

1 A bill to be entitled
2 An act relating to funeral and cemetery industry
3 regulation; amending s. 497.005, F.S.; revising
4 definitions; amending s. 497.101, F.S.; clarifying
5 eligibility for Board of Funeral, Cemetery, and Consumer
6 Services membership; providing rulemaking authority
7 regarding application for board membership; amending s.
8 497.103, F.S.; revising authority of the Department of
9 Financial Services to take emergency action; limiting the
10 authority of the Chief Financial Officer; amending s.
11 497.140, F.S.; revising the time period for board reaction
12 to department revenue projections; providing for future
13 termination of certain assessments; amending s. 497.141,
14 F.S.; revising licensure application procedures to provide
15 for persons other than natural persons; clarifying when
16 licenses may be issued to entities and to natural persons;
17 clarifying the types of entities to which licenses may be
18 issued; providing signature requirements; authorizing the
19 licensing authority to adopt rules; restricting assignment
20 or transfer of license; amending s. 497.142, F.S.;
21 revising fingerprinting requirements; eliminating obsolete
22 references; clarifying requirements as to disclosure of
23 previous criminal records; revising which members of an
24 entity applying for licensure are required to disclose
25 their criminal records; providing for waiver of the
26 fingerprint requirements in certain circumstances;
27 amending s. 497.143, F.S.; prohibiting preneed sales under
28 a limited license; amending s. 497.144, F.S.; requiring a

29 challenger to pay the costs for failure to appear at a
30 challenge hearing; amending s. 497.149, F.S.; revising
31 terminology; amending s. 497.151, F.S.; revising
32 applicability; specifying what is deemed to be a
33 complaint; amending s. 497.152, F.S.; revising
34 disciplinary provisions; revising applicability in other
35 jurisdictions; revising certain grounds for disciplinary
36 action; specifying what is deemed to be a complaint;
37 providing exceptions to remittance deficiency disciplinary
38 infractions; amending s. 497.153, F.S.; providing for the
39 use of consent orders in certain circumstances; amending
40 s. 497.158, F.S.; revising fine amounts; amending s.
41 497.159, F.S.; revising criminal provisions relating to
42 prelicensure examinations, willful obstruction, trust
43 funds, and specified violations; providing penalties;
44 revising what constitutes improper discrimination;
45 amending s. 497.161, F.S.; removing a provision allowing
46 board members to serve as experts in investigations;
47 specifying standing of licensees to challenge rules;
48 amending s. 497.166, F.S.; specifying who may act as a
49 preneed sales agent; providing responsibility of certain
50 licensees; amending s. 497.169, F.S.; revising a provision
51 for award of attorney's fees and costs in certain actions;
52 creating s. 497.171, F.S.; providing requirements for the
53 identification of human remains; amending s. 497.260,
54 F.S.; revising what constitutes improper discrimination by
55 cemeteries; amending s. 497.263, F.S.; revising the
56 applicability of certain application procedures for

57 licensure of cemetery companies; amending s. 497.264,
58 F.S.; revising requirements relating to applicants seeking
59 to acquire control of a licensed cemetery; amending s.
60 497.281, F.S.; revising requirements for licensure of
61 burial rights brokers; amending s. 497.368, F.S.; revising
62 grounds for issuance of licensure as an embalmer by
63 examination; amending s. 497.369, F.S.; revising grounds
64 for issuance of licensure as an embalmer by endorsement;
65 amending s. 497.373, F.S.; revising grounds for issuance
66 of licensure as a funeral director by examination;
67 amending s. 497.374, F.S.; revising grounds for issuance
68 of licensure as a funeral director by endorsement;
69 amending s. 497.376, F.S.; revising authority to issue a
70 combination license as a funeral director and embalmer;
71 authorizes the licensing authority to establish certain
72 rules; amending s. 497.380, F.S.; revising certain
73 requirements for funeral establishments; providing
74 requirements for reporting a change in location of the
75 establishment; amending s. 497.385, F.S.; revising
76 application requirements for licensure of a removal
77 service or a refrigeration service; providing requirements
78 for change in location of removal services and
79 refrigeration services; authorizing the licensing
80 authority to adopt certain rules for centralized embalming
81 facility operations; revising application requirements for
82 licensure of a centralized embalming facility; providing
83 for inspection of centralized embalming facilities;
84 providing for change in ownership and change in location

85 of centralized embalming facilities; amending s. 497.453,
 86 F.S.; revising net worth requirements for preneed
 87 licensure; specifying authority to accept alternative
 88 evidence of financial responsibility in lieu of net worth
 89 regarding preneed licensure applicants; providing preneed
 90 license renewal fees for monument establishments; revising
 91 grounds for issuance of a preneed branch license; amending
 92 s. 497.456, F.S.; revising use of the Preneed Funeral
 93 Contract Consumer Protection Trust Fund by the licensing
 94 authority; amending s. 497.458, F.S.; revising
 95 requirements to loan or invest trust funds; amending s.
 96 497.466, F.S.; revising application procedures for preneed
 97 sales agents; creating s. 497.468, F.S.; providing for
 98 disclosure of information to the public; amending s.
 99 497.550, F.S.; revising application procedures for
 100 licensure as a monument establishment; amending s.
 101 497.551, F.S.; revising requirements for renewal of
 102 monument establishment licensure; amending s. 497.552,
 103 F.S.; revising facility requirements for monument
 104 establishments; amending s. 497.553, F.S.; providing
 105 requirements for change of ownership and location of
 106 monument establishments; amending s. 497.554, F.S.;
 107 revising application procedure and renewal requirements
 108 for monument establishment sales representatives;
 109 deferring application of section; amending s. 497.555,
 110 F.S.; revising requirements for rules establishing minimum
 111 standards for access to cemeteries; amending s. 497.602,
 112 F.S.; revising application procedures for direct disposer

113 licensure; amending s. 497.604, F.S.; revising provisions
 114 concerning direct disposal establishment licensure and
 115 application for licensure and regulation of direct
 116 disposal establishments; amending s. 497.606, F.S.;
 117 revising provisions concerning cinerator facility
 118 licensure and application for licensure and regulation of
 119 cinerator facilities; amending s. 497.607, F.S.; providing
 120 for publication of rules regarding cremation by chemical
 121 means; amending s. 152, ch. 2004-301, Laws of Florida;
 122 specifying applicability of rules; amending s. 626.785,
 123 F.S.; revising a policy coverage limit; repealing s.
 124 497.275, F.S., relating to identification of human remains
 125 in licensed cemeteries; repealing s. 497.388, F.S.,
 126 relating to identification of human remains; repealing s.
 127 497.556, F.S., relating to requirements relating to
 128 monument establishments; providing an effective date.

129

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

131

132 Section 1. Section 497.005, as amended by chapter 2004-
 133 301, Laws of Florida, is amended to read:

134 497.005 Definitions.--As used in this chapter:

135 (1) "Alternative container" means an unfinished wood box
 136 or other nonmetal receptacle or enclosure, without ornamentation
 137 or a fixed interior lining, which is designed for the encasement
 138 of human remains and which is made of fiberboard, pressed wood,
 139 composition materials (with or without an outside covering), or
 140 like materials ~~a nonmetal receptacle or enclosure which is less~~

141 ~~expensive than a casket and of sufficient strength to be used to~~
 142 ~~hold and transport a dead human body.~~

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

147 (3) "Bank of belowground crypts" means any construction
 148 unit of belowground crypts which is acceptable to the department
 149 and which a cemetery uses to initiate its belowground crypt
 150 program or to add to existing belowground crypt structures.

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

155 (5) "Board" means the Board of Funeral, Cemetery, and
 156 Consumer Services.

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

158 ~~(a) Limbs or other portions of the anatomy which are~~
 159 ~~removed from a person or human remains for medical purposes~~
 160 ~~during treatment, surgery, biopsy, autopsy, or medical research;~~
 161 ~~or~~

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

164 (6)~~(7)~~ "Burial merchandise," "funeral merchandise," or
 165 "merchandise" means any personal property offered or sold by any
 166 person for use in connection with the final disposition,
 167 memorialization, interment, entombment, or inurnment of human
 168 remains or cremated remains, including, but not limited to,

169 caskets, outer burial containers, alternative containers,
 170 cremation containers, cremation interment containers, urns,
 171 monuments, private mausoleums, flowers, benches, vases,
 172 acknowledgment cards, register books, memory folders, prayer
 173 cards, and clothing.

174 ~~(7)(8)~~ "Burial right" means the right to use a grave
 175 space, mausoleum, columbarium, ossuary, or scattering garden for
 176 the interment, entombment, inurnment, or other disposition of
 177 human remains.

178 ~~(8)(9)~~ "Burial service," "funeral service," "funeral," or
 179 "service" means any service offered or provided by any person in
 180 connection with the final disposition, memorialization,
 181 interment, entombment, or inurnment of human remains.

182 ~~(9)(10)~~ "Care and maintenance" means the perpetual process
 183 of keeping a cemetery and its lots, graves, grounds,
 184 landscaping, roads, paths, parking lots, fences, mausoleums,
 185 columbaria, vaults, crypts, utilities, and other improvements,
 186 structures, and embellishments in a well-cared-for and dignified
 187 condition, so that the cemetery does not become a nuisance or
 188 place of reproach and desolation in the community. As specified
 189 in the rules of the licensing authority, "care and maintenance"
 190 may include, but is not limited to, any or all of the following
 191 activities: mowing the grass at reasonable intervals; raking and
 192 cleaning the grave spaces and adjacent areas; pruning of shrubs
 193 and trees; suppression of weeds and exotic flora; and
 194 maintenance, upkeep, and repair of drains, water lines, roads,
 195 buildings, and other improvements. "Care and maintenance" may
 196 include, but is not limited to, reasonable overhead expenses

197 necessary for such purposes, including maintenance of machinery,
 198 tools, and equipment used for such purposes. "Care and
 199 maintenance" may also include repair or restoration of
 200 improvements necessary or desirable as a result of wear,
 201 deterioration, accident, damage, or destruction. "Care and
 202 maintenance" does not include expenses for the construction and
 203 development of new grave spaces or interment structures to be
 204 sold to the public.

205 (10)~~(11)~~ "Casket" means a rigid container which is
 206 designed for the encasement of human remains and which is
 207 usually constructed of wood or metal, ornamented, and lined with
 208 fabric.

209 (11)~~(12)~~ "Cemetery" means a place dedicated to and used or
 210 intended to be used for the permanent interment of human
 211 remains. A cemetery may contain land or earth interment;
 212 mausoleum, vault, or crypt interment; a columbarium, ossuary,
 213 scattering garden, or other structure or place used or intended
 214 to be used for the interment or disposition of cremated remains;
 215 or any combination of one or more of such structures or places.

216 (12)~~(13)~~ "Cemetery company" means any legal entity that
 217 owns or controls cemetery lands or property.

218 (13)~~(14)~~ "Centralized embalming facility" means a
 219 facility, ~~not physically connected with a funeral establishment,~~
 220 in which embalming takes place that operates independently of a
 221 funeral establishment licensee and that offers embalming
 222 services to funeral directors for a fee.

223 (14)~~(15)~~ "Cinerator" means a facility where dead human
 224 bodies are subjected to cremation. ~~reduced to a residue,~~

225 ~~including bone fragments, by direct flame, also known as~~
226 ~~"cremation," or by intense heat, also known as "calcination."~~

227 (15)~~(16)~~ "Closed container" means any container in which
228 cremated remains can be placed and closed in a manner so as to
229 prevent leakage or spillage of the remains.

230 (16)~~(17)~~ "Columbarium" means a structure or building which
231 is substantially exposed above the ground and which is intended
232 to be used for the inurnment of cremated remains.

233 (17)~~(18)~~ "Common business enterprise" means a group of two
234 or more business entities that share common ownership in excess
235 of 50 percent.

236 (18)~~(19)~~ "Control" means the possession, directly or
237 indirectly, through the ownership of voting shares, by contract,
238 arrangement, understanding, relationship, or otherwise, of the
239 power to direct or cause the direction of the management and
240 policies of a person or entity. However, a person or entity
241 shall not be deemed to have control if the person or entity
242 holds voting shares, in good faith and not for the purpose of
243 circumventing this definition, as an agent, bank, broker,
244 nominee, custodian, or trustee for one or more beneficial owners
245 who do not individually or as a group have control.

