in charge of a direct
 3 disposal establishment shall be responsible for the control
 4 and activities of the establishment's preneed sales agents.

5 (c) The responsibility imposed by this subsection on
 6 the funeral director and direct disposer in charge is a duty
 7 of reasonable supervision and not absolute liability. The
 8 responsibility of the funeral director or direct disposer in
 9 charge shall be in addition to the responsibility of the
 10 preneed licensee for the conduct of the preneed sales agents
 11 it employs.

12 Section 19. Subsection (2) of section 497.169, Florida
 13 Statutes, as renumbered and amended by section 39 of chapter
 14 2004-301, Laws of Florida, is amended to read:

15 497.169 Private actions; actions on behalf of
 16 consumers; attorney's fee.--

17 (2) In any civil litigation resulting from a
 18 transaction involving a violation of this chapter by a
 19 cemetery company or burial rights broker licensed under part
 20 II, a monument establishment licensed under part V, or a
 21 preneed entity or preneed sales agent licensed under part IV,
 22 the court may award to the prevailing party and against the
 23 cemetery company, burial rights broker, monument
 24 establishment, or preneed entity or sales agent, after
 25 judgment in the trial court and exhaustion of any appeal,
 26 reasonable attorney's fees and costs from the nonprevailing
 27 party in an amount to be determined by the trial court. Any
 28 award of attorney's fees or costs shall become a part of the
 29 judgment and shall be subject to execution as the law allows.
 30 This subsection does not apply to licensees licensed under
 31 part III or part VI.

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1 Section 20. Section 497.171, Florida Statutes, is
2 created to read:

3 497.171 Identification of human remains.--

4 (1) PRIOR TO FINAL DISPOSITION.--

5 (a) This subsection applies to licensees under parts
6 III and VI.

7 (b) The licensee in charge of the final disposition of
8 dead human remains shall, prior to final disposition of such
9 dead human remains, affix on the ankle or wrist of the
10 deceased, and on the casket or alternative container or
11 cremation container, proper identification of the dead human
12 remains. The identification or tag shall be encased in or
13 consist of durable and long-lasting material containing the
14 name, date of birth, and date of death of the deceased, if
15 available. The board may adopt rules specifying acceptable
16 materials for such identification tags, acceptable locations
17 for the tags on the casket or alternative container or
18 cremation container, and acceptable methods of affixing the
19 tags.

20 (c) If the dead human remains are cremated, proper
21 identification shall be placed in the container or urn
22 containing the remains.

23 (d) Any licensee responsible for removal of dead human
24 remains to any establishment, facility, or location shall
25 ensure that the remains are identified by a tag or other means
26 of identification that is affixed to the ankle or wrist of the
27 deceased at the time the remains are removed from the place of
28 death or other location.

29 (2) INTERMENT IN UNLICENSED CEMETERIES.--The
30 identification of human remains interred in an unlicensed
31 cemetery shall be the responsibility of the licensed funeral

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1 establishment in charge of the funeral arrangements for the
 2 deceased person. The licensed funeral establishment in charge
 3 of the funeral arrangements for the interment in an unlicensed
 4 cemetery of human remains shall place on the outer burial
 5 container, cremation interment container, or other container
 6 or on the inside of a crypt or niche a tag or permanent
 7 identifying mark containing the name of the decedent and the
 8 date of death, if available. The materials and locations of
 9 the tag or mark shall be more specifically described by rule
 10 of the licensing authority.

11 (3) INTERMENT IN LICENSED CEMETERIES.--

12 (a) This subsection applies to cemetery licensees
 13 under part II.

14 (b) As to interments in a licensed cemetery, each
 15 licensed cemetery shall place on the outer burial container,
 16 cremation interment container, or other container or on the
 17 inside of a crypt or niche a tag or permanent identifying
 18 marker containing the name of the decedent and the date of
 19 death, if available. The materials and the location of the tag
 20 or marker shall be more specifically described by rule of the
 21 licensing authority.

22 (c) Each licensed cemetery may rely entirely on the
 23 identity stated on the burial transit permit or on the
 24 identification supplied by a person licensed under this
 25 chapter to establish the identity of the dead human remains
 26 delivered by such person for burial and shall not be liable
 27 for any differences between the identity shown on the burial
 28 transit permit or identification and the actual identity of
 29 the dead human remains delivered by such person and buried in
 30 the cemetery.

31 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal

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1 establishments shall establish a system of identification of
 2 human remains received which shall be designed to track the
 3 identity of the remains from the time of receipt until
 4 delivery of the remains to the authorized persons. This is in
 5 addition to the requirements for identification of human
 6 remains set forth in subsection (1). A copy of the
 7 identification procedures shall be available, upon request, to
 8 the department and legally authorized persons.

9 (5) RELIANCE ON LEGALLY AUTHORIZED PERSON.--Any
 10 licensee charged with responsibility under this section may
 11 rely on the representation of a legally authorized person to
 12 establish the identity of dead human remains.

13 Section 21. Paragraph (b) of subsection (6) of section
 14 497.260, Florida Statutes, as renumbered and amended by
 15 section 42 of chapter 2004-301, Laws of Florida, is amended to
 16 read:

17 497.260 Cemeteries; exemption; investigation and
 18 mediation.--

19 (6)(b) A ~~NO~~ cemetery company or other legal entity
 20 conducting or maintaining any public or private cemetery may
 21 not deny burial space to any person because of race, creed,
 22 marital status, sex, national origin, or color. A cemetery
 23 company or other entity operating any cemetery may designate
 24 parts of cemeteries or burial grounds for the specific use of
 25 persons whose religious code requires isolation. Religious
 26 institution cemeteries may limit burials to members of the
 27 religious institution and their families.

28 Section 22. Paragraphs (b), (m), (o), and (q) of
 29 subsection (2) of section 497.263, Florida Statutes, as
 30 renumbered and amended by section 45 of chapter 2004-301, Laws
 31 of Florida, are amended to read:

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1 497.263 Cemetery companies; license required;
2 licensure requirements and procedures.--

3 (2) APPLICATION PROCEDURES.--

4 (b) The applicant shall be a corporation, ~~or a~~
5 partnership, or a limited liability company ~~formed prior to~~
6 ~~January 1, 2005, which limited liability company already holds~~
7 ~~a license under this chapter.~~

8 (m) The applicant shall be required to make disclosure
9 of the applicant's criminal records, if any, as required by s.
10 497.142. ~~The application shall require the applicant to~~
11 ~~disclose whether the applicant or any principal of the~~
12 ~~applicant has ever been convicted or found guilty of, or~~
13 ~~entered a plea of no contest to, regardless of adjudication,~~
14 ~~any crime in any jurisdiction. The licensing authority may~~
15 ~~require by rule additional information to be provided~~
16 ~~concerning any affirmative answers.~~

17 (o) The applicant shall submit fingerprints in
18 accordance with s. 497.142. ~~The application shall require the~~
19 ~~applicant and applicant's principals to provide fingerprints~~
20 ~~in accordance with part I of this chapter.~~

21 (q) The application shall be signed in accordance with
22 s. 497.141(12) ~~by the president of the applicant.~~

23 Section 23. Paragraphs (h), (j), and (l) of subsection
24 (2) of section 497.264, Florida Statutes, as renumbered and
25 amended by chapter 2004-301, Laws of Florida, are amended to
26 read:

27 497.264 License not assignable or transferable.--

28 (2) Any person or entity that seeks to purchase or
29 otherwise acquire control of any cemetery licensed under this
30 chapter shall first apply to the licensing authority and
31 obtain approval of such purchase or change in control.

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1 (h) The applicant shall be required to make disclosure
2 of applicant's criminal records, if any, as required by s.
3 497.142. The application shall require the applicant to
4 disclose whether the applicant or any principal of the
5 applicant has ever been convicted or found guilty of, or
6 entered a plea of no contest to, regardless of adjudication,
7 any crime in any jurisdiction. The licensing authority may
8 require by rule additional information to be provided
9 concerning any affirmative answers.

10 (j) The applicant shall submit fingerprints in
11 accordance with s. 497.142. The application shall require the
12 applicant and the applicant's principals to provide
13 fingerprints in accordance with part I of this chapter.

14 (1) The application shall be signed in accordance with
15 s. 497.141(12) by the applicant if a natural person, otherwise
16 by the president of the applicant.

17 Section 24. Section 497.281, Florida Statutes, as
18 renumbered and amended by section 62 of chapter 2004-301, Laws
19 of Florida, is amended to read:

20 497.281 Licensure of brokers of burial rights.--

21 (1) No person shall receive compensation to act as a
22 third party to the sale or transfer of three or more burial
23 rights in a 12-month period unless the person pays a license
24 fee as determined by licensing authority rule but not to
25 exceed \$250 and is licensed with the department as a burial
26 rights broker in accordance with this section.

27 (2)(a) The applicant shall be required to make
28 disclosure of the applicant's criminal records, if any, as
29 required by s. 497.142.

30 (b) The application must require the applicant to
31 disclose whether the applicant or any principal of the

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1 applicant has ever had a license or the authority to practice
2 a profession or occupation refused, suspended, fined, denied,
3 or otherwise acted against or disciplined by the licensing
4 authority of any jurisdiction. The licensing authority may
5 require, by rule, additional information to be provided
6 concerning any affirmative answers. A licensing authority's
7 acceptance of a relinquishment of licensure, stipulation,
8 consent order, or other settlement, offered in response to or
9 in anticipation of the filing of charges against the license,
10 shall be construed as action against the license. The
11 licensing authority may require, by rule, additional
12 information to be provided concerning any affirmative answers.

13 (c) The applicant shall submit fingerprints in
14 accordance with s. 497.142. The application shall be signed in
15 accordance with s. 497.141(12).

16 (d) The applicant shall demonstrate by clear and
17 convincing evidence that the applicant has the ability,
18 experience, and integrity to act as a burial broker and, if
19 the applicant is an entity, that the applicant's principals
20 are of good character.

21 (3) The licensing authority shall by rule establish
22 requirements for minimum records to be maintained by licensees
23 under this section, for the purpose of preventing confusion
24 and error by the licensee or by the cemeteries in which the
25 burial rights are located as to the status as sold or unsold,
26 and the identity of the owner, of the burial rights and
27 related interment spaces in the cemetery.

28 (4) The licensing authority may, by rule, require
29 inspections of the records of licensees under this section.

30 (5)(2) The department, by rule, shall provide for the
31 biennial renewal of licenses under this section and a renewal

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1 fee as determined by licensing authority rule but not to
2 exceed \$250.

3 ~~(6)(3)~~ The licensure requirements of this section do
4 ~~shall~~ not apply to persons otherwise licensed pursuant to this
5 chapter, but such persons, if they engage in activity as a
6 burial rights broker, are subject to rules relating to
7 required records and inspections.