246 (19)~~(20)~~ "Cremated remains" means all the remains of the
247 human body recovered after the completion of the cremation
248 process, including processing or pulverization which leaves only
249 bone fragments reduced to unidentifiable dimensions and may
250 include the residue of any foreign matter, including casket
251 material, bridgework, or eyeglasses that were cremated with the
252 human remains.

253 ~~(20)(21)~~ "Cremation" means any mechanical or thermal
 254 process whereby a dead human body is reduced to ashes and bone
 255 fragments. Cremation also includes any other mechanical or
 256 thermal process whereby human remains are pulverized, burned,
 257 recremated, or otherwise further reduced in size or quantity the
 258 technical process, using direct flame and heat or chemical
 259 means, which reduces human remains to bone fragments through
 260 heat and evaporation. Cremation includes the processing and
 261 usually includes the pulverization of the bone fragments.

262 ~~(21)(22)~~ "Cremation chamber" means the enclosed space
 263 within which the cremation process takes place. Cremation
 264 chambers covered by these procedures must be used exclusively
 265 for the cremation of human remains.

266 ~~(22)(23)~~ "Cremation container" means the casket or
 267 alternative container in which the human remains are transported
 268 to and placed in the cremation chamber for a cremation. A
 269 cremation container should meet substantially all of the
 270 following standards:

271 (a) Be composed of readily combustible materials suitable
 272 for cremation.

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

275 (c) Be resistant to leakage or spillage.

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

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

279 ~~(23)(24)~~ "Cremation interment container" means a rigid
 280 outer container that, subject to a cemetery's rules and

281 regulations, is composed of concrete, steel, fiberglass, or some
282 similar material in which an urn is placed prior to being
283 interred in the ground and that is designed to support the earth
284 above the urn.

285 (24)~~(25)~~ "Department" means the Department of Financial
286 Services.

287 (25)~~(26)~~ "Direct disposal establishment" means a facility
288 licensed under this chapter where a direct disposer practices
289 direct disposition.

290 (26)~~(27)~~ "Direct disposer" means any person licensed under
291 this chapter to practice direct disposition in this state.

292 (27)~~(28)~~ "Director" means the director of the Division of
293 Funeral, Cemetery, and Consumer Services.

294 (28)~~(29)~~ "Disinterment" means removal of a dead human body
295 from earth interment or aboveground interment.

296 (29)~~(30)~~ "Division" means the Division of Funeral,
297 Cemetery, and Consumer Services within the Department of
298 Financial Services.

299 (30)~~(31)~~ "Embalmer" means any person licensed under this
300 chapter to practice embalming in this state.

301 (31)~~(32)~~ "Final disposition" means the final disposal of a
302 dead human body by earth interment, aboveground interment,
303 cremation, burial at sea, or delivery to a medical institution
304 for lawful dissection if the medical institution assumes
305 responsibility for disposal. "Final disposition" does not
306 include the disposal or distribution of ashes and residue of
307 cremated remains.

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

312 (32)~~(34)~~ "Funeral director" means any person licensed
 313 under this chapter to practice funeral directing in this state.

314 (33)~~(35)~~ "Funeral establishment" means a facility licensed
 315 under this chapter where a funeral director or embalmer
 316 practices funeral directing or embalming.

317 ~~(36) "Funeral merchandise" or "merchandise" means any~~
 318 ~~merchandise commonly sold in connection with the funeral, final~~
 319 ~~disposition, or memorialization of human remains, including, but~~
 320 ~~not limited to, caskets, outer burial containers, alternative~~
 321 ~~containers, cremation containers, cremation interment~~
 322 ~~containers, urns, monuments, private mausoleums, flowers,~~
 323 ~~benches, vases, acknowledgment cards, register books, memory~~
 324 ~~folders, prayer cards, and clothing.~~

325 (34)~~(37)~~ "Grave space" means a space of ground in a
 326 cemetery intended to be used for the interment in the ground of
 327 human remains.

328 (35)~~(38)~~ "Human remains" or "remains," or "dead human
 329 body" or "dead human bodies," means the body of a deceased human
 330 person for which a death certificate or fetal death certificate
 331 is required under chapter 382 and includes the body in any stage
 332 of decomposition ~~and the residue of cremated human bodies.~~

333 (36)~~(39)~~ "Legally authorized person" means, in the
 334 priority listed, the decedent, when written ~~inter vivos~~
 335 authorizations and directions are provided by the decedent in

336 their will; the surviving spouse, unless the spouse has been
337 arrested for committing against the deceased an act of domestic
338 violence as defined in s. 741.28 which resulted in or
339 contributed to the death of the deceased; a son or daughter who
340 is 18 years of age or older; a parent; a brother or sister who
341 is 18 years of age or older; a grandchild who is 18 years of age
342 or older; a grandparent; or any person in the next degree of
343 kinship. In addition, the term may include, if no family member
344 exists or is available, the guardian of the dead person at the
345 time of death; the personal representative of the deceased; the
346 attorney in fact of the dead person at the time of death; the
347 health surrogate of the dead person at the time of death; a
348 public health officer; the medical examiner, county commission,
349 or administrator acting under part II of chapter 406 or other
350 public administrator; a representative of a nursing home or
351 other health care institution in charge of final disposition; or
352 a friend or other person not listed in this subsection who is
353 willing to assume the responsibility as the legally authorized
354 person. Where there is a person in any priority class listed in
355 this subsection, the funeral establishment shall rely upon the
356 authorization of any one legally authorized person of that class
357 if that individual represents that she or he is not aware of any
358 objection to the cremation of the deceased's human remains by
359 others in the same class of the person making the representation
360 or of any person in a higher priority class.

361 (37)~~(40)~~ "License" includes all authorizations required or
362 issued under this chapter, except where expressly indicated
363 otherwise, and shall be understood to include authorizations

364 | previously referred to as registrations or certificates of
 365 | authority in chapters 470 and 497 as those chapters appeared in
 366 | the 2004 edition of the Florida Statutes.

367 | (38)~~(41)~~ "Licensee" means the person or entity holding any
 368 | license or other authorization issued under this chapter, except
 369 | where expressly indicated otherwise.

370 | (39)~~(42)~~ "Mausoleum" means a structure or building which
 371 | is substantially exposed above the ground and which is intended
 372 | to be used for the entombment of human remains.

373 | (40)~~(43)~~ "Mausoleum section" means any construction unit
 374 | of a mausoleum which is acceptable to the department and which a
 375 | cemetery uses to initiate its mausoleum program or to add to its
 376 | existing mausoleum structures.

377 | (41)~~(44)~~ "Monument" means any product used for identifying
 378 | a grave site and cemetery memorials of all types, including
 379 | monuments, markers, and vases.

380 | (42)~~(45)~~ "Monument establishment" means a facility that
 381 | operates independently of a cemetery or funeral establishment
 382 | and that offers to sell monuments or monument services to the
 383 | public for placement in a cemetery.

384 | (43)~~(46)~~ "Net assets" means the amount by which the total
 385 | assets of a licensee, excluding goodwill, franchises, customer
 386 | lists, patents, trademarks, and receivables from or advances to
 387 | officers, directors, employees, salespersons, and affiliated
 388 | companies, exceed total liabilities of the licensee. For
 389 | purposes of this definition, the term "total liabilities" does
 390 | not include the capital stock, paid-in capital, or retained
 391 | earnings of the licensee.

392 ~~(44)~~~~(47)~~ "Net worth" means total assets minus total
 393 liabilities pursuant to generally accepted accounting
 394 principles.

395 ~~(45)~~~~(48)~~ "Niche" means a compartment or cubicle for the
 396 memorialization or permanent placement of a container or urn
 397 containing cremated remains.

398 ~~(46)~~~~(49)~~ "Ossuary" means a receptacle used for the
 399 communal placement of cremated remains without benefit of an urn
 400 or any other container in which cremated remains may be
 401 commingled with other cremated remains and are nonrecoverable.
 402 It may or may not include memorialization.

403 ~~(47)~~~~(50)~~ "Outer burial container" means an enclosure into
 404 which a casket is placed and includes, but is not limited to,
 405 vaults made of concrete, steel, fiberglass, or copper; sectional
 406 concrete enclosures; crypts; and wooden enclosures.

407 ~~(48)~~~~(51)~~ "Person," when used without qualification such as
 408 "natural" or "individual," includes both natural persons and
 409 legal entities.

410 ~~(49)~~~~(52)~~ "Personal residence" means any residential
 411 building in which one temporarily or permanently maintains her
 412 or his abode, including, but not limited to, an apartment or a
 413 hotel, motel, nursing home, convalescent home, home for the
 414 aged, or a public or private institution.

415 ~~(50)~~~~(53)~~ "Practice of direct disposition" means the
 416 cremation of human remains without preparation of the human
 417 remains by embalming and without any attendant services or rites
 418 such as funeral or graveside services or the making of
 419 arrangements for such final disposition.

420 ~~(51)~~~~(54)~~ "Practice of embalming" means disinfecting or
 421 temporarily preserving or attempting to disinfect or temporarily
 422 preserve dead human bodies by replacing certain body fluids with
 423 preserving and disinfecting chemicals.

424 ~~(52)~~~~(55)~~ "Practice of funeral directing" means the
 425 performance by a licensed funeral director of any of those
 426 functions authorized by s. 497.372.

427 ~~(53)~~~~(56)~~ "Preneed contract" means any arrangement or
 428 method, of which the provider of funeral merchandise or services
 429 has actual knowledge, whereby any person agrees to furnish
 430 funeral merchandise or service in the future.

431 ~~(54)~~~~(57)~~ "Preneed sales agent" means any person who is
 432 licensed under this chapter to sell preneed burial or funeral
 433 service and merchandise contracts or direct disposition
 434 contracts in this state.

435 ~~(55)~~~~(58)~~ "Principal" means and includes the sole
 436 proprietor of a sole proprietorship; all partners of a
 437 partnership; all members of a limited liability company;
 438 regarding a corporation, all directors and officers, and all
 439 stockholders controlling more than 10 percent of the voting
 440 stock; and all other persons who can exercise control over the
 441 person or entity.

442 ~~(56)~~~~(59)~~ "Processing" means the reduction of identifiable
 443 bone fragments after the completion of the cremation process to
 444 unidentifiable bone fragments by manual means.

445 ~~(57)~~~~(60)~~ "Profession" and "occupation" are used
 446 interchangeably in this chapter. The use of the word
 447 "profession" in this chapter with respect to any activities

448 regulated under this chapter shall not be deemed to mean that
449 such activities are not occupations for other purposes in state
450 or federal law.

451 ~~(58)(61)~~ "Pulverization" means the reduction of
452 identifiable bone fragments after the completion of the
453 cremation and processing to granulated particles by manual or
454 mechanical means.

455 ~~(59)(62)~~ "Refrigeration facility" means a facility that is
456 operated independently of ~~not physically connected with~~ a
457 funeral establishment, crematory, or direct disposal
458 establishment, that maintains space and equipment for the
459 storage and refrigeration of dead human bodies, and that offers
460 its service to funeral directors, ~~and~~ funeral establishments,
461 direct disposers, direct disposal establishments, or crematories
462 for a fee.

463 ~~(60)(63)~~ "Religious institution" means an organization
464 formed primarily for religious purposes which has qualified for
465 exemption from federal income tax as an exempt organization
466 under the provisions of s. 501(c)(3) of the Internal Revenue
467 Code of 1986, as amended.

468 ~~(61)(64)~~ "Removal service" means any service that operates
469 independently of a funeral establishment or a direct disposal
470 establishment, that handles the initial removal of dead human
471 bodies, and that offers its service to funeral establishments
472 and direct disposal establishments for a fee.

473 ~~(62)(65)~~ "Rules" refers to rules adopted under this
474 chapter unless expressly indicated to the contrary.

475 (63)~~(66)~~ "Scattering garden" means a location set aside,
 476 within a cemetery, which is used for the spreading or
 477 broadcasting of cremated remains that have been removed from
 478 their container and can be mixed with or placed on top of the
 479 soil or ground cover or buried in an underground receptacle on a
 480 commingled basis and that are nonrecoverable. It may or may not
 481 include memorialization.

482 (64)~~(67)~~ "Servicing agent" means any person acting as an
 483 independent contractor whose fiduciary responsibility is to
 484 assist both the trustee and licensee in administrating their
 485 responsibilities pursuant to this chapter.

486 (65)~~(68)~~ "Solicitation" means any communication which
 487 directly or implicitly requests an immediate oral response from
 488 the recipient.

489 (66)~~(69)~~ "Statutory accounting" means generally accepted
 490 accounting principles, except as modified by this chapter.

491 (67)~~(70)~~ "Temporary container" means a receptacle for
 492 cremated remains usually made of cardboard, plastic, or similar
 493 material designated to hold the cremated remains until an urn or
 494 other permanent container is acquired.

495 (68)~~(71)~~ "Urn" means a receptacle designed to permanently
 496 encase cremated remains.

497 Section 2. Subsection (2) of section 497.101, Florida
 498 Statutes, as amended by chapter 2004-301, Laws of Florida, is
 499 amended, and subsection (8) is added to said section, to read:

500 497.101 Board of Funeral, Cemetery, and Consumer Services;
 501 membership; appointment; terms.--

502 (2) Two members of the board must be funeral directors
 503 licensed under part III of this chapter who are associated with
 504 a funeral establishment. One member of the board must be a
 505 funeral director licensed under part III of this chapter who is
 506 associated with a funeral establishment licensed under part III
 507 of this chapter which has a valid preneed license issued
 508 pursuant to this chapter and who owns or operates a cinerator
 509 facility approved under chapter 403 and licensed under part VI
 510 of this chapter. Two members of the board must be persons whose
 511 primary occupation is associated with a cemetery company
 512 licensed pursuant to this chapter. Three members of the board
 513 must be consumers who are residents of the state, have never
 514 been licensed as funeral directors or embalmers, are not
 515 connected with a cemetery or cemetery company licensed pursuant
 516 to this chapter, and are not connected with the death care
 517 industry or the practice of embalming, funeral directing, or
 518 direct disposition. One of the consumer members must be at least
 519 60 years of age, and one must be licensed as a certified public
 520 accountant under chapter 473. One member of the board must be a
 521 monument dealer licensed under this chapter. One member must be
 522 the State Health Officer or her or his designee. There shall not
 523 be two or more board members who are principals or directors,
 524 ~~employees, partners, shareholders, or members~~ of the same
 525 company or partnership or group of companies or partnerships
 526 under common control.

527 (8) The department shall adopt rules establishing forms by
 528 which persons may apply for membership on the board and
 529 procedures for applying for such membership. Such forms shall

530 require disclosure of the existence and nature of all current
 531 and past employments by or contracts with, and direct or
 532 indirect affiliations or interests in, any entity or business
 533 which at any time was licensed by the board or by the former
 534 Board of Funeral and Cemetery Services or the former Board of
 535 Funeral Directors and Embalmers or which is or was otherwise
 536 involved in the death care industry, as specified by department
 537 rule.

538 Section 3. Paragraph (m) of subsection (2) of section
 539 497.103, Florida Statutes, as amended by chapter 2004-301, Laws
 540 of Florida, is amended, and paragraph (e) is added to subsection
 541 (4) of said section, to read:

542 497.103 Rulemaking authority of board and department.--

543 (2) DEPARTMENT AUTHORITY.--All authority provided by this
 544 chapter and not expressly vested in the board by subsection (1)
 545 is vested in the department, and the department shall be deemed
 546 to be the licensing authority as to such matters. Without
 547 limiting the generality of the foregoing vesting of authority in
 548 the department, the authority provided by this chapter which is
 549 vested solely in the department includes:

550 (m) Authority to take emergency action against any
 551 licensee under this chapter, without prior consultation with the
 552 board, when the department determines that there is an imminent
 553 danger to the health, safety, or welfare of the citizens of the
 554 state.

555 (4) RECOMMENDATIONS BY THE CHIEF FINANCIAL OFFICER.--

556 (e) The Chief Financial Officer shall have no authority by
 557 recommendation or otherwise to set fees, rates, or prices to be

558 used by any licensee under this chapter, and notwithstanding the
 559 provision of this subsection, no licensee under this chapter
 560 shall in any event be required to set fees, rates, or prices in
 561 accordance with any recommendation of the Chief Financial
 562 Officer.

563 Section 4. Paragraphs (b) and (c) of subsection (1) of
 564 section 497.140, Florida Statutes, as renumbered and amended by
 565 section 10 of chapter 2004-301, Laws of Florida, is amended to
 566 read:

567 497.140 Fees.--

568 (1)

569 (b) It is the legislative intent that the costs of
 570 regulation under this chapter be provided for by fees collected
 571 under this chapter. The board shall ensure that fees are
 572 adequate to cover all anticipated costs of implementation of
 573 this chapter. The department shall at least every other year
 574 provide the board with estimates as to projected costs in
 575 implementing this chapter and projected fee collections under
 576 this chapter for the following 2 years, information as to
 577 balances of regulatory trusts from fees collected, other
 578 information which the department deems material to the setting
 579 of fees by the board at proper levels, and a department
 580 recommendation as to action, if any, regarding changing fee
 581 levels. The board shall review such information provided by the
 582 department and make such changes in fees, up or down, as the
 583 board determines appropriate. If sufficient action is not taken
 584 by the board within 6 months ~~1-year~~ after notification by the
 585 department that fees are projected to be inadequate, the

586 department shall set fees on behalf of the board to cover
 587 anticipated costs.

588 (c) The board may from time to time by rule assess and
 589 collect a one-time fee from each active and each voluntary
 590 inactive licensee under this chapter in an amount necessary to
 591 correct an inadequacy of fees received to implement regulation
 592 required by this chapter, provided that no such assessments may
 593 be made after October 1, 2009 ~~more than one such assessment may~~
 594 ~~be made in any 4-year period without specific legislative~~
 595 ~~authorization.~~

596 Section 5. Subsection (2) of section 497.141, Florida
 597 Statutes, as created by chapter 2004-301, Laws of Florida, is
 598 amended, and subsection (12) is added to said section, to read:

599 497.141 Licensing; general application procedures.--

600 (2) Any person desiring to be licensed shall apply to the
 601 licensing authority in writing using such forms and procedures
 602 as may be prescribed by rule. The application for licensure
 603 shall include the applicant's social security number if
 604 applicant is a natural person, otherwise the applicant's federal
 605 tax identification number. Notwithstanding any other provision
 606 of law, the department is the sole authority for determining the
 607 forms and form contents to be submitted for initial licensure
 608 and licensure renewal application. Such forms and the
 609 information and materials required by such forms may include, as
 610 appropriate, demographics, education, work history, personal
 611 background, criminal history, finances, business information,
 612 signature notarization, performance periods, reciprocity, local
 613 government approvals, supporting documentation, periodic

614 reporting requirements, fingerprint requirements, continuing
 615 education requirements, business plans, character references,
 616 and ongoing education monitoring. Such forms and the information
 617 and materials required by such forms may also include, to the
 618 extent such information or materials are not already in the
 619 possession of the department or the board, records or
 620 information as to complaints, inspections, investigations,
 621 discipline, bonding, and photographs. The application shall be
 622 supplemented as needed to reflect any material change in any
 623 circumstance or condition stated in the application which takes
 624 place between the initial filing of the application and the
 625 final grant or denial of the license and which might affect the
 626 decision of the department or the board.

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

- 629 1. Embalmer apprentice.
- 630 2. Embalmer intern.
- 631 3. Funeral director intern.
- 632 4. Funeral director.
- 633 5. Funeral director and embalmer.
- 634 6. Direct disposer.
- 635 7. Monument establishment sales agent.
- 636 8. Preneed sales agent.

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

- 640 1. Funeral establishment.
- 641 2. Centralized embalming facility.

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- 3. Refrigeration facility.
- 4. Direct disposal establishment.
- 5. Monument establishment.
- 6. Cinerator facility.
- 7. Removal service.
- 8. Preneed sales business under s. 497.453.

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

(d) No license shall be issued to any applicant that is a corporation, limited liability company, or partnership unless the applicant is organized and in good standing under the laws of Florida or another state of the United States and provides written proof of same issued by the applicable state office or official in the state concerned. Each applicant that is a corporation, limited liability company, or partnership shall file with its application a written statement, signed by the same person who signs the application, identifying by name and business functional title the following persons, as applicable to the type of entity applying: officers, managers, managing members, partners, general partners, limited partners, managing partners, directors, all stockholders controlling more than 10 percent of the voting stock, and all other persons who can exercise control over the applicant. The licensing authority may require the filing of applicant's articles of incorporation or other organizational documents, and a resume concerning any person identified pursuant to this paragraph.

(e) All applications shall be signed by the applicant. Signatures of the applicant shall be as follows:

670 1. Where the applicant is a natural person, the
671 application shall be signed by applicant.

672 2. Where the applicant is a corporation, the application
673 shall be signed by the corporation's president.

674 3. Where the applicant is a partnership, the application
675 shall be signed by a partner, who shall provide proof
676 satisfactory to the licensing authority of that partner's
677 authority to sign on behalf of the partnership.

678 4. Where the applicant is a limited liability company, the
679 application shall be signed by a member of the company, who
680 shall provide proof satisfactory to the licensing authority of
681 that member's authority to sign on behalf of the company.

682 (f) The licensing authority shall have authority to adopt
683 rules for the implementation of this section, including required
684 procedures and forms.

685 (g) No license regulated under this chapter is assignable
686 or transferable except as provided in this chapter.

687 Section 6. Section 497.142, Florida Statutes, as created
688 by chapter 2004-301, Laws of Florida, is amended to read:

689 497.142 Licensing; fingerprinting and criminal background
690 checks.--

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

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

698 (3) The department shall submit the fingerprints to or
 699 cause them to be submitted to the Department of Law Enforcement
 700 for the purpose of ascertaining whether the person fingerprinted
 701 has a criminal history in any state or before the Federal
 702 Government and, if so, the nature of the criminal history.

703 (4) The Department of Law Enforcement may accept
 704 fingerprints of any applicant under this chapter, any principal
 705 of any such applicant, and any other person who is examined or
 706 investigated or who is subject to examination or investigation
 707 under the provisions of this chapter.

708 (5) The Department of Law Enforcement may, to the extent
 709 provided for by federal law, exchange state, multistate, and
 710 federal criminal history records with the department and the
 711 board for the purpose of the issuance, denial, suspension, or
 712 revocation of any license or other application under this
 713 chapter.

714 ~~(6) The Department of Law Enforcement may accept~~
 715 ~~fingerprints of any other person required by statute or rule to~~
 716 ~~submit fingerprints to the department or board or any applicant~~
 717 ~~or licensee regulated by the department or board who is required~~
 718 ~~to demonstrate that she or he has not been convicted of or pled~~
 719 ~~guilty or nolo contendere to a felony or a misdemeanor.~~

720 (6)(7) The Department of Law Enforcement shall, upon
 721 receipt of fingerprints from the department, submit the
 722 fingerprints to the Federal Bureau of Investigation to check
 723 federal criminal history records.

724 (7)(8) Statewide criminal records obtained through the
 725 Department of Law Enforcement, federal criminal records obtained

726 through the Federal Bureau of Investigation, and local criminal
727 records obtained through local law enforcement agencies shall be
728 used by the department and board for the purpose of issuance,
729 denial, suspension, or revocation of ~~certificates of authority,~~
730 ~~certifications,~~ or licenses issued to operate in this state.

731 ~~(8)(9)~~ For the purposes of criminal background checks,
732 applicants and principals of applicants for any approval or
733 license under this chapter may be required to disclose whether
734 they have ever had their name legally changed and any prior name
735 or names they have used.

736 ~~(9)(10)~~ If any applicant under this chapter has been,
737 within the 10 years preceding the application under this
738 chapter, convicted or found guilty of, or entered a plea of nolo
739 contendere to, regardless of adjudication, any crime in any
740 jurisdiction, the application shall not be deemed complete until
741 such time as the applicant provides such certified true copies
742 of the court records evidencing the conviction, finding, or
743 plea, as the licensing authority may by rule require.

744 (10)(a) When applying for any license under this chapter,
745 every applicant shall be required to disclose the applicant's
746 criminal records in accordance with this subsection.

747 (b) The criminal record required to be disclosed shall be
748 any crime listed in paragraph (c) of which the person or entity
749 required to make disclosure has been convicted or to which that
750 person or entity entered a plea in the nature of no contest.
751 Disclosure shall be required pursuant to this subsection
752 regardless of whether adjudication was entered or withheld by
753 the court in which the case was prosecuted.