8 ~~(4)~~ The licensing authority may by rule specify
9 ~~records of brokerage transactions which shall be required to~~
10 ~~be maintained by burial rights brokers licensed under this~~
11 ~~subsection, and which shall be subject to inspection by the~~
12 ~~department.~~

13 Section 25. Subsection (12) is added to section
14 497.365, Florida Statutes, to read:

15 497.365 Licensure; inactive and delinquent status.--

16 (12) The board shall prescribe, by rule, an
17 application fee for inactive status, a renewal fee for
18 inactive status, a delinquency fee, and a fee for reactivation
19 of a license. The amount of any such fee may not exceed the
20 amount of the biennial renewal fee established by the board
21 for an active license. The department may not reactivate a
22 license unless the inactive or delinquent licensee has paid
23 any applicable biennial renewal or delinquency fee, or both,
24 and a reactivation fee.

25 Section 26. Paragraph (c) of subsection (1) of section
26 497.368, Florida Statutes, as renumbered and amended by
27 section 73 of chapter 2004-301, Laws of Florida, is amended to
28 read:

29 497.368 Embalmers; licensure as an embalmer by
30 examination; provisional license.--

31 (1) Any person desiring to be licensed as an embalmer

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1 shall apply to the licensing authority to take the licensure
2 examination. The licensing authority shall examine each
3 applicant who has remitted an examination fee set by rule of
4 the licensing authority not to exceed \$200 plus the actual per
5 applicant cost to the licensing authority for portions of the
6 examination and who has:

7 (c) Made disclosure of applicant's criminal records,
8 if any, as required by s. 497.142. The applicant shall submit
9 fingerprints in accordance with s. 497.142. The applicant may
10 not be licensed under this section unless the licensing
11 authority determines that the applicant is of good character
12 and has no demonstrated history of lack of trustworthiness or
13 integrity in business or professional matters. ~~Had no~~
14 conviction or finding of guilt, regardless of adjudication,
15 for a crime which directly relates to the ability to practice
16 embalming or the practice of embalming.

17 Section 27. Paragraph (d) is added to subsection (1)
18 of section 497.369, Florida Statutes, as renumbered and
19 amended by section 74 of chapter 2004-301, Laws of Florida, to
20 read:

21 497.369 Embalmers; licensure as an embalmer by
22 endorsement; licensure of a temporary embalmer.--

23 (1) The licensing authority shall issue a license by
24 endorsement to practice embalming to an applicant who has
25 remitted an examination fee set by rule of the licensing
26 authority not to exceed \$200 and who the licensing authority
27 certifies:

28 (d) Has made disclosure of the applicant's criminal
29 records, if any, as required by s. 497.142. The applicant
30 shall submit fingerprints in accordance with s. 497.142. The
31 applicant may not be licensed under this section unless the

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1 licensing authority determines that the applicant is of good
 2 character and has no demonstrated history of lack of
 3 trustworthiness or integrity in business or professional
 4 matters.

5 Section 28. Paragraph (c) of subsection (1) of section
 6 497.373, Florida Statutes, as renumbered and amended by
 7 section 78 of chapter 2004-301, Laws of Florida, is amended to
 8 read:

9 497.373 Funeral directing; licensure as a funeral
 10 director by examination; provisional license.--

11 (1) Any person desiring to be licensed as a funeral
 12 director shall apply to the licensing authority to take the
 13 licensure examination. The licensing authority shall examine
 14 each applicant who has remitted an examination fee set by rule
 15 of the licensing authority not to exceed \$200 plus the actual
 16 per applicant cost to the licensing authority for portions of
 17 the examination and who the licensing authority certifies has:

18 (c) Made disclosure of the applicant's criminal
 19 records, if any, as required by s. 497.142. The applicant
 20 shall submit fingerprints in accordance with s. 497.142. The
 21 applicant may not be licensed under this section unless the
 22 licensing authority determines that the applicant is of good
 23 character and has no demonstrated history of lack of
 24 trustworthiness or integrity in business or professional
 25 matters. ~~Had no conviction or finding of guilt, regardless of~~
 26 ~~adjudication, for a crime which directly relates to the~~
 27 ~~ability to practice funeral directing or the practice of~~
 28 ~~funeral directing.~~

29 Section 29. Paragraph (d) is added to subsection (1)
 30 of section 497.374, Florida Statutes, as renumbered and
 31 amended by section 79 of chapter 2004-301, Laws of Florida, to

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1 read:

2 497.374 Funeral directing; licensure as a funeral
3 director by endorsement; licensure of a temporary funeral
4 director.--

5 (1) The licensing authority shall issue a license by
6 endorsement to practice funeral directing to an applicant who
7 has remitted a fee set by rule of the licensing authority not
8 to exceed \$200 and who:

9 (d) Has made disclosure of the applicant's criminal
10 records, if any, as required by s. 497.142. The applicant
11 shall submit fingerprints in accordance with s. 497.142. The
12 applicant may not be licensed under this section unless the
13 licensing authority determines that the applicant is of good
14 character and has no demonstrated history of lack of
15 trustworthiness or integrity in business or professional
16 matters.

17 Section 30. Subsection (1) of section 497.376, Florida
18 Statutes, as renumbered and amended by section 81 of chapter
19 2004-301, Laws of Florida, is amended to read:

20 497.376 License as funeral director and embalmer
21 permitted; display of license.--

22 (1) Nothing in this chapter may be construed to
23 prohibit a person from holding a license as an embalmer and a
24 license as a funeral director at the same time. There may be
25 issued and renewed by the licensing authority a combination
26 license as both funeral director and embalmer to persons
27 meeting the separate requirements for both licenses as set
28 forth in this chapter. The licensing authority may adopt rules
29 providing procedures for applying for and renewing such a
30 combination license. The licensing authority may, by rule,
31 establish application, renewal, and other fees for such a

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1 combination license, which fees may not exceed the sum of the
 2 maximum fees for the separate funeral director and embalmer
 3 license categories as provided in this chapter. A person who
 4 holds a combination license as a funeral director and embalmer
 5 is subject to regulation under this chapter both as a funeral
 6 director and an embalmer.

7 Section 31. Subsection (1) of section 497.378, Florida
 8 Statutes, as renumbered and amended by chapter 2004-301, Laws
 9 of Florida, is amended to read:

10 497.378 Renewal of funeral director and embalmer
 11 licenses.--

12 (1) There shall be renewed a funeral director or
 13 embalmer license upon receipt of the renewal application and
 14 fee set by the licensing authority not to exceed ~~\$500~~\$250.
 15 The licensing authority may prescribe by rule continuing
 16 education requirements of up to 12 classroom hours and may by
 17 rule establish criteria for accepting alternative nonclassroom
 18 continuing education on an hour-for-hour basis, in addition to
 19 a licensing authority-approved course on communicable diseases
 20 that includes the course on human immunodeficiency virus and
 21 acquired immune deficiency syndrome required by s. 497.367,
 22 for the renewal of a funeral director or embalmer license. The
 23 rule may provide for the waiver of continuing education
 24 requirements in circumstances that would justify the waiver,
 25 such as hardship, disability, or illness. The continuing
 26 education requirement is not required after July 1, 1996, for
 27 a licensee who is over the age of 75 years if the licensee
 28 does not qualify as the sole person in charge of an
 29 establishment or facility.

30 Section 32. Subsections (1), (4), (5), and (12) of
 31 section 497.380, Florida Statutes, as renumbered and amended

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1 by section 85 of chapter 2004-301, Laws of Florida, are
2 amended to read:

3 497.380 Funeral establishment; licensure.--

4 (1) A funeral establishment shall be a place at a
5 specific street address or location consisting of at least
6 1,250 contiguous interior square feet and must maintain or
7 make arrangements for ~~either~~ capacity for the refrigeration
8 and storage of dead human bodies handled and stored by the
9 establishment and a preparation room equipped with necessary
10 ventilation and drainage and containing necessary instruments
11 for embalming dead human bodies or must make arrangements for
12 a preparation room as established by rule.

13 (4) Application for a funeral establishment license
14 shall be made on forms and pursuant to procedures specified by
15 rule, shall be accompanied by a nonrefundable fee not to
16 exceed \$300 as set by licensing authority rule, and shall
17 include the name of the licensed funeral director who is in
18 charge of that establishment. The applicant shall be required
19 to make disclosure of the applicant's criminal records, if
20 any, as required by s. 497.142. The applicant shall submit
21 fingerprints in accordance with s. 497.142. A duly completed
22 application accompanied by the required fees shall be approved
23 and the license issued if the proposed funeral establishment
24 has passed an inspection pursuant to rule of the licensing
25 authority, the licensing authority determines the applicant is
26 of good character and has no demonstrated history of lack of
27 trustworthiness or integrity in business or professional
28 matters, and the applicant otherwise is in compliance with all
29 applicable requirements of this chapter.

30 (5) A funeral establishment license shall be renewable
31 biennially pursuant to procedures, and upon payment of a

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1 nonrefundable fee not to exceed ~~\$500~~^{\$300}, as set by licensing
2 authority rule. The licensing authority may also establish by
3 rule a delinquency fee not to exceed \$50 per day.

4 (12)(a) A change in ownership of a funeral
5 establishment shall be promptly reported pursuant to
6 procedures established by rule and shall require the
7 relicensure of the funeral establishment, including
8 reinspection and payment of applicable fees.

9 (b) A change in location of a funeral establishment
10 shall be promptly reported to the licensing authority pursuant
11 to procedures established by rule. Operations by the licensee
12 at a new location may not commence until an inspection by the
13 licensing authority of the facilities, pursuant to rules of
14 the licensing authority, has been conducted and passed at the
15 new location.

16 Section 33. Paragraphs (a) and (g) of subsection (1)
17 and paragraphs (a), (f), and (g) of subsection (2) of section
18 497.385, Florida Statutes, as renumbered and amended by
19 section 90 of chapter 2004-301, Laws of Florida, are amended,
20 and paragraph (i) is added to subsection (2) of that section,
21 to read:

22 497.385 Removal services; refrigeration facilities;
23 centralized embalming facilities.--In order to ensure that the
24 removal, refrigeration, and embalming of all dead human bodies
25 is conducted in a manner that properly protects the public's
26 health and safety, the licensing authority shall adopt rules
27 to provide for the licensure of removal services,
28 refrigeration facilities, and centralized embalming facilities
29 operated independently of funeral establishments, direct
30 disposal establishments, and cinerator facilities.

31 (1) REMOVAL SERVICES AND REFRIGERATION SERVICES.--

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1 (a) Application for licensure of a removal service or
2 a refrigeration service shall be made using forms and
3 procedures as specified by rule, shall be accompanied by a
4 nonrefundable fee not to exceed \$300 as set by licensing
5 authority rule, and shall include the name of the business
6 owner, manager in charge, business address, and copies of
7 occupational and other local permits. The applicant shall be
8 required to make disclosure of the applicant's criminal
9 records, if any, as required by s. 497.142. The applicant
10 shall submit fingerprints in accordance with s. 497.142. A
11 duly completed application accompanied by the required fees
12 shall be approved and the license issued if the applicant has
13 passed an inspection pursuant to rule of the licensing
14 authority, the licensing authority determines that the
15 applicant is of good character and has no demonstrated history
16 of lack of trustworthiness or integrity in business or
17 professional matters, and the applicant otherwise is in
18 compliance with all applicable requirements of this chapter.

19 (g)1. A change in ownership shall be promptly reported
20 using forms and procedures specified by rule and may require
21 the relicensure of the licensee, including reinspection and
22 payment of applicable fees, as required by rule.