754 (c) Crimes to be disclosed are:
 755 1. Any felony or misdemeanor, no matter when committed,
 756 which was directly or indirectly related to or involving any
 757 aspect of the practice or business of funeral directing,
 758 embalming, direct disposition, cremation, funeral or cemetery
 759 preneed sales, funeral establishment operations, cemetery
 760 operations, or cemetery monument or marker sales or
 761 installation.
 762 2. Any other felony not already disclosed under
 763 subparagraph 1. which was committed within the 20 years
 764 immediately preceding the application under this chapter.
 765 3. Any other misdemeanor not already disclosed under
 766 subparagraph 1. which was committed within the 5 years
 767 immediately preceding the application under this chapter.
 768 (d) Criminal records falling within paragraphs (b) and (c)
 769 shall be disclosed regardless of whether the criminal conduct
 770 occurred inside or outside the state and regardless of whether
 771 the criminal prosecution occurred in state court or the court of
 772 another state, the United States, or a foreign country. As to
 773 crimes prosecuted in courts other than the courts of this state,
 774 the designation of the crime as a felony or misdemeanor by the
 775 law of the jurisdiction prosecuting the crime shall control. If
 776 the prosecuting jurisdiction does not use the term "felony" or
 777 "misdemeanor" in classifying the crime, the crime shall be
 778 deemed a felony for purposes of this subsection if punishable
 779 under the law of the prosecuting jurisdiction by a term of
 780 imprisonment in excess of 1 year, otherwise the crime shall be
 781 classified as a misdemeanor for purposes of this subsection.

782 Excessive speed in the operation of a motor vehicle and other
 783 noncriminal traffic infractions are not required to be reported
 784 under this section.

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

788 1. Where the applicant is a natural person, only the
 789 natural person making application has the duty to disclose.

790 2. Where the applicant is a corporation, all officers and
 791 directors of that corporation have the duty to disclose.

792 3. Where the applicant is a limited liability company, all
 793 managers and members of the limited liability company have the
 794 duty to disclose.

795 4. Where the applicant is a partnership, all partners have
 796 the duty to disclose.

797 5. Where the applicant is required by this chapter to
 798 identify in the application the individual licensee under this
 799 chapter who will be in charge of the applicant, the identified
 800 individual licensee in charge must make disclosure of criminal
 801 records as part of the application, in addition to applicant.

802 (f) In addition to persons identified in paragraph (e) as
 803 being required to provide a criminal history in relation to an
 804 application for license, the department may during its
 805 prelicensing investigation of the applicant pursuant to
 806 subsection (3), on a case by case basis, require disclosure of
 807 criminal records from any other employee or principal of the
 808 applicant, if the department has grounds to believe that such
 809 employee or principal has committed any crime and that the

810 person's relationship to the applicant may render the applicant
811 a danger to the public if the license applied for is issued.

812 (g) The licensing authority may adopt rules specifying
813 forms and procedures to be utilized by persons required to
814 disclose criminal records under this subsection. The licensing
815 authority may conduct investigation and further inquiry of any
816 person regarding any criminal record disclosed pursuant to this
817 section.

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

821 1. Where the applicant is a natural person, the
822 fingerprints of the natural person making application.

823 2. Where the applicant is a corporation, the fingerprints
824 of the persons serving in the following capacities: chief
825 executive officer and president, or both persons if the
826 positions are filled by different persons; chief financial
827 officer; chief of operations; general counsel if a corporation
828 employee; and members of the board.

829 3. Where the applicant is a limited liability company, the
830 fingerprints of all managers and members of the limited
831 liability company.

832 4. Where the applicant is a partnership, the fingerprints
833 of all partners.

834 (b) In addition to persons identified in paragraph (a) as
835 being required to provide fingerprints, the department may
836 during its prelicensing investigation of the applicant pursuant
837 to subsection (3), on a case by case basis, require fingerprints

838 from any other employee of the applicant, if the department has
839 grounds to believe that any such person may have committed any
840 crime and that the person's relationship to the applicant may
841 render the applicant a danger to the public if the license
842 applied for is issued.

843 (12) The licensing authority may by rule establish forms,
844 procedures, and fees for the submission and processing of
845 fingerprints required to be submitted in accordance with this
846 chapter. The licensing authority may by rule waive the
847 requirement for submission of fingerprints otherwise required by
848 this chapter if the person has within the preceding 24 months
849 submitted fingerprints to the licensing authority and the
850 licensing authority has obtained a criminal history report
851 utilizing those prior fingerprints.

852 Section 7. Subsection (2) of section 497.143, Florida
853 Statutes, as created by chapter 2004-301, Laws of Florida, is
854 amended to read:

855 497.143 Licensing; limited licenses for retired
856 professionals.--

857 (2) Any person desiring to obtain a limited license, when
858 permitted by rule, shall submit to the department an application
859 and fee, not to exceed \$300, and an affidavit stating that the
860 applicant has been licensed to practice in any jurisdiction in
861 the United States for at least 10 years in the profession for
862 which the applicant seeks a limited license. The affidavit shall
863 also state that the applicant has retired or intends to retire
864 from the practice of that profession and intends to practice
865 only pursuant to the restrictions of the limited license granted

866 pursuant to this section. If the applicant for a limited license
 867 submits a notarized statement from the employer stating that the
 868 applicant will not receive monetary compensation for any service
 869 involving the practice of her or his profession, the application
 870 and all licensure fees shall be waived. In no event may a person
 871 holding a limited license under this section engage in preneed
 872 sales under such limited license.

873 Section 8. Subsection (13) of section 497.144, Florida
 874 Statutes, as created by chapter 2004-301, Laws of Florida, is
 875 amended to read:

876 497.144 Licensing; examinations, general provisions.--

877 (13) When any licensed applicant under this chapter
 878 requests a hearing to challenge a decision that the applicant's
 879 answer to any licensure test question was not a correct answer,
 880 or to seek a determination that a challenged question should be
 881 struck, unless the ~~an~~ applicant notifies the department at least
 882 5 days prior to the ~~an~~ examination hearing of the applicant's
 883 inability to attend or unless the ~~an~~ applicant can demonstrate
 884 an extreme emergency for failing to attend, the department may
 885 require the ~~an~~ applicant who fails to attend to pay reasonable
 886 attorney's fees, costs, and court costs of the department for
 887 the examination hearing.

888 Section 9. Paragraph (c) of subsection (1) of section
 889 497.149, Florida Statutes, as created by chapter 2004-301, Laws
 890 of Florida, is amended to read:

891 497.149 Investigations, hearings, and inspections.--

892 (1) INVESTIGATIONS.--Investigations shall be conducted by
 893 the department. The following provisions shall apply concerning
 894 investigations:

895 (c) If the department finds any accounts or records of a
 896 licensee required by this chapter to be created and maintained
 897 by the licensee to be inadequate or inadequately kept or posted,
 898 it may employ experts to reconstruct, rewrite, post, or balance
 899 them at the expense of the person being investigated, provided
 900 the person has failed to maintain, complete, or correct such
 901 records or accounting after the department has given the
 902 licensee ~~her or him~~ notice and a reasonable opportunity to do
 903 so.

904 Section 10. Subsection (1) of section 497.151, Florida
 905 Statutes, as created by chapter 2004-301, Laws of Florida, is
 906 amended, and subsection (4) is added to said section, to read:

907 497.151 Complaints; logs; procedures.--

908 (1) This section shall be applicable to all licensed
 909 entities under this chapter ~~licensees under this chapter except~~
 910 ~~preneed sales agent licensees~~.

911 (4) For purposes of this section, the response of a
 912 customer recorded by the customer on a customer satisfaction
 913 questionnaire or survey form sent to the customer by the
 914 licensee, and returned by the customer to the licensee, shall
 915 not be deemed to be a complaint.

916 Section 11. Section 497.152, Florida Statutes, as created
 917 by chapter 2004-301, Laws of Florida, is amended to read:

918 497.152 Disciplinary grounds.--This section sets forth
 919 conduct which is prohibited and which shall constitute grounds

920 for denial of any application, imposition of discipline, or ~~and~~
 921 other enforcement action against the licensee or other person
 922 committing such conduct. For purposes of this section, the
 923 requirements of this chapter include the requirements of rules
 924 adopted under authority of this chapter. No subsection heading
 925 in this section shall be interpreted as limiting the
 926 applicability of any paragraph within the subsection.

927 (1) GENERAL PROVISIONS.--The generality of the provisions
 928 of this subsection shall not be deemed to be limited by the
 929 provisions of any other subsection.

930 (a) Violating any provision of this chapter or any lawful
 931 order of the board or department or of the statutory
 932 predecessors to the board or department.

933 (b) Committing fraud, deceit, negligence, incompetency, or
 934 misconduct in the practice of any of the activities regulated
 935 under this chapter.

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

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

941 (2) CRIMINAL ACTIVITY.--Being convicted or found guilty
 942 of, or entering a plea of nolo contendere to, regardless of
 943 adjudication, a crime in any jurisdiction which relates to the
 944 practice of, or the ability to practice, a licensee's profession
 945 or occupation under this chapter.

946 (3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.--Having a
 947 license or the authority to practice a profession or occupation

948 | revoked, suspended, fined, denied, or otherwise acted against or
 949 | disciplined by the licensing authority of another ~~any~~
 950 | jurisdiction, including its agencies or subdivisions, for
 951 | conduct that would constitute a violation of this chapter if
 952 | committed in this state or upon grounds which directly relate to
 953 | the ability to practice under this chapter. The licensing
 954 | authority's acceptance of a relinquishment of licensure,
 955 | stipulation, consent order, or other settlement offered in
 956 | response to or in anticipation of the filing of charges against
 957 | the license shall be construed as action against the license.

958 | (4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT
 959 | AGENCIES.--

960 | (a) Improperly interfering with an investigation or
 961 | inspection authorized by statute or with any disciplinary
 962 | proceeding.

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

965 | (c) Refusal to produce records to the department or board
 966 | in connection with any activity regulated pursuant to this
 967 | chapter.

968 | (d) Failing to report to the department any person who the
 969 | licensee knows is in violation of this chapter.

970 | (e) Knowingly concealing information relative to
 971 | violations of this chapter.

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

976 (g) Making or filing a report or statement to or with any
 977 government entity which the licensee knows or has reason to know
 978 to be false; or intentionally or negligently failing to file a
 979 report or record required to be filed with any government
 980 entity, or willfully impeding or obstructing another person to
 981 do so, or inducing another person to impede or obstruct such
 982 filing.

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

985 (5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED
 986 PRACTICE.--

987 (a) Practicing or offering to practice beyond the scope
 988 permitted by this chapter and rules adopted under this chapter
 989 for the type of licensure held or accepting and performing
 990 professional responsibilities the licensee knows, or has reason
 991 to know, the licensee is not competent to perform.

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

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

995 (d) Aiding, assisting, procuring, employing, or advising
 996 any person or entity to practice a profession or occupation
 997 regulated by this chapter without required licensure under this
 998 chapter.

999 (e) Aiding, assisting, procuring, employing, or advising
 1000 any person or entity to operate or in operating an establishment
 1001 regulated by this chapter without the required licensure under
 1002 this chapter.

1003 (f) Delegating to any person the performance of

1004 professional activities, or contracting with any person for the
 1005 performance of professional activities by such person, when the
 1006 licensee knows or has reason to know the person is not qualified
 1007 by training, experience, and authorization to perform such
 1008 responsibilities.

1009 (g) Using the name or title "funeral director,"
 1010 "embalmer," "direct disposer," or other title suggesting
 1011 licensure which the person using such name or title does not
 1012 hold.

1013 (h) Engaging by a direct disposer in the practice of
 1014 direct burial or offering the at-need or preneed service of
 1015 direct burial.

1016 (6) EDUCATIONAL REQUIREMENTS.--

1017 (a) Failing to comply with applicable educational course
 1018 requirements pursuant to this chapter or rules adopted under
 1019 this chapter regarding human immunodeficiency virus and acquired
 1020 immune deficiency syndrome.

1021 (b) Failing to timely comply with applicable continuing
 1022 education requirements of this chapter.

1023 (7) RELATIONS WITH OTHER LICENSEES.--

1024 (a) Having been found liable in a civil proceeding for
 1025 knowingly filing a false report or complaint against another
 1026 licensee with the department or the board.

1027 (b) Making any misleading statements or misrepresentations
 1028 as to the financial condition of any person, or which are
 1029 falsely and maliciously critical of any person for the purpose
 1030 of damaging that person's business regulated under this chapter.

1031 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF

1032 HUMAN REMAINS.--

1033 (a) Violation of any state law or rule or any municipal or
 1034 county ordinance or regulation affecting the handling, custody,
 1035 care, or transportation of dead human bodies.