23 2. A change in location shall be promptly reported to
24 the licensing authority pursuant to procedures established by
25 rule. Operations by the licensee at a new location may not
26 commence until an inspection by the licensing authority of the
27 facilities, pursuant to rules of the licensing authority, has
28 been conducted and passed at the new location.

29 (2) CENTRALIZED EMBALMING FACILITIES.--In order to
30 ensure that all funeral establishments have access to
31 embalming facilities that comply with all applicable health

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1 and safety requirements, the licensing authority shall adopt
2 rules to provide for the licensure and operation of
3 centralized embalming facilities and shall require, at a
4 minimum, the following:

5 (a) All centralized embalming facilities shall contain
6 all of the equipment and meet all of the requirements that a
7 preparation room located in a funeral establishment is
8 required to meet, ~~but such facilities shall not be required to~~
9 ~~comply with any of the other requirements for funeral~~
10 ~~establishments, as set forth in s. 497.380. The licensing~~
11 authority may adopt rules establishing the equipment and other
12 requirements for operation of a centralized embalming facility
13 consistent with this paragraph.

14 (f) Application for licensure of a centralized
15 embalming facility shall be made utilizing forms and
16 procedures prescribed by rule and shall be accompanied by a
17 nonrefundable fee not to exceed \$300 as set by licensing
18 authority rule, and licensure shall be renewed biennially
19 pursuant to procedures and upon payment of a nonrefundable fee
20 not to exceed \$300 as set by licensing authority rule. The
21 licensing authority may also establish by rule a late fee not
22 to exceed \$50 per day. Any licensure not renewed within 30
23 days after the renewal date shall expire without further
24 action by the department. The applicant shall be required to
25 make disclosure of the applicant's criminal records, if any,
26 as required by s. 497.142. The applicant shall submit
27 fingerprints in accordance with s. 497.142. A duly completed
28 application accompanied by the required fees shall be approved
29 and the license issued if the applicant has passed an
30 inspection pursuant to rule of the licensing authority, the
31 licensing authority determines that the applicant is of good

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1 character and has no demonstrated history of lack of
 2 trustworthiness or integrity in business or professional
 3 matters, and the applicant otherwise is in compliance with all
 4 applicable requirements of this chapter.

5 (g) The licensing authority shall set by rule an
 6 annual inspection fee not to exceed \$300, payable upon
 7 application for licensure and upon renewal of such licensure.

8 Centralized embalming facilities shall be subject to
 9 inspection before issuance of a license and annually
 10 thereafter.

11 (i)1. A change in ownership shall be promptly reported
 12 using forms and procedures specified by rule and may require
 13 the relicensure of the licensee, including reinspection and
 14 payment of applicable fees, as required by rule.

15 2. A change in location shall be promptly reported to
 16 the licensing authority pursuant to procedures established by
 17 rule. Operations by the licensee at a new location may not
 18 commence until an inspection by the licensing authority of the
 19 facilities, pursuant to rules of the licensing authority, has
 20 been conducted and passed at the new location.

21 Section 34. Section 497.453, Florida Statutes, as
 22 renumbered and amended by section 102 of chapter 2004-301,
 23 Laws of Florida, is amended to read:

24 497.453 Application for preneed license, procedures
 25 and criteria; renewal; reports.--

26 (1) PRENEED LICENSE APPLICATION PROCEDURES.--

27 (a) A person seeking a license to enter into preneed
 28 contracts shall apply for such licensure using forms
 29 prescribed by rule.

30 (b) The application shall require the name, business
 31 address, residence address, date and place of birth or

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1 incorporation, and business phone number of the applicant and
2 all principals of the applicant. The application shall require
3 the applicant's social security number, or, if the applicant
4 is an entity, its federal tax identification number.

5 (c) The application may require information as to the
6 applicant's financial resources.

7 (d) The application may require information as to the
8 educational and employment history of an individual applicant;
9 and as to applicants that are not natural persons, the
10 business and employment history of the applicant and
11 principals of the applicant.

12 (e) The applicant shall be required to make disclosure
13 of the applicant's criminal records, if any, as required by s.
14 497.142. The application shall require the applicant to
15 disclose whether the applicant or any of the applicant's
16 principals have ever been convicted or found guilty of, or
17 entered a plea of no contest to, regardless of adjudication,
18 any crime in any jurisdiction.

19 (f) The application shall require the applicant to
20 disclose whether the applicant or any of the applicant's
21 principals have ever had a license or the authority to
22 practice a profession or occupation refused, suspended, fined,
23 denied, or otherwise acted against or disciplined by the
24 licensing authority of any jurisdiction. A licensing
25 authority's acceptance of a relinquishment of licensure,
26 stipulation, consent order, or other settlement, offered in
27 response to or in anticipation of the filing of charges
28 against the license, shall be construed as action against the
29 license.

30 (g) The applicant shall submit fingerprints in
31 accordance with s. 497.142. The application shall require the

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1 ~~applicant and its principals to provide fingerprints in~~
2 ~~accordance with part I of this chapter.~~

3 (h) The application shall state the name and license
4 number of the funeral establishment, cemetery company, direct
5 disposal establishment, or monument establishment, under whose
6 license the preneed application is made.

7 (i) The application shall state the types of preneed
8 contracts proposed to be written.

9 (j) The application shall disclose the existence of
10 all preneed contracts for service or merchandise entered into
11 by the applicant, or by any other entity under common control
12 with the applicant, without or prior to authorization under
13 this section or predecessors to this section. As to each such
14 contract, the applicant shall disclose the name and address of
15 the contract purchaser, the status of the contract, and what
16 steps or measures the applicant has taken to ensure
17 performance of unfulfilled contracts, setting forth the
18 treatment and status of funds received from the customer in
19 regard to the contract, and stating the name and address of
20 any institution where such funds are deposited and the number
21 used by the institution to identify the account. With respect
22 to contracts entered into before January 1, 1983, an
23 application to issue or renew a preneed license may not be
24 denied solely on the basis of such disclosure. The purchaser
25 of any such contract may not be required to liquidate the
26 account if such account was established before July 1, 1965.
27 Information disclosed may be used by the licensing authority
28 to notify the contract purchaser and the institution in which
29 such funds are deposited should the holder of a preneed
30 license be unable to fulfill the requirements of the contract.

31 (k) The application shall require the applicant to

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1 demonstrate that the applicant complies and will comply with
2 all requirements for preneed contract licensure under this
3 chapter.

4 (l) The application may require any other information
5 considered necessary by the department or board to meet its
6 responsibilities under this chapter.

7 (m) The application shall be sworn to and signed in
8 accordance with s. 497.141(12) by the applicant if a natural
9 person, or by the president of an applicant that is not a
10 natural person.

11 (n) The application shall be accompanied by a
12 nonrefundable fee as determined by licensing authority rule
13 but not to exceed \$500.

14 (2) ACTION CONCERNING APPLICATIONS.--A duly completed
15 application for licensure under this section, accompanied by
16 the required fees, shall be approved and a license issued, if
17 the licensing authority determines that the following
18 conditions are met:

19 (a) The application is made by a funeral
20 establishment, cemetery company, direct disposal
21 establishment, or monument establishment, or on behalf of one
22 of the preceding licensees by its agent in the case of a
23 corporate entity, licensed and in good standing under this
24 chapter.

25 (b) The applicant meets net worth requirements
26 specified by rule of the licensing authority.

27 1. The net worth required by rule to obtain or renew a
28 preneed license and write and carry up to \$100,000 in total
29 retail value of outstanding preneed contracts shall not exceed
30 \$20,000. The board may specify higher net worth requirements
31 by increments, for total retail value of outstanding preneed

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1 contracts carried in excess of \$100,000, as the board
2 determines necessary for the protection of the public.

3 2. An applicant to obtain or renew a preneed licensee
4 that cannot demonstrate the required initial minimum net worth
5 may voluntarily submit to the licensing authority and request
6 acceptance of alternative evidence of financial stability and
7 resources or agree to additional oversight in lieu of the
8 required net worth. Such additional evidence or oversight may
9 include, as appropriate, one or more of the following:

10 a. An agreement to submit monthly financial statements
11 of the entity.

12 b. An agreement to submit quarterly financial
13 statements of the entity.

14 c. An appraisal of the entity's property or broker's
15 opinion of the entity's assets.

16 d. A credit report of the entity or its principals.

17 e. A subordination-of-debt agreement from the entity's
18 principals.

19 f. An indemnification or subrogation agreement binding
20 the entity and its principals.

21 g. A guarantee agreement for the entity from its
22 principals.

23 h. A written explanation of past financial activity.

24 i. Submission of a 12-month projected business plan
25 that includes:

26 (I) A statement of cash flows.

27 (II) Pro forma income statements, with sources of
28 revenues identified.

29 (III) Marketing initiatives.

30 j. Submission of previous department examination
31 reports.

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1 k. An agreement of 100 percent voluntary trust by the
2 entity.

3 3. The licensing authority may accept such alternative
4 evidence or arrangements in lieu of the required net worth
5 only if the licensing authority determines that such
6 alternative evidence or arrangements are an adequate
7 substitute for required net worth and that acceptance would
8 not substantially increase the risk to existing or future
9 customers of nonperformance by the applicant or licensee on
10 its retail sales agreements.

11 (c) The applicant has and will have the ability to
12 discharge her or his liabilities as they become due in the
13 normal course of business, and has and will have sufficient
14 funds available during the calendar year to perform her or his
15 obligations under her or his contracts.

16 (d) If the applicant or any entity under common
17 control with the applicant has entered into preneed contracts
18 prior to being authorized to do so under the laws of this
19 state:

20 1. The licensing authority determines that adequate
21 provision has been made to ensure the performance of such
22 contracts.

23 2. The licensing authority determines that the
24 improper sale of such preneed contracts prior to authorization
25 under this chapter does not indicate, under the facts of the
26 particular application in issue, that the applicant has a
27 disregard of the laws of this state such as would expose the
28 public to unreasonable risk if the applicant were issued a
29 preneed license.

30 3. Nothing in this section shall imply any
31 authorization to enter into preneed contracts without

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1 authorization under this chapter.

2 (e) Neither the applicant nor the applicant's
3 principals have a demonstrated history of conducting their
4 business affairs to the detriment of the public.

5 (f) The applicant and the applicant's principals are
6 of good character and have no demonstrated history of lack of
7 trustworthiness or integrity in business or professional
8 matters.

9 (g) The applicant does and will comply with all other
10 requirements of this chapter relating to preneed licensure.

11 (3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.--It
12 is the policy of this state to encourage competition for the
13 public benefit in the preneed contract business by, among
14 other means, the entry of new licensees into that business. To
15 facilitate issuance of licenses concerning applications judged
16 by the licensing authority to be borderline as to
17 qualification for licensure, the licensing authority may issue
18 a new license under this section on a probationary basis,
19 subject to conditions specified by the licensing authority on
20 a case-by-case basis, which conditions may impose special
21 monitoring, reporting, and restrictions on operations for up
22 to the first 12 months of licensure, to ensure the licensee's
23 responsibility, competency, financial stability, and
24 compliance with this chapter. Provided, no such probationary
25 license shall be issued unless the licensing authority
26 determines that issuance would not pose an unreasonable risk
27 to the public, and the licensing authority must within 12
28 months after issuance of the license either remove the
29 probationary status or determine that the licensee is not
30 qualified for licensure under this chapter and institute
31 proceedings for revocation of licensure.