1036 (b) Refusing to surrender promptly the custody of a dead
 1037 human body upon the express order of the person legally
 1038 authorized to its custody; however, this provision shall be
 1039 subject to any state or local laws or rules governing custody or
 1040 transportation of dead human bodies.

1041 (c) Taking possession of a dead human body without first
 1042 having obtained written or oral permission from a legally
 1043 authorized person. If oral permission is granted, the licensee
 1044 must obtain written permission within a reasonable time as
 1045 established by rule.

1046 (d) Embalming human remains without first having obtained
 1047 written or oral permission from a legally authorized person;
 1048 however, washing and other public health procedures, such as
 1049 closing of the orifices by placing cotton soaked in a
 1050 disinfectant in such orifices until authorization to embalm is
 1051 received, shall not be precluded. If oral permission is granted,
 1052 the licensee must obtain written permission within a reasonable
 1053 time as established by board rule.

1054 (e) Failing to obtain written authorization from the
 1055 family or next of kin of the deceased prior to entombment,
 1056 interment, disinterment, disentombment, or disinurnment of the
 1057 remains of any human being.

1058 (9) SALES PRACTICES IN GENERAL.--

1059 (a) Soliciting by the licensee, or by her or his agent,

1060 assistant, or employee, through the use of fraud, undue
1061 influence, intimidation, overreaching, or other means which
1062 takes advantage of a customer's ignorance or emotional
1063 vulnerability.

1064 (b) Exercising undue influence on a client for the purpose
1065 of financial gain of the licensee or a third party in connection
1066 with any transaction regulated by this chapter.

1067 (c) Discouraging a customer's purchase of any funeral
1068 merchandise or service which is advertised or offered for sale,
1069 with the purpose of encouraging the purchase of additional or
1070 more expensive merchandise or service, by disparaging its
1071 quality or appearance, except that true factual statements
1072 concerning features, design, or construction do not constitute
1073 disparagement; by misrepresenting its availability or any delay
1074 involved in obtaining it; or by suggesting directly or by
1075 implication that a customer's concern for price or expressed
1076 interest in inexpensive funeral merchandise or services is
1077 improper, inappropriate, or indicative of diminished respect or
1078 affection for the deceased.

1079 (d) Misrepresenting the benefits, advantages, conditions,
1080 or terms of any contract to provide any services or merchandise
1081 regulated under this chapter.

1082 (e) Advertising goods and services in a manner that is
1083 fraudulent, deceptive, or misleading in form or content.

1084 (f) Directly or indirectly making any deceptive,
1085 misleading, or untrue representations, whether oral or written,
1086 or employing any trick, scheme, or artifice, in or related to
1087 the practice of a profession or occupation regulated under this

1088 chapter, including in the advertising or sale of any merchandise
 1089 or services related to the practice of the profession or
 1090 occupation.

1091 (10) SPECIFIC MISREPRESENTATIONS.--

1092 (a) Making any false or misleading statement of the legal
 1093 requirement as to the necessity of any particular burial or
 1094 funeral merchandise or services.

1095 (b) Making any oral, written, or visual representations,
 1096 directly or indirectly, that any funeral merchandise or service
 1097 is offered for sale when such is not a bona fide offer to sell
 1098 such merchandise or service.

1099 (c) Making any misrepresentation for the purpose of
 1100 inducing, or tending to induce, the lapse, forfeiture, exchange,
 1101 conversion, or surrender of any preneed contract or any life
 1102 insurance policy pledged or assigned to secure payment for
 1103 funeral or burial goods or services.

1104 (d) Misrepresenting pertinent facts or prepaid contract
 1105 provisions relating to funeral or burial merchandise or
 1106 services.

1107 (e) Misrepresenting the amount advanced on behalf of a
 1108 customer for any item of service or merchandise, including, but
 1109 not limited to, cemetery or crematory services, pallbearers,
 1110 public transportation, clergy honoraria, flowers, musicians or
 1111 singers, nurses, obituary notices, gratuities, and death
 1112 certificates, described as cash advances, accommodations, or
 1113 words of similar import on the contract, final bill, or other
 1114 written evidence of agreement or obligation furnished to
 1115 customers; however, nothing in this paragraph shall require

1116 disclosure of a discount or rebate which may accrue to a
 1117 licensee subsequent to making a cash advance.

1118 (f) Making any false or misleading statement or claim that
 1119 natural decomposition or decay of human remains can be prevented
 1120 or substantially delayed by embalming, use of a gasketed or
 1121 ungasketed casket, or use of an adhesive or nonadhesive closure
 1122 on an outer burial container.

1123 (g) Making any false or misleading statement, oral or
 1124 written, directly or indirectly, regarding any law or rule
 1125 pertaining to the preparation for disposition, transportation
 1126 for disposition, or disposition of dead human bodies.

1127 (h) Making any false or misleading statements of the legal
 1128 requirement as to the conditions under which preservation of a
 1129 dead human body is required or as to the necessity of a casket
 1130 or outer burial container.

1131 (11) SPECIFIC SALES PRACTICES.--

1132 (a) Failing to furnish, for retention, to each purchaser
 1133 of burial rights, burial or funeral merchandise, or burial or
 1134 funeral services a written agreement, the form of which has been
 1135 previously approved if and as required by this chapter, which
 1136 lists in detail the items and services purchased together with
 1137 the prices for the items and services purchased; the name,
 1138 address, and telephone number of the licensee; the signatures of
 1139 the customer and the licensee or her or his representative; and
 1140 the date signed.

1141 (b) Filling in any contract form for use with a particular
 1142 customer, using language ~~Using any name or title in any contract~~

1143 ~~regulated under this chapter~~ which misrepresents the true nature
 1144 of the contract.

1145 (c) Selling an irrevocable preneed contract to a person
 1146 who is not an applicant for or recipient of Supplemental
 1147 Security Income or Aid to Families with Dependent Children or
 1148 pursuant to s. 497.459(6)(a).

1149 (d) Except as authorized in part IV of this chapter,
 1150 guaranteeing the price of goods and services at a future date.

1151 (e) Requiring that a casket be purchased for cremation or
 1152 claiming directly or by implication that a casket is required
 1153 for cremation.

1154 (f) When displaying any caskets for sale, failing to
 1155 display the least expensive casket offered for sale or use in
 1156 adult funerals in the same general manner as the funeral service
 1157 industry member's other caskets are displayed.

1158 (g) Assessing fees and costs that have not been disclosed
 1159 to the customer in connection with any transaction regulated by
 1160 this chapter.

1161 (h) Failure by a cemetery licensed under this chapter to
 1162 provide to any person, upon request, a copy of the cemetery
 1163 bylaws.

1164 (i) Requirements by a cemetery licensee that lot owners or
 1165 current customers make unnecessary visits to the cemetery
 1166 company office for the purpose of solicitation.

1167 (12) DISCLOSURE REQUIREMENTS.--

1168 (a) Failure to disclose, when such disclosure is desired,
 1169 the components of the prices for alternatives offered by the
 1170 licensee from whom disclosure is requested, such as graveside

1171 service, direct disposition, and body donation without any rites
 1172 or ceremonies prior to the delivery of the body and prices of
 1173 service if there are to be such after the residue has been
 1174 removed following the use thereof.

1175 (b) Failing to furnish, for retention, to anyone who
 1176 inquires in person about burial rights, burial or funeral
 1177 merchandise, or burial or funeral services, before any
 1178 discussion of selection, a printed or typewritten list
 1179 specifying the range of retail prices for such rights,
 1180 merchandise, or services. At a minimum, the list shall itemize
 1181 the highest and lowest priced product and service regularly
 1182 offered and shall include the name, address, and telephone
 1183 number of the licensee and statements that the customer may
 1184 choose only the items the customer desires, that the customer
 1185 will be charged for only those items selected, and that there
 1186 may be other charges for other items or other services.

1187 (c) Failing to reasonably provide by telephone, upon
 1188 request, accurate information regarding the retail prices of
 1189 funeral merchandise and services offered for sale by that
 1190 licensee.

1191 (d) Failure by a funeral director to make full disclosure
 1192 in the case of a funeral or direct disposition with regard to
 1193 the use of funeral merchandise which is not to be disposed of
 1194 with the body or failure to obtain written permission from the
 1195 purchaser regarding disposition of such merchandise.

1196 (e) Failure by any funeral director to fully disclose all
 1197 of her or his available services and merchandise prior to the
 1198 selection of a casket offered by a licensee. The full disclosure

1199 required shall identify what is included in the funeral or
 1200 direct disposition and the prices of all services and
 1201 merchandise provided by the licensee or registrant.

1202 (f) Failing to have the price of any casket offered for
 1203 sale clearly marked on or in the casket, whether the casket is
 1204 displayed at a funeral establishment or at any other location,
 1205 regardless of whether the licensee is in control of such
 1206 location. If a licensee uses books, catalogs, brochures, or
 1207 other printed display aids, the price of each casket shall be
 1208 clearly marked.

1209 (g) Failing to disclose all fees and costs the customer
 1210 may incur to use the burial rights or merchandise purchased.

1211 (13) CONTRACT OBLIGATIONS.--

1212 (a) Failing without reasonable justification to timely
 1213 honor contracts entered into by the licensee or under the
 1214 licensee's license for funeral or burial merchandise or
 1215 services.

1216 (b) Failure to honor preneed contract cancellation
 1217 requests and make refunds as required by the chapter.

1218 (14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY
 1219 CUSTOMERS.--

1220 (a) Failing to adopt and implement standards for the
 1221 proper investigation and resolution of claims and complaints
 1222 received by a licensee relating to the licensee's activities
 1223 regulated by this chapter.

1224 (b) Committing or performing with such frequency as to
 1225 indicate a general business practice any of the following:

1226 1. Failing to acknowledge and act promptly upon
 1227 communications from a licensee's customers and their
 1228 representatives with respect to claims or complaints relating to
 1229 the licensee's activities regulated by this chapter.

1230 2. Denying claims or rejecting complaints received by a
 1231 licensee from a customer or customer's representative, relating
 1232 to the licensee's activities regulated by this chapter, without
 1233 first conducting reasonable investigation based upon available
 1234 information.

1235 3. Attempting to settle a claim or complaint on the basis
 1236 of a material document which was altered without notice to, or
 1237 without the knowledge or consent of, the contract purchaser or
 1238 her or his representative or legal guardian.

1239 4. Failing within a reasonable time to affirm or deny
 1240 coverage of specified services or merchandise under a contract
 1241 entered into by a licensee upon written request of the contract
 1242 purchaser or her or his representative or legal guardian.

1243 5. Failing to promptly provide, in relation to a contract
 1244 for funeral or burial merchandise or services entered into by
 1245 the licensee or under the licensee's license, a reasonable
 1246 explanation to the contract purchaser or her or his
 1247 representative or legal guardian of the licensee's basis for
 1248 denying or rejecting all or any part of a claim or complaint
 1249 submitted.

1250 (c) Making a material misrepresentation to a contract
 1251 purchaser or her or his representative or legal guardian for the
 1252 purpose and with the intent of effecting settlement of a claim
 1253 or complaint or loss under a prepaid contract on less favorable

1254 terms than those provided in, and contemplated by, the prepaid
 1255 contract.

1256 (d) Failing to maintain a complete copy of every complaint
 1257 received by the licensee since the date of the last examination
 1258 of the licensee by the department. For purposes of this
 1259 subsection, the term "complaint" means any written communication
 1260 primarily expressing a grievance and which communication is
 1261 from:

1262 1. A representative or family member of a deceased person
 1263 interred at the licensee's facilities or using the licensee's
 1264 services, or which deceased's remains were the subject of any
 1265 service provided by the licensee or licensee's business; or

1266 2. A person, or such person's family member or
 1267 representative, who inquired of the licensee or licensee's
 1268 business concerning the purchase of, or who purchased or
 1269 contracted to purchase, any funeral or burial merchandise or
 1270 services from the licensee or licensee's business.

1271
 1272 For purposes of this subsection, the response of a customer
 1273 recorded by the customer on a customer satisfaction
 1274 questionnaire or survey form sent to the customer by the
 1275 licensee, and returned by the customer to the licensee, shall
 1276 not be deemed to be a complaint.

1277 (15) MISCELLANEOUS FINANCIAL MATTERS.--

1278 (a) Failing to timely pay any fee required by this
 1279 chapter.

1280 (b) Failing to timely remit as required by this chapter
 1281 the required amounts to any trust fund required by this chapter,

1282 provided a remittance deficiency shall not be a disciplinary
 1283 infraction if:

1284 1. The remittance deficiency, neither by itself nor in the
 1285 aggregate with any prior remittance deficiencies, results in or
 1286 increases a trust fund deficit by 1 percent or more.

1287 2. The failure to remit was not willful.

1288 3. Any related trust fund deficit is corrected within 30
 1289 days of notice thereof to the licensee by the licensing
 1290 authority.

1291 (c) Paying to or receiving from any organization, agency,
 1292 or person, either directly or indirectly, any commission, bonus,
 1293 kickback, or rebate in any form whatsoever for any business
 1294 regulated under this chapter, whether such payments are made or
 1295 received by the licensee, or her or his agent, assistant, or
 1296 employee; however, this provision shall not prohibit the payment
 1297 of commissions by a funeral director, funeral establishment,
 1298 cemetery, or monument establishment to its preneed agents
 1299 licensed pursuant to this chapter or to licensees under this
 1300 chapter.

1301 Section 12. Subsection (1), paragraph (b) of subsection
 1302 (2), and paragraph (c) of subsection (4) of section 497.153,
 1303 Florida Statutes, as created by chapter 2004-301, Laws of
 1304 Florida, are amended to read:

1305 497.153 Disciplinary procedures and penalties.--

1306 (1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE AND
 1307 PROSECUTE.--The expiration, nonrenewal, or surrender of
 1308 licensure under this chapter shall not eliminate jurisdiction in
 1309 the licensing authority to investigate and prosecute for

1310 violations committed by a licensee while licensed under this
 1311 chapter. The prosecution of any matter may be initiated or
 1312 continued notwithstanding the withdrawal of any complaint.

1313 (2) DETERMINATION OF PROBABLE CAUSE.--

1314 (b) Prior to submitting a matter to the probable cause
 1315 panel, the licensee who is the subject of the matter shall be
 1316 provided by the department with a copy of any written complaint
 1317 received by the department in the matter and shall be advised
 1318 that the licensee ~~she or he~~ may, within 20 days after receipt of
 1319 a copy of such complaint from the department, submit to the
 1320 department a written response. Any response timely received by
 1321 the department shall be provided by the department to the
 1322 probable cause panel. Licensees may not appear in person or
 1323 through a representative at any probable cause panel proceeding.
 1324 This paragraph shall not apply to emergency action.

1325 (4) ACTION AFTER PROBABLE CAUSE FOUND.--

1326 (c) The department may at any time present to the board a
 1327 proposed settlement by consent order or otherwise of any matter
 1328 as to which probable cause has been found. If the board accepts
 1329 the proposed settlement, it may execute and file the consent
 1330 order as its final order in the matter or may otherwise issue
 1331 its final order in the matter ~~shall issue its final order~~
 1332 ~~adopting the settlement~~. If the board does not accept such
 1333 settlement, the prosecution of the matter shall be resumed. No
 1334 settlement of any disciplinary matter as to which probable cause
 1335 has been found may be entered into by the board prior to receipt
 1336 of a recommended order of an administrative law judge without
 1337 the department's concurrence.

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1338 Section 13. Subsection (1) of section 497.158, Florida
 1339 Statutes, as renumbered and amended by section 28 of chapter
 1340 2004-301, Laws of Florida, is amended to read:

1341 497.158 Court enforcement actions; powers; abatement of
 1342 nuisances.--

1343 (1) In addition to or in lieu of other actions authorized
 1344 by this chapter, the department may petition the courts of this
 1345 state for injunctive or other relief against any licensed or
 1346 unlicensed person for the enforcement of this chapter and orders
 1347 issued under this chapter. The court shall be authorized to
 1348 impose a fine of up to \$5,000 per violation on any licensee
 1349 under this chapter and up to \$10,000 on any person not licensed
 1350 under this chapter, payable to the department, upon any person
 1351 determined by the court to have violated this chapter, and may
 1352 order payment to the department of the department's attorney's
 1353 fees and litigation costs, by any person found to have violated
 1354 this chapter.

1355 Section 14. Subsections (1), (3), and (4) and paragraph
 1356 (a) of subsection (5) of section 497.159, Florida Statutes, as
 1357 created by chapter 2004-301, Laws of Florida, are amended to
 1358 read:

1359 497.159 Crimes.--

1360 (1) The theft ~~of an examination~~ in whole or in part or the
 1361 act of unauthorized reproducing, circulating, or copying of any
 1362 questions or answers on, from, or for any prelicensure
 1363 examination administered by the department or the board, whether
 1364 such examination is reproduced or copied in part or in whole and

1365 by any means, constitutes a felony of the third degree,
 1366 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1367 (3) Any individual who willfully obstructs the department
 1368 or its examiner in any examination or investigation authorized
 1369 by this chapter is guilty of a misdemeanor of the second degree
 1370 and is, in addition to any disciplinary action under this
 1371 chapter, punishable as provided in s. 775.082 or s. 775.083. The
 1372 initiation of action in any court by or on behalf of any licensee
 1373 to terminate or limit any examination or investigation under this
 1374 chapter shall not constitute a violation under this subsection.

1375 (4) Any officer or director, or person occupying similar
 1376 status or performing similar functions, of a preneed licensee
 1377 who fails licensee under this chapter who knowingly directs or
 1378 causes the failure to make required deposits to any trust fund
 1379 required by this chapter; any director, officer, agent, or
 1380 employee of a preneed licensee who makes any unlawful withdrawal
 1381 of funds from any such account or who knowingly discloses to the
 1382 department or an employee thereof any false report made pursuant
 1383 to this chapter; or any person who willfully violates any of the
 1384 provisions of parts II, IV or V, or with knowledge that such
 1385 required deposits are not being made as required by law fails to
 1386 report such failure to the department, or who knowingly directs
 1387 or causes the unlawful withdrawal of funds from any trust fund
 1388 required by this chapter, commits a felony of the third degree,
 1389 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1390 (5)(a) No cemetery company or other legal entity
 1391 conducting or maintaining any public or private cemetery may
 1392 deny burial space to any person because of race, creed, marital

1393 status, sex, national origin, or color. A cemetery company or
 1394 other entity operating any cemetery may designate parts of
 1395 cemeteries or burial grounds for the specific use of persons
 1396 whose religious code requires isolation. Religious institution
 1397 cemeteries may limit burials to members of the religious
 1398 institution and their families.

1399 Section 15. Paragraphs (g) and (h) of subsection (1) and
 1400 subsection (3) of section 497.161, Florida Statutes, as created
 1401 by chapter 2004-301, Laws of Florida, are amended to read:

1402 497.161 Other rulemaking provisions.--

1403 (1) In addition to such other rules as are authorized or
 1404 required under this chapter, the following additional rules, not
 1405 inconsistent with this chapter, shall be authorized by the
 1406 licensing authority.

1407 ~~(g) Rules establishing procedures by which the department~~
 1408 ~~may use the expert or technical advice of the board or members~~
 1409 ~~of the board for the purposes of any investigation, inspection,~~
 1410 ~~or financial examination, without thereby disqualifying the~~
 1411 ~~board member from voting on final action in the matter.~~

1412 (g)(h) In connection with the statutory revisions by the
 1413 2004 ~~2005~~ Regular Session of the Legislature merging chapters
 1414 470 and 497 as those chapters appeared in the 2003 ~~2004~~ edition
 1415 of the Florida Statutes and the elimination of the former boards
 1416 under those chapters and the movement of regulation out of the
 1417 Department of Business and Professional Regulation, the
 1418 licensing authority shall through July 1, 2006, be deemed to
 1419 have extraordinary rulemaking authority to adopt any and all
 1420 rules jointly agreed by the board and the department to be

1421 necessary for the protection of the public concerning the
 1422 regulation of the professions and occupations regulated under
 1423 this chapter, or for the relief of licensees regulated under
 1424 this chapter concerning any impacts which the department and the
 1425 board jointly agree were unintended or not contemplated in the
 1426 enactment of the 2004 ~~2005~~ legislative changes. The authority
 1427 under this paragraph and any rules adopted under authority of
 1428 this paragraph shall expire July 1, 2006.

1429 (3) The department and the board shall each have standing
 1430 under chapter 120 for the purposes of challenging rules or
 1431 proposed rules under this chapter. This subsection shall not be
 1432 interpreted to deny standing to a licensee to challenge any rule
 1433 under this chapter if the licensee would otherwise have
 1434 standing.

1435 Section 16. Subsections (1) and (3) of section 497.166,
 1436 Florida Statutes, as created by chapter 2004-301, Laws of
 1437 Florida, are amended to read:

1438 497.166 Preneed sales.--

1439 (1) Regulation of preneed sales shall be as set forth in
 1440 part IV of this chapter. No person may act as an agent for a
 1441 preneed licensee ~~funeral establishment or direct disposal~~
 1442 ~~establishment~~ with respect to preneed contracts unless such
 1443 person is licensed as a preneed sales agent pursuant to part IV
 1444 of this chapter or is a licensed funeral director acting as a
 1445 preneed sales agent.

1446 (3)(a) The funeral director in charge of a funeral
 1447 establishment shall be responsible for the control and
 1448 activities of the establishment's preneed sales agents.

1449 (b) The direct disposer in charge or a funeral director
 1450 acting as a direct disposer in charge of a direct disposal
 1451 establishment shall be responsible for the control and
 1452 activities of the establishment's preneed sales agents.

1453 (c) The responsibility imposed by this subsection on the
 1454 funeral director and direct disposer in charge is a duty of
 1455 reasonable supervision and not absolute liability. The
 1456 responsibility of the funeral director or direct disposer in
 1457 charge shall be in addition to the responsibility of the preneed
 1458 licensee for the conduct of the preneed sales agents it employs.

1459 Section 17. Subsection (2) of section 497.169, Florida
 1460 Statutes, as renumbered and amended by section 39 of chapter
 1461 2004-301, Laws of Florida, is amended to read:

1462 497.169 Private actions; actions on behalf of consumers;
 1463 attorney's fee.--

1464 (2) In any civil litigation resulting from a transaction
 1465 involving a violation of this chapter by a cemetery company or
 1466 burial rights broker licensed under part II, a monument
 1467 establishment licensed under part V, or a preneed entity or
 1468 preneed sales agent licensed under part IV, the court may award
 1469 to the prevailing party and against such cemetery company,
 1470 burial rights broker, monument establishment, or preneed entity
 1471 or sales agent, after judgment in the trial court and exhaustion
 1472 of any appeal, reasonable attorney's fees and costs from the
 1473 nonprevailing party in an amount to be determined by the trial
 1474 court. Any award of attorney's fees or costs shall become a part
 1475 of the judgment and shall be subject to execution as the law

1476 allows. This subsection shall not be applicable as against
 1477 licenses licensed under part III or part VI.

1478 Section 18. Section 497.171, Florida Statutes, is created
 1479 to read:

1480 497.171 Identification of human remains.--

1481 (1) PRIOR TO FINAL DISPOSITION.--

1482 (a) This subsection shall apply to licensees under parts
 1483 III and VI.

1484 (b) The licensee in charge of the final disposition of
 1485 dead human remains shall, prior to final disposition of such
 1486 dead human remains, affix on the ankle or wrist of the deceased,
 1487 and on the casket or alternative container or cremation
 1488 container, proper identification of the dead human remains. The
 1489 identification or tag shall be encased in or consist of durable
 1490 and long-lasting material containing the name, date of birth,
 1491 and date of death of the deceased, if available. The board may
 1492 adopt rules specifying acceptable materials for such
 1493 identification tags, and acceptable locations for the tags on
 1494 the casket or alternative container or cremation container, and
 1495 acceptable methods of affixing the tags.

1496 (c) If the dead human remains are cremated, proper
 1497 identification shall be placed in the container or urn
 1498 containing the remains.

1499 (d) Any licensee responsible for removal of dead human
 1500 remains to any establishment, facility, or location shall ensure
 1501 that the remains are identified by a tag or other means of
 1502 identification that is affixed to the ankle or wrist of the

1503 deceased at the time the remains are removed from the place of
 1504 death or other location.

1505 (2) INTERMENT IN UNLICENSED CEMETERIES.--The
 1506 identification of human remains interred in an unlicensed
 1507 cemetery shall be the responsibility of the licensed funeral
 1508 establishment in charge of the funeral arrangements for the
 1509 deceased person. The licensed funeral establishment in charge of
 1510 the funeral arrangements for the interment in an unlicensed
 1511 cemetery of human remains shall place on the outer burial
 1512 container, cremation interment container, or other container or
 1513 on the inside of a crypt or niche a tag or permanent identifying
 1514 mark containing the name of the decedent and the date of death,
 1515 if available. The materials and locations of the tag or mark
 1516 shall be more specifically described by rule of the licensing
 1517 authority.