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1 (4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.--

2 (a) Each licensee under this section must provide
3 notice as required by rule prior to any change in control of
4 the licensee. Any such change is subject to disapproval or to
5 reasonable conditions imposed by the licensing authority, for
6 the protection of the public to ensure compliance with this
7 chapter, based upon criteria established by rule, which
8 criteria shall promote the purposes of this part in protecting
9 the consumer.

10 (b) The licensing authority may authorize the transfer
11 of a preneed license and establish by rule a fee for the
12 transfer in an amount not to exceed \$500. Upon receipt of an
13 application for transfer, the executive director may grant a
14 temporary preneed license to the proposed transferee, based
15 upon criteria established by the licensing authority by rule,
16 which criteria shall promote the purposes of this chapter in
17 protecting the consumer. Such a temporary preneed license
18 shall expire at the conclusion of the next regular meeting of
19 the board unless renewed by the board. The licensing authority
20 may by rule establish forms and procedures for the
21 implementation of this paragraph.

22 (5) RENEWAL OF LICENSES.--

23 (a) A preneed license shall expire annually on June 1,
24 unless renewed, or at such other time or times as may be
25 provided by rule. The application for renewal of the license
26 shall be on forms prescribed by rule and shall be accompanied
27 by a renewal fee as specified in paragraph (c).

28 (b) Within 3 months after the end of its fiscal
29 period, or within an extension of time therefor, as the
30 department for good cause may grant, the licensee shall file
31 with the department a full and true statement of her or his

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1 financial condition, transactions, and affairs, prepared on a
 2 basis as adopted by rule, as of the end of the preceding
 3 fiscal period or at such other time or times as may be
 4 required by rule, together with such other information and
 5 data which may be required by rule. To facilitate uniformity
 6 in financial statements and to facilitate department analysis,
 7 there may be adopted by rule a form for financial statements.
 8 The rules regarding net worth, authorized by paragraph (2)(b),
 9 shall be applicable to the renewal of preneed licenses.

10 (c)1. Each annual application for renewal of a preneed
 11 license that is not held by a monument establishment shall be
 12 accompanied by the appropriate fee as follows:

13 a.1. For a preneed licensee with no preneed contract
 14 sales during the immediately preceding year.....\$300.

15 b.2. For a preneed licensee with at least 1 but fewer
 16 than 50 preneed contract sales during the immediately
 17 preceding year.....\$400.

18 c.3. For a preneed licensee with at least 50 but fewer
 19 than 250 preneed contract sales during the immediately
 20 preceding year.....\$500.

21 d.4. For a preneed licensee with at least 250 but
 22 fewer than 1,000 preneed contract sales during the immediately
 23 preceding year.....\$850.

24 e.5. For a preneed licensee with at least 1,000 but
 25 fewer than 2,500 preneed contract sales during the immediately
 26 preceding year.....\$1,500.

27 f.6. For a preneed licensee with at least 2,500 but
 28 fewer than 5,000 preneed contract sales during the immediately
 29 preceding year.....\$2,500.

30 g.7. For a preneed licensee with at least 5,000 but
 31 fewer than 15,000 preneed contract sales during the

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1 immediately preceding year.....\$6,000.

2 ~~h.8.~~ For a preneed licensee with at least 15,000 but
3 fewer than 30,000 preneed contract sales during the
4 immediately preceding year.....\$12,500.

5 ~~i.9.~~ For a preneed licensee with 30,000 preneed
6 contract sales or more during the immediately preceding year
7\$18,500.

8 2. Each annual application for renewal of a preneed
9 license that is held by a monument establishment shall be
10 accompanied by the appropriate fee determined by its total
11 gross aggregate at-need and preneed retail sales for the
12 12-month period ending 2 full calendar months prior to the
13 month in which the renewal is required, as follows:

14 a. Total sales of \$1 to \$50,000, renewal fee \$1,000.

15 b. Total sales of \$50,001 to \$250,000, renewal fee
16 \$1,500.

17 c. Total sales of \$250,001 to \$500,000, renewal fee
18 \$2,000.

19 d. Total sales over \$500,000, renewal fee \$2,500.

20 (d) An application for renewal shall disclose the
21 existence of all preneed contracts for service or merchandise
22 funded by any method other than a method permitted by this
23 chapter, which contracts are known to the applicant and were
24 entered into by the applicant, or any other entity under
25 common control with the applicant, during the annual license
26 period then ending. Such disclosure shall include the name and
27 address of the contract purchaser, the name and address of the
28 institution where such funds are deposited, and the number
29 used by the institution to identify the account.

30 (e) In addition to any other penalty that may be
31 provided for under this chapter, there may be levied a late

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1 fee as determined by licensing authority rule but not to
2 exceed \$50 a day for each day the preneed licensee fails to
3 file its annual statement, and there may be levied a late fee
4 as determined by licensing authority rule but not to exceed
5 \$50 a day for each day the preneed licensee fails to file the
6 statement of activities of the trust. Upon notice to the
7 preneed licensee by the department that the preneed licensee
8 has failed to file the annual statement or the statement of
9 activities of the trust, the preneed licensee's authority to
10 sell preneed contracts shall cease while such default
11 continues.

12 (6) QUARTERLY PAYMENTS.--In addition to other amounts
13 required to be paid by this section, each preneed licensee
14 shall pay to the Regulatory Trust Fund an amount established
15 by rule not to exceed \$10 for each preneed contract entered
16 into. This amount must be paid within 60 days after the end of
17 each quarter. These funds must be used to defray the cost of
18 administering the provisions of this chapter part.

19 (7) BRANCH OPERATIONS AND LICENSURE.--

20 (a) Any person or entity that is part of a common
21 business enterprise that has a preneed license issued pursuant
22 to this section and desires to operate under a name other than
23 that of the common business enterprise, may submit an
24 application on a form adopted by rule to become a branch
25 licensee. The application shall be accompanied by an
26 application fee as determined by licensing authority rule but
27 not to exceed \$300.

28 (b) Upon a determination that such branch applicant
29 qualifies to sell preneed contracts under this part except for
30 the requirements of paragraph (2)(c), and if the sponsoring
31 preneed licensee under whose preneed license the branch

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1 applicant seeks branch status meets the requirements of such
 2 paragraph and is in compliance with all requirements of this
 3 part regarding its preneed license and operations thereunder,
 4 a branch license shall be issued.

5 (c) Branch licenses shall be renewed annually by
 6 payment of a renewal fee set by licensing authority rule and
 7 not to exceed ~~\$500~~~~\$300~~. Branch licenses may be renewed only
 8 so long as the preneed license of the sponsoring preneed
 9 licensee remains in good standing.

10 (d) ~~Violations of this part by the branch shall be~~
 11 ~~deemed to be violations of this part by its sponsoring preneed~~
 12 ~~licensee, unless the licensing authority determines that~~
 13 ~~extenuating circumstances indicate that it would be unjust to~~
 14 ~~attribute the branch's misconduct to the sponsoring preneed~~
 15 ~~licensee.~~ Preneed sales of the branch shall be deemed to be
 16 sales of the sponsoring licensee for purposes of renewal fees
 17 and trust requirements under this chapter.

18 (e) The sponsoring preneed licensee shall be
 19 responsible for performance of preneed contracts entered into
 20 by its branch if the branch does not timely fulfill any such
 21 contract.

22 (8) ANNUAL TRUST REPORTS.--On or before April 1 of
 23 each year, the preneed licensee shall file in the form
 24 prescribed by rule a full and true statement as to the
 25 activities of any trust established by it pursuant to this
 26 part for the preceding calendar year.

27 (9) DEPOSIT OF FUNDS.--All sums collected under this
 28 section shall be deposited to the credit of the Regulatory
 29 Trust Fund.

30 Section 35. Subsection (6) of section 497.456, Florida
 31 Statutes, as renumbered and amended by section 105 of chapter

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1 2004-301, Laws of Florida, is amended to read:

2 497.456 Preneed Funeral Contract Consumer Protection
3 Trust Fund.--

4 (6) Upon the commencement of a delinquency proceeding
5 pursuant to this chapter against a preneed licensee, the
6 licensing authority may use up to 50 percent of the balance of
7 the trust fund not already committed to a prior delinquency
8 proceeding ~~solely~~ for the purpose of establishing a
9 receivership and providing restitution to preneed contract
10 purchasers and their estates due to a preneed licensee's
11 failure to provide the benefits of a preneed contract or
12 failure to refund the appropriate principal amount by reason
13 of cancellation thereof. The balance of the trust fund shall
14 be determined as of the date of the delinquency proceeding.

15 Section 36. Paragraph (h) of subsection (1) and
16 subsection (4) of section 497.458, Florida Statutes, as
17 renumbered and amended by section 107 of chapter 2004-301,
18 Laws of Florida, are amended to read:

19 497.458 Disposition of proceeds received on
20 contracts.--

21 (1)

22 (h) In no event may trust funds be loaned, directly or
23 indirectly, to any of the following persons: the preneed
24 licensee; any entity under any degree of common control with
25 the preneed licensee; any employee, director, full or partial
26 owner, or principal of the preneed licensee; or any person
27 related by blood or marriage to any of those persons. In no
28 event may trust funds, directly or indirectly, be invested in
29 or with, or loaned to, any business or business venture in
30 which any of the following persons have an interest: the
31 preneed licensee, any entity under any degree of common

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1 ~~control with the preneed licensee, any employee, director,~~
 2 ~~full or partial owner, or principal of the preneed licensee,~~
 3 ~~or any person related by blood or marriage to any of those~~
 4 ~~persons. In no event may said funds be loaned to a preneed~~
 5 ~~licensee, an affiliate of a preneed licensee, or any person~~
 6 ~~directly or indirectly engaged in the burial, funeral home, or~~
 7 ~~cemetery business.~~

8 ~~(4)(a) Trust funds shall not be invested in or loaned~~
 9 ~~to or for the benefit of any business venture in which the~~
 10 ~~preneed licensee, its principals, or persons related by blood~~
 11 ~~or marriage to the licensee or its principals, have a direct~~
 12 ~~or indirect interest, without the prior approval of the~~
 13 ~~licensing authority.~~

14 ~~(b) Trust funds shall not be loaned to or for the~~
 15 ~~benefit of the preneed licensee, its principals, or persons~~
 16 ~~related by blood or marriage to the licensee or its~~
 17 ~~principals, without the prior approval of the licensing~~
 18 ~~authority.~~

19 ~~(c) No approval of such loans or investments shall be~~
 20 ~~given unless it be shown by clear and convincing evidence that~~
 21 ~~such loan or investment would be in the interest of the~~
 22 ~~preneed contract holders whose contracts are secured by the~~
 23 ~~trust funds.~~

24 ~~(d) The licensing authority may adopt rules exempting~~
 25 ~~from the prohibition of paragraph (1)(h) this subsection,~~
 26 ~~pursuant to criteria established in such rule, the investment~~
 27 ~~of trust funds in investments, such as widely and publicly~~
 28 ~~traded stocks and bonds, notwithstanding that the licensee,~~
 29 ~~its principals, or persons related by blood or marriage to the~~
 30 ~~licensee or its principals have an interest by investment in~~
 31 ~~the same entity, where neither the licensee, its principals,~~

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1 or persons related by blood or marriage to the licensee or its
 2 principals have the ability to control the entity invested in,
 3 and it would be in the interest of the preneed contract
 4 holders whose contracts are secured by the trust funds to
 5 allow the investment.