1518 (3) INTERMENT IN LICENSED CEMETERIES.--

1519 (a) This subsection shall apply to cemetery licensees
 1520 under part II.

1521 (b) As to interments in a licensed cemetery, each licensed
 1522 cemetery shall place on the outer burial container, cremation
 1523 interment container, or other container or on the inside of a
 1524 crypt or niche a tag or permanent identifying marker containing
 1525 the name of the decedent and the date of death, if available.
 1526 The materials and the location of the tag or marker shall be
 1527 more specifically described by rule of the licensing authority.

1528 (c) Each licensed cemetery may rely entirely on the
 1529 identity stated on the burial transit permit or on the
 1530 identification supplied by a person licensed under this chapter

1531 to establish the identity of the dead human remains delivered by
 1532 such person for burial and shall not be liable for any
 1533 differences between the identity shown on the burial transit
 1534 permit or identification and the actual identity of the dead
 1535 human remains delivered by such person and buried in the
 1536 cemetery.

1537 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
 1538 establishments shall establish a system of identification of
 1539 human remains received which shall be designed to track the
 1540 identity of the remains from the time of receipt until delivery
 1541 of the remains to the authorized persons. This is in addition to
 1542 the requirements for identification of human remains set forth
 1543 in subsection (1). A copy of the identification procedures shall
 1544 be available, upon request, to the department and legally
 1545 authorized persons.

1546 (5) RELIANCE ON LEGALLY AUTHORIZED PERSON.--Any licensee
 1547 charged with responsibility under this section may rely on the
 1548 representation of a legally authorized person to establish the
 1549 identity of dead human remains.

1550 Section 19. Paragraph (b) of subsection (6) of section
 1551 497.260, Florida Statutes, as renumbered and amended by section
 1552 42 of chapter 2004-301, Laws of Florida, is amended to read:

1553 497.260 Cemeteries; exemption; investigation and
 1554 mediation.--

1555 (6)(b) No cemetery company or other legal entity
 1556 conducting or maintaining any public or private cemetery may
 1557 deny burial space to any person because of race, creed, marital
 1558 status, sex, national origin, or color. A cemetery company or

1559 other entity operating any cemetery may designate parts of
 1560 cemeteries or burial grounds for the specific use of persons
 1561 whose religious code requires isolation. Religious institution
 1562 cemeteries may limit burials to members of the religious
 1563 institution and their families.

1564 Section 20. Paragraphs (b), (m), (o), and (q) of
 1565 subsection (2) of section 497.263, Florida Statutes, as
 1566 renumbered and amended by section 45 of chapter 2004-301, Laws
 1567 of Florida, are amended to read:

1568 497.263 Cemetery companies; license required; licensure
 1569 requirements and procedures.--

1570 (2) APPLICATION PROCEDURES.--

1571 (b) The applicant shall be a corporation, ~~or~~ a
 1572 partnership, or a limited liability company ~~formed prior to~~
 1573 ~~January 1, 2005, which limited liability company already holds a~~
 1574 ~~license under this chapter.~~

1575 (m) The applicant shall be required to make disclosure of
 1576 the applicant's criminal records, if any, as required by s.
 1577 497.142. ~~The application shall require the applicant to disclose~~
 1578 ~~whether the applicant or any principal of the applicant has ever~~
 1579 ~~been convicted or found guilty of, or entered a plea of no~~
 1580 ~~contest to, regardless of adjudication, any crime in any~~
 1581 ~~jurisdiction. The licensing authority may require by rule~~
 1582 ~~additional information to be provided concerning any affirmative~~
 1583 ~~answers.~~

1584 (o) The applicant shall submit fingerprints in accordance
 1585 with s. 497.142. ~~The application shall require the applicant and~~

1586 ~~applicant's principals to provide fingerprints in accordance~~
 1587 ~~with part I of this chapter.~~

1588 (q) The application shall be signed in accordance with s.
 1589 497.141(12) ~~by the president of the applicant.~~

1590 Section 21. Paragraphs (h), (j), and (l) of subsection (2)
 1591 of section 497.264, Florida Statutes, as renumbered and amended
 1592 by chapter 2004-301, Laws of Florida, are amended to read:

1593 497.264 License not assignable or transferable.--

1594 (2) Any person or entity that seeks to purchase or
 1595 otherwise acquire control of any cemetery licensed under this
 1596 chapter shall first apply to the licensing authority and obtain
 1597 approval of such purchase or change in control.

1598 (h) The applicant shall be required to make disclosure of
 1599 applicant's criminal records, if any, as required by s. 497.142.
 1600 ~~The application shall require the applicant to disclose whether~~
 1601 ~~the applicant or any principal of the applicant has ever been~~
 1602 ~~convicted or found guilty of, or entered a plea of no contest~~
 1603 ~~to, regardless of adjudication, any crime in any jurisdiction.~~
 1604 ~~The licensing authority may require by rule additional~~
 1605 ~~information to be provided concerning any affirmative answers.~~

1606 (j) The applicant shall submit fingerprints in accordance
 1607 with s. 497.142. ~~The application shall require the applicant and~~
 1608 ~~the applicant's principals to provide fingerprints in accordance~~
 1609 ~~with part I of this chapter.~~

1610 (l) The application shall be signed in accordance with s.
 1611 497.141(12) ~~by the applicant if a natural person, otherwise by~~
 1612 ~~the president of the applicant.~~

1613 Section 22. Section 497.281, Florida Statutes, as
 1614 renumbered and amended by section 62 of chapter 2004-301, Laws
 1615 of Florida, is amended to read:

1616 497.281 Licensure of brokers of burial rights.--

1617 (1) No person shall receive compensation to act as a third
 1618 party to the sale or transfer of three or more burial rights in
 1619 a 12-month period unless the person pays a license fee as
 1620 determined by licensing authority rule but not to exceed \$250
 1621 and is licensed with the department as a burial rights broker in
 1622 accordance with this section.

1623 (2)(a) The applicant shall be required to make disclosure
 1624 of the applicant's criminal records, if any, as required by s.
 1625 497.142.

1626 (b) The application shall require the applicant to
 1627 disclose whether the applicant or any principal of the applicant
 1628 has ever had a license or the authority to practice a profession
 1629 or occupation refused, suspended, fined, denied, or otherwise
 1630 acted against or disciplined by the licensing authority of any
 1631 jurisdiction. The licensing authority may require by rule
 1632 additional information to be provided concerning any affirmative
 1633 answers. A licensing authority's acceptance of a relinquishment
 1634 of licensure, stipulation, consent order, or other settlement,
 1635 offered in response to or in anticipation of the filing of
 1636 charges against the license, shall be construed as action
 1637 against the license. The licensing authority may require by rule
 1638 additional information to be provided concerning any affirmative
 1639 answers.

1640 (c) The applicant shall submit fingerprints in accordance

1641 with s. 497.142. The application shall be signed in accordance
 1642 with s. 497.141(12).

1643 (d) The applicant shall demonstrate by clear and
 1644 convincing evidence that the applicant has the ability,
 1645 experience, and integrity to act as a burial broker and, if the
 1646 applicant is an entity, that the applicant's principals are of
 1647 good character.

1648 (3) The licensing authority shall by rule establish
 1649 requirements for minimum records to be maintained by licensees
 1650 under this section, for the purpose of preventing confusion and
 1651 error by the licensee or by the cemeteries in which the burial
 1652 rights are located as to the status as sold or unsold, and the
 1653 identity of the owner, of the burial rights and related
 1654 interment spaces in the cemetery.

1655 (4) The licensing authority may by rule require
 1656 inspections of the records of licensees under this section.

1657 (5)(2) The department, by rule, shall provide for the
 1658 biennial renewal of licenses under this section and a renewal
 1659 fee as determined by licensing authority rule but not to exceed
 1660 \$250.

1661 (6)(3) The licensure requirements of this section shall
 1662 not apply to persons otherwise licensed pursuant to this
 1663 chapter, but such persons, if they engage in activity as a
 1664 burial rights broker, shall be subject to rules relating to
 1665 required records and inspections.

1666 ~~(4) The licensing authority may by rule specify records of~~
 1667 ~~brokerage transactions which shall be required to be maintained~~

1668 ~~by burial rights brokers licensed under this subsection, and~~
 1669 ~~which shall be subject to inspection by the department.~~

1670 Section 23. Paragraph (c) of subsection (1) of section
 1671 497.368, Florida Statutes, as renumbered and amended by section
 1672 73 of chapter 2004-301, Laws of Florida, is amended to read:

1673 497.368 Embalmers; licensure as an embalmer by
 1674 examination; provisional license.--

1675 (1) Any person desiring to be licensed as an embalmer
 1676 shall apply to the licensing authority to take the licensure
 1677 examination. The licensing authority shall examine each
 1678 applicant who has remitted an examination fee set by rule of the
 1679 licensing authority not to exceed \$200 plus the actual per
 1680 applicant cost to the licensing authority for portions of the
 1681 examination and who has:

1682 (c) Has made disclosure of applicant's criminal records,
 1683 if any, as required by s. 497.142. The applicant shall submit
 1684 fingerprints in accordance with s. 497.142. The applicant may
 1685 not be licensed under this section unless the licensing
 1686 authority determines the applicant is of good character and has
 1687 no demonstrated history of lack of trustworthiness or integrity
 1688 in business or professional matters. ~~Had no conviction or~~
 1689 ~~finding of guilt, regardless of adjudication, for a crime which~~
 1690 ~~directly relates to the ability to practice embalming or the~~
 1691 ~~practice of embalming.~~

1692 Section 24. Paragraph (d) is added to subsection (1) of
 1693 section 497.369, Florida Statutes, as renumbered and amended by
 1694 section 74 of chapter 2004-301, Laws of Florida, to read:

1695 497.369 Embalmers; licensure as an embalmer by
 1696 endorsement; licensure of a temporary embalmer.--

1697 (1) The licensing authority shall issue a license by
 1698 endorsement to practice embalming to an applicant who has
 1699 remitted an examination fee set by rule of the licensing
 1700 authority not to exceed \$200 and who the licensing authority
 1701 certifies:

1702 (d) Has made disclosure of the applicant's criminal
 1703 records, if any, as required by s. 497.142. The applicant shall
 1704 submit fingerprints in accordance with s. 497.142. The applicant
 1705 may not be licensed under this section unless the licensing
 1706 authority determines the applicant is of good character and has
 1707 no demonstrated history of lack of trustworthiness or integrity
 1708 in business or professional matters.

1709 Section 25. Paragraph (c) of subsection (1) of section
 1710 497.373, Florida Statutes, as renumbered and amended by section
 1711 78 of chapter 2004-301, Laws of Florida, is amended to read:

1712 497.373 Funeral directing; licensure as a funeral director
 1713 by examination; provisional license.--

1714 (1) Any person desiring to be licensed as a funeral
 1715 director shall apply to the licensing authority to take the
 1716 licensure examination. The licensing authority shall examine
 1717 each applicant who has remitted an examination fee set by rule
 1718 of the licensing authority not to exceed \$200 plus the actual
 1719 per applicant cost to the licensing authority for portions of
 1720 the examination and who the licensing authority certifies has:

1721 (c) Has made disclosure of the applicant's criminal
 1722 records, if any, as required by s. 497.142. The applicant shall

1723 submit fingerprints in accordance with s. 497.142. The applicant
 1724 may not be licensed under this section unless the licensing
 1725 authority determines the applicant is of good character and has
 1726 no demonstrated history of lack of trustworthiness or integrity
 1727 in business or professional matters. ~~Had no conviction or~~
 1728 ~~finding of guilt, regardless of adjudication, for a crime which~~
 1729 ~~directly relates to the ability to practice funeral directing or~~
 1730 ~~the practice of funeral directing.~~

1731 Section 26. Paragraph (d) is added to subsection (1) of
 1732 section 497.374, Florida Statutes, as renumbered and amended by
 1733 section 79 of chapter 2004-301, Laws of Florida, to read:

1734 497.374 Funeral directing; licensure as a funeral director
 1735 by endorsement; licensure of a temporary funeral director.--

1736 (1) The licensing authority shall issue a license by
 1737 endorsement to practice funeral directing to an applicant who
 1738 has remitted a fee set by rule of the licensing authority not to
 1739 exceed \$200 and who:

1740 (d) Has made disclosure of the applicant's criminal
 1741 records, if any, as required by s. 497.142. The applicant shall
 1742 submit fingerprints in accordance with s. 497.142. The applicant
 1743 may not be licensed under this section unless the licensing
 1744 authority determines the applicant is of good character and has
 1745 no demonstrated history of lack of trustworthiness or integrity
 1746 in business or professional matters.