6 Section 37. Section 497.466, Florida Statutes, as
 7 renumbered and amended by section 115 of chapter 2004-301,
 8 Florida Statutes, is amended to read:

9 (Substantial rewording of section. See
 10 s. 497.466, F.S., for present text.)

11 497.466 Preneed sales agents, license required;
 12 application procedures and criteria; appointment of agents;
 13 responsibility of preneed licensee.--

14 (1) GENERAL PROVISIONS.--Each individual who offers
 15 preneed contracts to the public, or who executes preneed
 16 contracts on behalf of a preneed licensee, including any
 17 individual who offers, sells, or signs contracts for the
 18 preneed sale of burial rights, shall be licensed as a preneed
 19 sales agent and shall be appointed by each preneed licensee
 20 whom he or she represents regarding preneed sales, pursuant to
 21 this section; however, an individual licensed in good standing
 22 under this chapter as a funeral director may engage in preneed
 23 sales for the preneed licensee with whom the funeral director
 24 is affiliated, without preneed sales agent licensure or
 25 appointment under this section.

26 (2) PRENEED SALES AGENT LICENSE; APPLICATION
 27 PROCEDURES.--

28 (a) An individual may hold only one preneed sales
 29 agent license at a time.

30 (b) A preneed sales agent license may not be issued to
 31 a person under the age of 18 years.

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1 (c) A person desiring a preneed sales agent license
2 shall apply to the department for such a license. The
3 application must require the name, social security number,
4 residence address, residence phone number if any, and date and
5 place of birth of the applicant.

6 (d) The application must require the preneed sales
7 agent applicant to disclose any criminal record, as required
8 by s. 497.142.

9 (e) The application must require the preneed sales
10 agent applicant to disclose whether the applicant has ever had
11 a license or the authority to practice a profession or
12 occupation refused, suspended, fined, denied, or otherwise
13 acted against or disciplined by the licensing authority of any
14 jurisdiction. A licensing authority's acceptance of a
15 relinquishment of licensure, stipulation, consent order, or
16 other settlement, offered in response to or in anticipation of
17 the filing of charges against the license, constitutes action
18 against the license.

19 (f) The application must require identification by the
20 preneed sales agent applicant of the preneed licensee whom the
21 preneed sales agent applicant believes will initially appoint
22 the preneed sales agent if a preneed sales agent license is
23 issued.

24 (g) The application must be signed by the applicant.
25 The licensing authority may accept electronic signatures.

26 (h) The application must be accompanied by a
27 nonrefundable fee of \$150 if made through the department's
28 online licensing system, or \$175 if made using paper forms.
29 Payment of either fee as specified in this paragraph entitles
30 the applicant to one initial appointment without payment of
31 further fees by the preneed sales agent or the appointing

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1 preneed licensee if a preneed sales agent license is issued.
 2 The licensing authority may from time to time increase the
 3 fees specified in this paragraph, but not to exceed \$300.

4 (3) ISSUANCE OF A TEMPORARY PRENEED SALES AGENT
 5 LICENSE.--

6 (a) Upon receipt of a duly completed application and
 7 the required fee, a temporary preneed sales agent license
 8 shall be issued to the applicant if:

- 9 1. The applicant is at least 18 years of age;
 10 2. The application indicates that the applicant has no
 11 disciplinary or criminal record, and the department has no
 12 record indicating that the applicant has a disciplinary or
 13 criminal record; and

14 3. The applicant has never previously held a temporary
 15 preneed sales agent license that lapsed for failure to submit
 16 fingerprints as required by this section.

17 (b) A temporary preneed sales agent license is valid
 18 for only 120 days after the date issued and may not be
 19 renewed.

20 (c) An applicant for a preneed sales agent license who
 21 has previously been issued a preneed sales agent temporary
 22 license that for any reason expired without becoming permanent
 23 is thereafter ineligible for another temporary preneed sales
 24 agent license. Such a person may apply again for a preneed
 25 sales agent license, but the license may not be issued until
 26 fingerprints are provided as required by s. 497.142, a report
 27 is received from the Department of Law Enforcement advising
 28 that the applicant has no criminal record, and the applicant
 29 is otherwise determined by the department and board to qualify
 30 for preneed sales agent licensure.

31 (4) CONVERSION OF TEMPORARY PRENEED SALES AGENT

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1 LICENSE TO PERMANENT PRENEED SALES AGENT LICENSE.--

2 (a) A temporary preneed sales agent licensee who
3 desires to obtain a permanent preneed sales agent license
4 shall, within 90 days after the issuance of the temporary
5 preneed sales agent license, submit his or her fingerprints to
6 the licensing authority for a criminal background check, in
7 accordance with s. 497.142. Unless the department determines
8 before the expiration of the temporary preneed sales agent
9 license that the temporary licensee has a criminal or
10 disciplinary record, the preneed sales agent temporary license
11 shall automatically be converted to a permanent preneed sales
12 agent license.

13 (b) The department shall promptly give written notice
14 to the temporary preneed sales agent licensee, and to all
15 preneed licensees who have the temporary preneed sales agent
16 under appointment, that the preneed sales agent's temporary
17 license has been converted to a permanent license, or has
18 lapsed, as the case may be.

19 (5) APPLICANTS HAVING A CRIMINAL OR DISCIPLINARY
20 RECORD.--

21 (a) A preneed sales agent applicant having a criminal
22 or disciplinary record is ineligible for a temporary preneed
23 sales agent license. A permanent preneed sales agent license
24 may not be issued to any person who has a criminal or
25 disciplinary record, except upon approval of the board.

26 (b) If, while a temporary preneed sales agent license
27 is in force, the department determines that the temporary
28 licensee has a criminal or disciplinary record, the temporary
29 license shall be immediately suspended and shall not
30 automatically convert to a permanent preneed sales agent
31 license. The department shall promptly give written notice of

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1 the suspension to the suspended licensee and to all preneed
 2 licensees who have the suspended preneed sales agent under
 3 appointment. The suspended preneed sales agent licensee may
 4 thereafter, within 21 days after the date of suspension,
 5 petition the board under paragraph (c) for issuance of a
 6 permanent preneed sales agent notwithstanding the criminal or
 7 disciplinary record. If a petition for board review is not
 8 timely received by the department or board, the temporary
 9 preneed sales agent license shall be revoked.

10 (c) An applicant having a criminal or disciplinary
 11 record who desires a permanent preneed sales agent license
 12 shall petition the board for issuance of such a license, using
 13 forms and procedures as specified by rule. The board shall
 14 issue a permanent preneed sales agent license to an applicant
 15 having a criminal or disciplinary record if the board
 16 determines that:

17 1. There was no inaccuracy in the application for
 18 license which indicates that the applicant is untrustworthy;
 19 and

20 2. The applicant, if issued a preneed sales agent
 21 license, would not pose an unreasonable risk to members of the
 22 public who deal with the applicant in preneed transactions.

23 (d) The board may issue a preneed sales agent license
 24 to an applicant who has a criminal or disciplinary record, on
 25 a probationary status and subject to reasonable terms of
 26 probation not to exceed 24 months in duration.

27 (6) TERMINATION OF A PERMANENT PRENEED SALES AGENT
 28 LICENSE DUE TO LACK OF APPOINTMENTS.--A permanent preneed
 29 sales agent license shall remain in force without a
 30 requirement for renewal until there have been no appointments
 31 of the preneed sales agent under the license for 48

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1 consecutive months, at which time the permanent preneed sales
 2 agent license will terminate. The former preneed sales agent
 3 licensee may thereafter apply for issuance of a new preneed
 4 sales agent license under this section.

5 (7) APPOINTMENT OF PRENEED SALES AGENTS.--

6 (a) A preneed sales agent licensee may be appointed by
 7 as many preneed licensees as desire to appoint the preneed
 8 sales agent licensee. When a preneed sales agent licensee is
 9 appointed by a preneed licensee, the department shall promptly
 10 give written notice to all other preneed licensees who then
 11 have that same preneed sales agent under appointment.

12 (b) A preneed licensee may appoint a preneed sales
 13 agent licensee by identifying to the department the preneed
 14 sales agent licensee to be appointed, requesting appointment,
 15 and paying the required appointment fee. The appointment
 16 request shall be signed by the preneed licensee. The
 17 department may accept electronic signatures.

18 (c) Appointments shall be effective when made and
 19 shall expire 24 months after the last day of the month in
 20 which the appointment was made, unless earlier terminated by
 21 the preneed licensee or the preneed sales agent. However, the
 22 initial appointment of a preneed sales agent licensee may not
 23 be made until 24 hours after a temporary preneed sales agent
 24 license is issued to that preneed sales agent. Furthermore, an
 25 appointment is effective only as long as the preneed sales
 26 agent licensee's license is in good standing.

27 (d) A preneed licensee shall take reasonable steps to
 28 assure that the preneed sales agent licensees whom it appoints
 29 have adequate training regarding preneed sales.

30 (e) An appointment may be renewed for additional
 31 24-month periods by notification by the preneed licensee to

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1 the department that the preneed licensee desires to renew the
2 appointment, accompanied by payment by the preneed licensee of
3 the appointment renewal fee.

4 (f) Initial and renewal appointment fees shall be
5 nonrefundable and shall be in the amount of \$150 if made
6 through the department's online licensing system, and \$175 if
7 made using paper forms requiring manual processing by the
8 department. The board may, by rule, increase the appointment
9 fees but not to exceed \$300.

10 (g)1. An appointment may be terminated at any time by
11 the appointing preneed licensee or by the appointed preneed
12 sales agent licensee.

13 2. Termination of appointment shall be accomplished by
14 notice of termination conveyed to the department and signed by
15 the person or entity requesting the termination. The
16 department may accept electronic signatures. There shall be
17 no fee for termination of appointment accomplished through the
18 department's online licensing system. There shall be a fee of
19 \$25 for terminations made using paper forms requiring manual
20 processing by the department.

21 3. When an appointment is terminated, whether by the
22 preneed licensee or the preneed sales agent licensee, the
23 department shall promptly provide written confirmation of the
24 termination to both the preneed sales agent licensee and the
25 preneed licensee - at their respective addresses of record with
26 the department.

27 4. If a preneed licensee terminates the authority of a
28 preneed sales agent license to sell for the preneed licensee,
29 the preneed licensee shall, within 30 days after the
30 termination, terminate the appointment as provided under
31 subparagraph 2.

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1 5. If a preneed sales agent licensee terminates his or
 2 her preneed sales relationship with a preneed licensee, the
 3 preneed sales agent licensee shall, within 30 days after the
 4 termination, terminate the appointment as provided under
 5 subparagraph 2.

6 6. If the license of a preneed sales agent is
 7 suspended or revoked pursuant to disciplinary action by the
 8 licensing authority against the preneed sales agent, the
 9 department shall promptly give written notice of such action
 10 to all preneed licensees who then have that preneed sales
 11 agent under appointment.

12 (8) ADMINISTRATIVE MATTERS.--

13 (a) The licensing authority may, by rule, prescribe
 14 forms and procedures for administering this section.

15 (b)1. Each person who holds one or more preneed sales
 16 agent licenses in good standing under s. 497.439 as of 11:59
 17 p.m. on September 30, 2005, shall be deemed as of October 1,
 18 2005, to hold a permanent preneed sales agent license under
 19 this section, effective October 1, 2005.

20 2. Each person who holds one or more preneed sales
 21 agent licenses in good standing under s. 497.439 as of 11:59
 22 p.m. on September 30, 2005, shall be deemed as of October 1,
 23 2005, to be appointed by each preneed licensee in regard to
 24 whom he or she holds a preneed sales agent license as of 11:59
 25 p.m. on September 30, 2005. Such appointments shall expire on
 26 the same date as the preneed sales agent license would have
 27 expired under the law in effect at 11:59 p.m. on September 30,
 28 2005.

29 (c) The reference to a criminal record in this section
 30 refers to and includes only crimes required to be disclosed
 31 under s. 497.142.

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1 (d) The reference to a disciplinary record as used in
2 this section refers to and includes any instance in which the
3 applicant has ever had a license or the authority to practice
4 a profession or occupation refused, suspended, fined, denied,
5 or otherwise acted against or disciplined by the licensing
6 authority of any jurisdiction. A licensing authority's
7 acceptance of a relinquishment of licensure, stipulation,
8 consent order, or other settlement, offered in response to or
9 in anticipation of the filing of charges against the license,
10 constitutes action against the license.

11 (e) A preneed licensee shall be responsible for the
12 activities of all preneed sales agents, and all funeral
13 directors acting as preneed sales agents, who are affiliated
14 with the preneed licensee and who perform any type of
15 preneed-related activity on behalf of the preneed licensee. In
16 addition to the preneed sales agents and funeral directors
17 acting as preneed sales agents, each preneed licensee is also
18 subject to discipline if its preneed sales agents or funeral
19 directors acting as preneed sales agents violate any provision
20 of this chapter.

21 Section 38. Section 497.468, Florida Statutes, is
22 created to read:

23 497.468 Disclosure of information to the public.--A
24 preneed licensee offering to provide burial rights,
25 merchandise, or services to the public shall:

26 (1) Provide by telephone, upon request, accurate
27 information regarding the retail prices of burial merchandise
28 and services offered for sale by the licensee.

29 (2) Fully disclose all regularly offered services and
30 merchandise prior to the selection of burial services or
31 merchandise. The full disclosure required shall identify the

1 prices of all burial rights, services, and merchandise
2 provided by the licensee.

3 (3) Not make any false or misleading statements of the
4 legal requirement as to the necessity of a casket or outer
5 burial container.

6 (4) Provide a good-faith estimate of all fees and
7 costs the customer will incur to use any burial rights,
8 merchandise, or services purchased.

9 (5) Provide to the customer, upon the purchase of any
10 burial right, merchandise, or service, a written contract, the
11 form of which has been approved by the licensing authority
12 pursuant to procedures specified by rule.

13 (a) The written contract shall be completed as to all
14 essential provisions prior to the signing of the contract by
15 the customer.

16 (b) The written contract shall provide an itemization
17 of the amounts charged for all services, merchandise, and
18 fees, which itemization shall be clearly and conspicuously
19 segregated from everything else on the written contract.

20 (c) A description of the merchandise covered by the
21 contract to include, when applicable, model, manufacturer, and
22 other relevant specifications.

23 (6) Provide the licensee's policy on cancellation and
24 refunds to each customer.

25 (7) In a manner established by rule of the licensing
26 authority, provide on the signature page, clearly and
27 conspicuously in boldfaced 10-point type or larger, the
28 following:

29 (a) The words "purchase price."

30 (b) The amount to be trusted.

31 (c) The amount to be refunded upon contract

1 cancellation.

2 (d) The amounts allocated to merchandise, services,
3 and cash advances.

4 (e) The toll-free number of the department which is
5 available for questions or complaints.

6 (f) A statement that the purchaser shall have 30 days
7 from the date of execution of contract to cancel the contract
8 and receive a total refund of all moneys paid for items not
9 used.

10 (8) Effective October 1, 2006, display in its offices
11 for free distribution to all potential customers, and provide
12 to all customers at the time of sale, a brochure explaining
13 how and by whom preneed sales are regulated, summarizing
14 consumer rights under the law, and providing the name,
15 address, and phone number of the department's consumer affairs
16 division. The format and content of the brochure shall be as
17 prescribed by rule. The licensing authority may cause the
18 publication of such brochures and, by rule, establish
19 requirements that preneed licensees purchase and make
20 available such brochures as so published, in the licensee's
21 offices, to all potential customers.

22 (9) Provide to each customer a complete description of
23 any monument, marker, or memorialization to be placed at the
24 gravesite pursuant to the preneed contract.

25 Section 39. Paragraphs (a), (b), (c), (d), and (e) are
26 added to subsection (1) of section 947.550, Florida Statutes,
27 as renumbered and amended by section 118 of chapter 2004-301,
28 Laws of Florida, paragraphs (c), (e), (f), and (h) of
29 subsection (2) of that section are amended, and paragraph (j)
30 is added to subsection (2) of that section, to read:

31 497.550 Licensure of monument establishments required;

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1 | procedures and criteria.--

2 | (1) LICENSE REQUIRED.--No person shall conduct,
3 | maintain, manage, or operate a monument establishment in this
4 | state unless the monument establishment is licensed pursuant
5 | to this part.

6 | (a) The two categories of monument establishment
7 | licensure available in this state are:

8 | 1. Monument builder; and

9 | 2. Monument dealer.

10 | (b) An applicant for licensure as a monument
11 | establishment shall designate, on the application form, the
12 | category of monument establishment licensure for which he or
13 | she is applying.

14 | (c) Each monument establishment that is licensed under
15 | this chapter at 11:59 p.m. on September 30, 2005, is, on and
16 | after October 1, 2005, licensed as a monument dealer subject
17 | to the requirements of this chapter. A person who becomes
18 | licensed as a monument dealer by operation of this paragraph
19 | may apply to the board for licensure as a monument builder
20 | and, upon payment of applicable application fees and the
21 | granting of such application and licensure as a monument
22 | builder, such person's licensure as a monument dealer will
23 | expire.

24 | (d) The requirements of this part apply to both
25 | monument dealers and monument builders, except as provided in
26 | this paragraph. Each monument establishment must be a
27 | physical structure that is located at a specific street
28 | address, in compliance with zoning regulations of the
29 | appropriate local government, and not located on property that
30 | is exempt from taxation, but a monument dealer may not
31 | otherwise be required to comply with s. 497.552 or be subject

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1 to inspection under this part.

2 (e) A monument establishment that is not licensed
3 under the monument-builder category is not eligible for a
4 preneed sales license.

5 (2) APPLICATION PROCEDURES.--A person seeking
6 licensure as a monument establishment shall apply for such
7 licensure using forms prescribed by rule.

8 (c) The applicant shall be required to make disclosure
9 of the applicant's criminal records, if any, as required by s.
10 497.142. The application shall require the applicant to
11 disclose whether the applicant or any of its principals have
12 ever been convicted or found guilty of, or entered a plea of
13 no contest to, regardless of adjudication, any crime in any
14 jurisdiction.

15 (e) The applicant shall submit fingerprints in
16 accordance with s. 497.142. The application shall require the
17 applicant's principals to provide fingerprints in accordance
18 with part I of this chapter.

19 (f) The applicant shall be a natural person at least
20 18 years of age, a corporation, a partnership, or a limited
21 liability company ~~formed prior to January 1, 2005, which~~
22 ~~limited liability company already holds a license under this~~
23 ~~chapter.~~

24 (h) The application shall be signed in accordance with
25 s. 497.141(12) by the applicant if a natural person, or by the
26 president of an applicant that is a corporation.

27 (j) Upon receipt of the application and application
28 fee, the licensing authority shall inspect the proposed
29 monument establishment facilities in accordance with rules of
30 the licensing authority.

31 Section 40. Section 497.551, Florida Statutes, as

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1 created by chapter 2004-301, Laws of Florida, is amended to
2 read:

3 497.551 Renewal of monument establishment licensure.--

4 (1) A monument establishment license must be renewed
5 biennially by the licensee.

6 (2) A monument establishment licensee ~~that does not~~
7 ~~hold a preneed sales license as of 90 days prior to the date~~
8 ~~its monument establishment license renewal is due,~~ shall renew
9 its monument establishment license by payment of a renewal fee
10 established by rule not to exceed \$250.

11 ~~(3) A monument establishment licensee which as of 90~~
12 ~~days prior to its monument establishment license renewal date~~
13 ~~also holds a preneed sales license issued under this chapter,~~
14 ~~shall renew its monument establishment license by payment of a~~
15 ~~renewal fee determined by its total gross aggregate at need~~
16 ~~and preneed retail sales for the 12 month period ending 2 full~~
17 ~~calendar months prior to the month in which the renewal is~~
18 ~~required, as follows:~~

19 ~~(a) Total sales of \$1 to \$50,000, renewal fee \$1,000.~~

20 ~~(b) Total sales of \$50,001 to \$250,000, renewal fee~~
21 ~~\$1,500.~~

22 ~~(c) Total sales of \$250,001 to \$500,000, renewal fee~~
23 ~~\$2,000.~~

24 ~~(d) Total sales over \$500,000, renewal fee \$2,500.~~

25 ~~(3)(4)~~ Rules may be adopted providing procedures,
26 forms, and uniform timeframes for monument establishment
27 license renewals.

28 Section 41. Subsection (4) of section 497.552, Florida
29 Statutes, as created by chapter 2004-301, Laws of Florida, is
30 amended to read:

31 497.552 Required facilities.--Effective January 1,

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1 2006, a monument establishment shall at all times have and
2 maintain a full-service place of business at a specific street
3 address or location in Florida complying with the following
4 requirements:

5 (4) It shall have facilities on site for inscribing
6 monuments and equipment to deliver and install markers and
7 monuments.

8 Section 42. Subsections (1) and (5) of section
9 497.553, Florida Statutes, as created by chapter 2004-301,
10 Laws of Florida, are amended, and subsection (6) is added to
11 that section, to read:

12 497.553 Regulation of monument establishments.--

13 (1) The Department of Financial Services shall
14 establish and implement an inspection program for all monument
15 establishments in accordance with the requirements of this
16 act. The board shall set by rule an annual inspection fee not
17 to exceed \$300, payable upon application for licensure and
18 upon each renewal of such a license.

19 (5) Commencing January 1, 2006, the failure of a
20 monument establishment to deliver and install a purchased
21 monument or marker by the date agreed in the sales agreement
22 shall entitle the customer to a full refund of all amounts
23 paid by the customer for the monument and its delivery and
24 installation, unless the monument establishment has obtained a
25 written agreement from the customer extending the delivery
26 date. Such refund shall be made within 30 days after receipt
27 by the monument establishment of the customer's written
28 request for a refund. This subsection does not preclude the
29 purchase and installation of a new monument from any other
30 registered monument establishment or ~~preneed sales~~ licensee.

31 (6)(a) A change in ownership shall be promptly

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1 reported using forms and procedures specified by rule and may
 2 require the relicensure of the licensee, including
 3 reinspection and payment of applicable fees, as required by
 4 rule.

5 (b) A change in location shall be promptly reported to
 6 the licensing authority pursuant to procedures established by
 7 rule. Operations by the licensee at a new location may not
 8 commence until an inspection by the licensing authority of the
 9 facilities, pursuant to rules of the licensing authority, has
 10 been conducted and passed at the new location.

11 Section 43. Paragraph (b) of subsection (2) and
 12 subsection (4) of section 497.554, Florida Statutes, as
 13 created by chapter 2004-301, Laws of Florida, are amended, and
 14 subsection (7) is added to that section, to read:

15 497.554 Monument establishment sales
 16 representatives.--

17 (2) APPLICATION PROCEDURES.--Licensure as a monument
 18 establishment sales agent shall be by submission of an
 19 application for licensure to the department on a form
 20 prescribed by rule.

21 (b) The applicant shall be required to make disclosure
 22 of the applicant's criminal records, if any, as required by s.
 23 497.142. The applicant shall submit fingerprints in accordance
 24 with s. 497.142. ~~The application shall require the applicant~~
 25 to disclose whether the applicant has ever been convicted or
 26 found guilty of, or entered a plea of no contest to,
 27 regardless of adjudication, any crime in any jurisdiction.

28 (4) RENEWAL; TERMINATION OF AUTHORITY.--

29 (a) A monument establishment sales agent license under
 30 this section shall be renewed upon payment of a fee determined
 31 by rule of the licensing authority but not to exceed \$250.

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1 ~~Once issued, a monument establishment sales agent license of~~
 2 ~~an agent not licensed to make preneed sales shall remain in~~
 3 ~~effect without renewal until surrendered, or the sponsoring~~
 4 ~~monument establishment terminates the agent's authority to~~
 5 ~~sell on behalf of that monument establishment, or the license~~
 6 ~~is revoked or suspended by the licensing authority for cause.~~

7 (b) The monument establishment whose officer signed
 8 the sales agent application shall terminate that agent's
 9 authority to sell on behalf of that monument establishment,
 10 and the monument establishment in writing shall advise the
 11 licensing authority of such termination within 30 days after
 12 the termination.

13 (7) EFFECTIVE DATE.--The provisions of this section
 14 shall be effective October 1, 2006.

15 Section 44. Section 497.555, Florida Statutes, as
 16 created by chapter 2004-301, Laws of Florida, is amended to
 17 read:

18 497.555 Required rules.--Rules shall be adopted
 19 establishing minimum standards for access to all cemeteries by
 20 licensed monument establishments for the purpose of delivering
 21 and installing markers and monuments. In all cases, cemeteries
 22 and monument establishments must comply with these minimum
 23 standards.

24 Section 45. Paragraphs (d) and (f) of subsection (2)
 25 of section 497.602, Florida Statutes, as renumbered and
 26 amended by section 127 of chapter 2004-301, Laws of Florida,
 27 are amended to read:

28 497.602 Direct disposers, license required; licensing
 29 procedures and criteria; regulation.--

30 (2) APPLICATION PROCEDURES.--

31 (d) The applicant shall be required to make disclosure

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1 of the applicant's criminal records, if any, as required by s.
 2 497.142. The application shall require the applicant to
 3 disclose whether the applicant has ever been convicted or
 4 found guilty of, or entered a plea of no contest to,
 5 regardless of adjudication, any crime in any jurisdiction.

6 (f) The applicant shall submit fingerprints in
 7 accordance with s. 497.142. The application shall require the
 8 applicant to provide fingerprints in accordance with part I of
 9 this chapter.

10 Section 46. Subsection (1) of section 497.603, Florida
 11 Statutes, as renumbered and amended by chapter 2004-301, Laws
 12 of Florida, is amended to read:

13 497.603 Direct disposers, renewal of license.--

14 (1) A direct disposer's renewal of license upon
 15 receipt of the renewal application and fee set by rule of the
 16 licensing authority but not to exceed ~~\$500~~\$250.

17 Section 47. Paragraphs (f), (h), and (j) of subsection
 18 (2), paragraphs (a) and (b) of subsection (3), and subsection
 19 (7) of section 497.604, Florida Statutes, as renumbered and
 20 amended by section 129 of chapter 2004-301, Laws of Florida,
 21 are amended, and paragraph (f) is added to subsection (9) of
 22 that section, to read:

23 497.604 Direct disposal establishments, license
 24 required; licensing procedures and criteria; license renewal;
 25 regulation.--

26 (2) APPLICATION PROCEDURES.--

27 (f) The applicant shall be required to make disclosure
 28 of the applicant's criminal records, if any, as required by s.
 29 497.142. The application shall require the applicant to
 30 disclose whether the applicant or any of the applicant's
 31 principals including its proposed supervising licensee has

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1 ~~ever been convicted or found guilty of, or entered a plea of~~
2 ~~no contest to, regardless of adjudication, any crime in any~~
3 ~~jurisdiction.~~

4 (h) The applicant shall submit fingerprints in
5 accordance with s. 497.142. ~~The application shall require the~~
6 ~~applicant and its principals to provide fingerprints in~~
7 ~~accordance with part I of this chapter.~~

8 (j) The application shall be signed in accordance with
9 s. 497.141(12) ~~by the applicant if a natural person or by the~~
10 ~~president of an applicant that is not a natural person.~~

11 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
12 application for licensure under this section, accompanied by
13 the required fee, shall be approved if the licensing authority
14 determines that the following conditions are met:

15 (a) The applicant is a natural person at least 18
16 years of age, a corporation, a partnership, or a limited
17 liability company ~~formed prior to January 1, 2006, which~~
18 ~~limited liability company already holds a license under this~~
19 ~~chapter.~~

20 (b) The applicant does or will prior to commencing
21 operations under the license comply with all requirements of
22 this chapter relating to the license applied for. The
23 applicant shall have passed an inspection prior to issuance of
24 a license under this section, in accordance with rules of the
25 licensing authority.

26 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee
27 under this section must provide notice as required by rule
28 prior to any change in location or control of the licensee or
29 licensed person in charge of the licensee's operations. A
30 change in control is subject to approval by the licensing
31 authority and to reasonable conditions imposed by the

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1 licensing authority, for the protection of the public to
2 ensure compliance with this chapter. Operations by the
3 licensee at a new location may not commence until an
4 inspection by the licensing authority of the facilities at the
5 new location, pursuant to rules of the licensing authority,
6 has been conducted and passed. Each licensee under this
7 section must provide notice as required by rule prior to any
8 change in location or control of the licensee or licensed
9 person in charge of the licensee's operations. Any such change
10 is subject to disapproval or to reasonable conditions imposed
11 by the licensing authority, for the protection of the public
12 to ensure compliance with this chapter.

13 (9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.--

14 (f) A direct disposal establishment shall retain all
15 signed contracts for a period of at least 2 years.

16 Section 48. Paragraphs (f), (h), and (j) of subsection
17 (2), paragraph (b) of subsection (3), subsection (7), and
18 paragraphs (i), (j), and (k) of subsection (9) of section
19 497.606, Florida Statutes, as renumbered and amended by
20 section 131 of chapter 2004-301, Laws of Florida, are amended
21 to read:

22 497.606 Cinerator facility, licensure required;
23 licensing procedures and criteria; license renewal;
24 regulation.--

25 (2) APPLICATION PROCEDURES.--

26 (f) The applicant shall be required to make disclosure
27 of the applicant's criminal records, if any, as required by s.
28 497.142. The application shall require the applicant to
29 disclose whether the applicant or any of the applicant's
30 principals including its proposed supervising licensee has
31 ever been convicted or found guilty of, or entered a plea of

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1 ~~no contest to, regardless of adjudication, any crime in any~~
2 ~~jurisdiction.~~

3 (h) The applicant shall submit fingerprints in
4 accordance with s. 497.142. ~~The application shall require the~~
5 ~~applicant and its principals to provide fingerprints in~~
6 ~~accordance with part I of this chapter.~~

7 (j) The application shall be signed in accordance with
8 s. 497.141(12) ~~by the applicant if a natural person or by the~~
9 ~~president of an applicant that is not a natural person.~~

10 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
11 application for licensure under this section, accompanied by
12 the required fee, shall be approved if the licensing authority
13 determines that the following conditions are met:

14 (b) The applicant is a natural person at least 18
15 years of age, a corporation, a partnership, or a limited
16 liability company ~~formed prior to January 1, 2006, which~~
17 ~~limited liability company already holds a license under this~~
18 ~~chapter.~~

19 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee
20 under this section must provide notice as required by rule
21 prior to any change in location or control of the licensee
22 or licensed person in charge of the licensee's operations. A
23 change in control is subject to approval by the licensing
24 authority and to reasonable conditions ~~Any such change is~~
25 ~~subject to disapproval or to reasonable conditions~~ imposed by
26 the licensing authority, for the protection of the public to
27 ensure compliance with this chapter. Operations by the
28 licensee at a new location may not commence until an
29 inspection by the licensing authority of the facilities,
30 pursuant to rules of the licensing authority, has been
31 conducted and passed at the new location.

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1 (9) REGULATION OF CINERATOR FACILITIES.--

2 ~~(i) There shall be adopted by rule criteria for~~
3 ~~acceptable cremation and alternative containers.~~

4 (i)(j) There shall be rules adopted requiring each
5 facility to submit periodic reports to the department which
6 include the names of persons cremated, the date and county of
7 death, the name of each person supervising each cremation, the
8 name and license number of the establishment requesting
9 cremation, and the types of containers used to hold the body
10 during cremation.

11 (j)(*) Each cinerator facility must be inspected prior
12 to the initial issuance of its license and annually thereafter
13 ~~issuance and renewal of its license~~ and shall:

14 1. Maintain one or more retorts for the reduction of
15 dead human bodies.

16 2. Maintain refrigeration that satisfies the standards
17 set by the Department of Health and contains a sufficient
18 refrigerated space number of shelves for the average daily
19 number of bodies stored, if unembalmed bodies are kept at the
20 site.

21 3. Maintain sufficient pollution control equipment to
22 comply with requirements of the Department of Environmental
23 Protection in order to secure annual approved certification.

24 4. Either have on site or immediately available
25 sufficient gasketed sealed containers of a type required for
26 the transportation of bodies as specified in applicable state
27 rules.

28 5. Maintain the premises in a clean and sanitary
29 condition.

30 6. Have appropriate Department of Environmental
31 Protection permits.

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1 ~~7. Retain all signed contracts for a period of at~~
2 ~~least 2 years.~~

3 Section 49. Subsection (3) of section 497.607, Florida
4 Statutes, as renumbered and amended by section 132 of chapter
5 2004-301, Laws of Florida, is amended, and subsection (4) is
6 added to that section, to read:

7 497.607 Cremation; procedure required.--

8 (3) Pursuant to the request of a legally authorized
9 person and incidental to final disposition, cremation may be
10 performed on parts of human remains. ~~This subsection does not~~
11 ~~authorize the cremation of body parts as defined in s.~~
12 ~~497.005.~~

13 (4) In regard to unclaimed human remains delivered
14 pursuant to s. 406.50 to the control of the anatomical board
15 of this state headquartered at the University of Florida
16 Health Science Center, the provisions of this subsection and
17 chapter shall not be construed to prohibit the anatomical
18 board from causing the final disposition of such unclaimed
19 human remains through cremation by chemical means or
20 otherwise, when performed in facilities owned and operated by
21 the anatomical board or the University of Florida Health
22 Science Center pursuant to and using such processes,
23 equipment, and procedures as the anatomical board determines
24 to be proper and adequate.

25 Section 50. Section 152 of chapter 2004-301, Laws of
26 Florida, is amended to read:

27 Section 152. (1) The rules of the Board of Funeral
28 Directors and Embalmers and of the Department of Business and
29 Professional Regulation relating to the Board of Funeral
30 Directors and Embalmers or implementation of chapter 470,
31 Florida Statutes, which were in effect at 11:59 p.m. on the

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1 day prior to this act taking effect shall become on the
 2 subjects that they address the rules of the Department of
 3 Financial Services and the Board of Funeral, Cemetery, and
 4 Consumer Services and shall remain in effect until amended or
 5 repealed in the manner provided by law.

6 (2) The rules of the Board of Funeral and Cemetery
 7 Services which were in effect at 11:59 p.m. on the day prior
 8 to this act taking effect shall become on the subjects that
 9 they address the rules of the Department of Financial Services
 10 and the Board of Funeral, Cemetery, and Consumer Services and
 11 shall remain in effect until specifically amended or repealed
 12 in the manner provided by law.

13 (3) The rules of the Department of Financial Services
 14 relating to chapter 497, Florida Statutes, which were in
 15 effect at 11:59 p.m. ~~P.M.~~ on the day prior to this act taking
 16 effect shall continue in force until thereafter repealed or
 17 amended pursuant to chapter 120, Florida Statutes, and this
 18 act.

19 Section 51. Subsection (3) of section 626.785, Florida
 20 Statutes, is amended to read:

21 626.785 Qualifications for license.--

22 (3) Notwithstanding any other provisions of this
 23 chapter, a funeral director, a direct disposer, or an employee
 24 of a funeral establishment which holds a certificate of
 25 authority pursuant to s. 497.405 may obtain an agent's license
 26 to sell only policies of life insurance covering the expense
 27 of a prearrangement for funeral services or merchandise so as
 28 to provide funds at the time the services and merchandise are
 29 needed. The face amount of insurance covered by any such
 30 policy shall not exceed \$12,500 ~~\$7,500~~.

31 Section 52. Sections 497.275, 497.388, and 497.556,

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1 Florida Statutes, are repealed.

2 Section 53. This act shall take effect October 1,
3 2005.

4
5

6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete everything before the enacting clause

9

10 and insert:

11 A bill to be entitled
12 An act relating to funeral and cemetery
13 industry regulation; amending s. 316.1974,
14 F.S.; providing for lighting equipment on
15 certain non-law enforcement vehicles in a
16 funeral procession; amending s. 497.005, F.S.;
17 revising definitions; amending s. 497.101,
18 F.S.; providing for eligibility for membership
19 on the Board of Funeral, Cemetery, and Consumer
20 Services; providing rulemaking authority
21 regarding application for board membership;
22 amending s. 497.103, F.S.; revising authority
23 of the Department of Financial Services to take
24 emergency action; limiting the authority of the
25 Chief Financial Officer; amending s. 497.140,
26 F.S.; revising the time period for board
27 reaction to department revenue projections;
28 providing for future termination of certain
29 assessments; providing for a late-renewal fee;
30 amending s. 497.141, F.S.; revising licensure
31 application procedures to provide for persons

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1 other than natural persons; clarifying when
2 licenses may be issued to entities and to
3 natural persons; clarifying the types of
4 entities to which licenses may be issued;
5 providing signature requirements; authorizing
6 the licensing authority to adopt rules;
7 restricting assignment or transfer of license;
8 amending s. 497.142, F.S.; revising
9 fingerprinting requirements; eliminating
10 obsolete references; clarifying requirements as
11 to disclosure of previous criminal records;
12 revising which members of an entity applying
13 for licensure are required to disclose their
14 criminal records; providing for waiver of the
15 fingerprint requirements in certain
16 circumstances; amending s. 497.143, F.S.;
17 prohibiting preneed sales under a limited
18 license; amending s. 497.144, F.S.; requiring a
19 challenger to pay the costs for failure to
20 appear at a challenge hearing; amending s.
21 497.149, F.S.; revising terminology; amending
22 s. 497.151, F.S.; revising applicability;
23 specifying what is deemed to be a complaint;
24 amending s. 497.152, F.S.; revising
25 disciplinary provisions; revising applicability
26 in other jurisdictions; revising certain
27 grounds for disciplinary action; specifying
28 what is deemed to be a complaint; providing
29 exceptions to remittance deficiency
30 disciplinary infractions; amending s. 497.153,
31 F.S.; providing for the use of consent orders

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1 in certain circumstances; amending s. 497.158,
2 F.S.; revising fine amounts; amending s.
3 497.159, F.S.; revising criminal provisions
4 relating to prelicensure examinations, willful
5 obstruction, trust funds, and specified
6 violations; providing penalties; revising what
7 constitutes improper discrimination; amending
8 s. 497.161, F.S.; removing a provision allowing
9 board members to serve as experts in
10 investigations; specifying standing of
11 licensees to challenge rules; amending s.
12 497.165, F.S.; revising a standard for
13 determining liability for a trust fund
14 deficiency; amending s. 497.166, F.S.;
15 specifying who may act as a preneed sales
16 agent; providing responsibility of certain
17 licensees; amending s. 497.169, F.S.; revising
18 a provision for award of attorney's fees and
19 costs in certain actions; creating s. 497.171,
20 F.S.; providing requirements for the
21 identification of human remains; amending s.
22 497.260, F.S.; revising what constitutes
23 improper discrimination by cemeteries; amending
24 s. 497.263, F.S.; revising the applicability of
25 certain application procedures for licensure of
26 cemetery companies; amending s. 497.264, F.S.;
27 revising requirements relating to applicants
28 seeking to acquire control of a licensed
29 cemetery; amending s. 497.281, F.S.; revising
30 requirements for licensure of burial rights
31 brokers; amending s. 497.365, F.S.; requiring

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1 that certain fees be paid before an inactive
2 license is renewed; amending s. 497.368, F.S.;
3 revising grounds for issuance of licensure as
4 an embalmer by examination; amending s.
5 497.369, F.S.; revising grounds for issuance of
6 licensure as an embalmer by endorsement;
7 amending s. 497.373, F.S.; revising grounds for
8 issuance of licensure as a funeral director by
9 examination; amending s. 497.374, F.S.;
10 revising grounds for issuance of licensure as a
11 funeral director by endorsement; amending s.
12 497.376, F.S.; revising authority to issue a
13 combination license as a funeral director and
14 embalmer; authorizes the licensing authority to
15 establish certain rules; amending s. 497.378,
16 F.S.; revising a license renewal fee; amending
17 s. 497.380, F.S.; revising certain requirements
18 for funeral establishments; providing
19 requirements for reporting a change in location
20 of the establishment; revising a license
21 renewal fee; amending s. 497.385, F.S.;
22 revising application requirements for licensure
23 of a removal service or a refrigeration
24 service; providing requirements for change in
25 location of removal services and refrigeration
26 services; authorizing the licensing authority
27 to adopt certain rules for centralized
28 embalming facility operations; revising
29 application requirements for licensure of a
30 centralized embalming facility; providing for
31 inspection of centralized embalming facilities;

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1 providing for change in ownership and change in
2 location of centralized embalming facilities;
3 amending s. 497.453, F.S.; revising net worth
4 requirements for preneed licensure; specifying
5 authority to accept alternative evidence of
6 financial responsibility in lieu of net worth
7 regarding preneed licensure applicants;
8 providing preneed license renewal fees for
9 monument establishments; increasing the renewal
10 fee for a branch license which is set by the
11 Board of Funeral, Cemetery, and Consumer
12 Services; revising grounds for issuance of a
13 preneed branch license; amending s. 497.456,
14 F.S.; revising use of the Preneed Funeral
15 Contract Consumer Protection Trust Fund by the
16 licensing authority; amending s. 497.458, F.S.;
17 revising requirements to loan or invest trust
18 funds; amending s. 497.466, F.S., relating to
19 preneed sales agents; substantially revising
20 provisions relating to licensure requirements;
21 revising application procedures, fees, the
22 issuance of a temporary preneed sales agent
23 license, the conversion of such a license to a
24 permanent preneed sales agent license,
25 restrictions upon an applicant who has a
26 criminal or disciplinary record, termination of
27 a permanent license due to lack of
28 appointments, procedures for appointing preneed
29 sales agents and for renewing such an
30 appointment, termination of appointments, fees,
31 and administrative matters; providing

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1 responsibilities of preneed licensees for
2 preneed sales agents; creating s. 497.468,
3 F.S.; providing for disclosure of information
4 to the public; amending s. 497.550, F.S.;
5 revising application requirements and
6 procedures for licensure as a monument
7 establishment; requiring that a monument
8 establishment be licensed as a monument builder
9 or as a monument dealer; exempting a monument
10 dealer from a requirement to maintain certain
11 facilities and from certain inspection
12 requirements; requiring that a monument
13 establishment obtain licensure as a monument
14 builder in order to be eligible for a preneed
15 sales license; amending s. 497.551, F.S.;
16 revising requirements for renewal of monument
17 establishment licensure; amending s. 497.552,
18 F.S.; revising facility requirements for
19 monument establishments; amending s. 497.553,
20 F.S.; providing requirements for change of
21 ownership and location of monument
22 establishments; providing for an annual
23 inspection fee; amending s. 497.554, F.S.;
24 revising application procedure and renewal
25 requirements for monument establishment sales
26 representatives; deferring application of
27 section; amending s. 497.555, F.S.; revising
28 requirements for rules establishing minimum
29 standards for access to cemeteries; amending s.
30 497.602, F.S.; revising application procedures
31 for direct disposer licensure; amending s.

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1 497.603, F.S.; revising the license renewal fee
2 for a direct disposer; amending s. 497.604,
3 F.S.; revising provisions concerning direct
4 disposal establishment licensure and
5 application for licensure and regulation of
6 direct disposal establishments; amending s.
7 497.606, F.S.; revising provisions concerning
8 cinerator facility licensure and application
9 for licensure and regulation of cinerator
10 facilities; amending s. 497.607, F.S.;
11 providing for publication of rules regarding
12 cremation by chemical means; amending s. 152,
13 ch. 2004-301, Laws of Florida; specifying
14 applicability of rules; amending s. 626.785,
15 F.S.; revising a policy coverage limit;
16 repealing s. 497.275, F.S., relating to
17 identification of human remains in licensed
18 cemeteries; repealing s. 497.388, F.S.,
19 relating to identification of human remains;
20 repealing s. 497.556, F.S., relating to
21 requirements relating to monument
22 establishments; providing an effective date.

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