1747 Section 27. Subsection (1) of section 497.376, Florida
 1748 Statutes, as renumbered and amended by section 81 of chapter
 1749 2004-301, Laws of Florida, is amended to read:

1750 497.376 License as funeral director and embalmer
 1751 permitted; display of license.--

1752 (1) Nothing in this chapter may be construed to prohibit a
 1753 person from holding a license as an embalmer and a license as a
 1754 funeral director at the same time. There may be issued and
 1755 renewed by the licensing authority a combination license as both
 1756 funeral director and embalmer to persons meeting the separate
 1757 requirements for both licenses as set forth in this chapter. The
 1758 licensing authority may adopt rules providing procedures for
 1759 applying for and renewing such combination license. The
 1760 licensing authority may by rule establish application, renewal,
 1761 and other fees for such combination license, which fees shall
 1762 not exceed the sum of the maximum fees for the separate funeral
 1763 director and embalmer license categories as provided in this
 1764 chapter. Persons holding a combination license as a funeral
 1765 director and embalmer shall be subject to regulation under this
 1766 chapter both as a funeral director and an embalmer.

1767 Section 28. Subsections (1), (4), and (12) of section
 1768 497.380, Florida Statutes, as renumbered and amended by section
 1769 85 of chapter 2004-301, Laws of Florida, is amended to read:

1770 497.380 Funeral establishment; licensure.--

1771 (1) A funeral establishment shall be a place at a specific
 1772 street address or location consisting of at least 1,250
 1773 contiguous interior square feet and must maintain or make
 1774 arrangements for ~~either~~ capacity for the refrigeration and
 1775 storage of dead human bodies handled and stored by the
 1776 establishment and a preparation room equipped with necessary
 1777 ventilation and drainage and containing necessary instruments

1778 for embalming dead human bodies or must make arrangements for a
 1779 preparation room as established by rule.

1780 (4) Application for a funeral establishment license shall
 1781 be made on forms and pursuant to procedures specified by rule,
 1782 shall be accompanied by a nonrefundable fee not to exceed \$300
 1783 as set by licensing authority rule, and shall include the name
 1784 of the licensed funeral director who is in charge of that
 1785 establishment. The applicant shall be required to make
 1786 disclosure of the applicant's criminal records, if any, as
 1787 required by s. 497.142. The applicant shall submit fingerprints
 1788 in accordance with s. 497.142. A duly completed application
 1789 accompanied by the required fees shall be approved and the
 1790 license issued if the proposed funeral establishment has passed
 1791 an inspection pursuant to rule of the licensing authority, the
 1792 licensing authority determines the applicant is of good
 1793 character and has no demonstrated history of lack of
 1794 trustworthiness or integrity in business or professional
 1795 matters, and the applicant otherwise is in compliance with all
 1796 applicable requirements of this chapter.

1797 (12)(a) A change in ownership of a funeral establishment
 1798 shall be promptly reported pursuant to procedures established by
 1799 rule and shall require the relicensure of the funeral
 1800 establishment, including reinspection and payment of applicable
 1801 fees.

1802 (b) A change in location of a funeral establishment shall
 1803 be promptly reported to the licensing authority pursuant to
 1804 procedures established by rule. Operations by the licensee at a
 1805 new location may not commence until an inspection by the

1806 licensing authority of the facilities, pursuant to rules of the
 1807 licensing authority, has been conducted and passed at the new
 1808 location.

1809 Section 29. Paragraphs (a) and (g) of subsection (1) and
 1810 paragraphs (a), (f), and (g) of subsection (2) of section
 1811 497.385, Florida Statutes, as renumbered and amended by section
 1812 90 of chapter 2004-301, Laws of Florida, are amended, and
 1813 paragraph (i) is added to subsection (2) of said section, to
 1814 read:

1815 497.385 Removal services; refrigeration facilities;
 1816 centralized embalming facilities.--In order to ensure that the
 1817 removal, refrigeration, and embalming of all dead human bodies
 1818 is conducted in a manner that properly protects the public's
 1819 health and safety, the licensing authority shall adopt rules to
 1820 provide for the licensure of removal services, refrigeration
 1821 facilities, and centralized embalming facilities operated
 1822 independently of funeral establishments, direct disposal
 1823 establishments, and cinerator facilities.

1824 (1) REMOVAL SERVICES AND REFRIGERATION SERVICES.--

1825 (a) Application for licensure of a removal service or a
 1826 refrigeration service shall be made using forms and procedures
 1827 as specified by rule, shall be accompanied by a nonrefundable
 1828 fee not to exceed \$300 as set by licensing authority rule, and
 1829 shall include the name of the business owner, manager in charge,
 1830 business address, and copies of occupational and other local
 1831 permits. The applicant shall be required to make disclosure of
 1832 the applicant's criminal records, if any, as required by s.
 1833 497.142. The applicant shall submit fingerprints in accordance

1834 with s. 497.142. A duly completed application accompanied by the
 1835 required fees shall be approved and the license issued if the
 1836 applicant has passed an inspection pursuant to rule of the
 1837 licensing authority, the licensing authority determines the
 1838 applicant is of good character and has no demonstrated history
 1839 of lack of trustworthiness or integrity in business or
 1840 professional matters, and the applicant otherwise is in
 1841 compliance with all applicable requirements of this chapter.

1842 (g)1. A change in ownership shall be promptly reported
 1843 using forms and procedures specified by rule and may require the
 1844 relicensure of the licensee, including reinspection and payment
 1845 of applicable fees, as required by rule.

1846 2. A change in location shall be promptly reported to the
 1847 licensing authority pursuant to procedures established by rule.
 1848 Operations by the licensee at a new location may not commence
 1849 until an inspection by the licensing authority of the
 1850 facilities, pursuant to rules of the licensing authority, has
 1851 been conducted and passed at the new location.

1852 (2) CENTRALIZED EMBALMING FACILITIES.--In order to ensure
 1853 that all funeral establishments have access to embalming
 1854 facilities that comply with all applicable health and safety
 1855 requirements, the licensing authority shall adopt rules to
 1856 provide for the licensure and operation of centralized embalming
 1857 facilities and shall require, at a minimum, the following:

1858 (a) All centralized embalming facilities shall contain all
 1859 of the equipment and meet all of the requirements that a
 1860 preparation room located in a funeral establishment is required
 1861 to meet, but such facilities shall not be required to comply

1862 with any of the other requirements for funeral establishments,
 1863 as set forth in s. 497.380. The licensing authority may adopt
 1864 rules establishing the equipment and other requirements for
 1865 operation of a centralized embalming facility consistent with
 1866 this paragraph.

1867 (f) Application for licensure of a centralized embalming
 1868 facility shall be made utilizing forms and procedures prescribed
 1869 by rule and shall be accompanied by a nonrefundable fee not to
 1870 exceed \$300 as set by licensing authority rule, and licensure
 1871 shall be renewed biennially pursuant to procedures and upon
 1872 payment of a nonrefundable fee not to exceed \$300 as set by
 1873 licensing authority rule. The licensing authority may also
 1874 establish by rule a late fee not to exceed \$50 per day. Any
 1875 licensure not renewed within 30 days after the renewal date
 1876 shall expire without further action by the department. The
 1877 applicant shall be required to make disclosure of the
 1878 applicant's criminal records, if any, as required by s. 497.142.
 1879 The applicant shall submit fingerprints in accordance with s.
 1880 497.142. A duly completed application accompanied by the
 1881 required fees shall be approved and the license issued if the
 1882 applicant has passed an inspection pursuant to rule of the
 1883 licensing authority, the licensing authority determines the
 1884 applicant is of good character and has no demonstrated history
 1885 of lack of trustworthiness or integrity in business or
 1886 professional matters, and the applicant otherwise is in
 1887 compliance with all applicable requirements of this chapter.

1888 (g) The licensing authority shall set by rule an annual
 1889 inspection fee not to exceed \$300, payable upon application for

1890 licensure and upon renewal of such licensure. Centralized
 1891 embalming facilities shall be subject to inspection before
 1892 issuance of license and annually thereafter and also upon change
 1893 of location and during investigation of any complaint. A
 1894 centralized embalming facility shall notify the licensing
 1895 authority of any change in location. A change in ownership shall
 1896 be promptly reported to the licensing authority and may require
 1897 the relicensure of the licensee, including reinspection and
 1898 payment of applicable fees, as required by rule. The licensing
 1899 authority shall adopt rules establishing inspection criteria and
 1900 otherwise establishing forms and procedures for the
 1901 implementation of this paragraph.

1902 (i)1. A change in ownership shall be promptly reported
 1903 using forms and procedures specified by rule and may require the
 1904 relicensure of the licensee, including reinspection and payment
 1905 of applicable fees, as required by rule.

1906 2. A change in location shall be promptly reported to the
 1907 licensing authority pursuant to procedures established by rule.
 1908 Operations by the licensee at a new location may not commence
 1909 until an inspection by the licensing authority of the
 1910 facilities, pursuant to rules of the licensing authority, has
 1911 been conducted and passed at the new location.

1912 Section 30. Section 497.453, Florida Statutes, as
 1913 renumbered and amended by section 102 of chapter 2004-301, Laws
 1914 of Florida, is amended to read:

1915 497.453 Application for preneed license, procedures and
 1916 criteria; renewal; reports.--

1917 (1) PRENEED LICENSE APPLICATION PROCEDURES.--

1918 (a) A person seeking a license to enter into preneed
 1919 contracts shall apply for such licensure using forms prescribed
 1920 by rule.

1921 (b) The application shall require the name, business
 1922 address, residence address, date and place of birth or
 1923 incorporation, and business phone number of the applicant and
 1924 all principals of the applicant. The application shall require
 1925 the applicant's social security number, or, if the applicant is
 1926 an entity, its federal tax identification number.

1927 (c) The application may require information as to the
 1928 applicant's financial resources.

1929 (d) The application may require information as to the
 1930 educational and employment history of an individual applicant;
 1931 and as to applicants that are not natural persons, the business
 1932 and employment history of the applicant and principals of the
 1933 applicant.

1934 (e) The applicant shall be required to make disclosure of
 1935 the applicant's criminal records, if any, as required by s.
 1936 497.142. ~~The application shall require the applicant to disclose~~
 1937 ~~whether the applicant or any of the applicant's principals have~~
 1938 ~~ever been convicted or found guilty of, or entered a plea of no~~
 1939 ~~contest to, regardless of adjudication, any crime in any~~
 1940 ~~jurisdiction.~~

1941 (f) The application shall require the applicant to
 1942 disclose whether the applicant or any of the applicant's
 1943 principals have ever had a license or the authority to practice
 1944 a profession or occupation refused, suspended, fined, denied, or
 1945 otherwise acted against or disciplined by the licensing

1946 authority of any jurisdiction. A licensing authority's
 1947 acceptance of a relinquishment of licensure, stipulation,
 1948 consent order, or other settlement, offered in response to or in
 1949 anticipation of the filing of charges against the license, shall
 1950 be construed as action against the license.

1951 (g) The applicant shall submit fingerprints in accordance
 1952 with s. 497.142. ~~The application shall require the applicant and~~
 1953 ~~its principals to provide fingerprints in accordance with part I~~
 1954 ~~of this chapter.~~

1955 (h) The application shall state the name and license
 1956 number of the funeral establishment, cemetery company, direct
 1957 disposal establishment, or monument establishment, under whose
 1958 license the preneed application is made.

1959 (i) The application shall state the types of preneed
 1960 contracts proposed to be written.

1961 (j) The application shall disclose the existence of all
 1962 preneed contracts for service or merchandise entered into by the
 1963 applicant, or by any other entity under common control with the
 1964 applicant, without or prior to authorization under this section
 1965 or predecessors to this section. As to each such contract, the
 1966 applicant shall disclose the name and address of the contract
 1967 purchaser, the status of the contract, and what steps or
 1968 measures the applicant has taken to ensure performance of
 1969 unfulfilled contracts, setting forth the treatment and status of
 1970 funds received from the customer in regard to the contract, and
 1971 stating the name and address of any institution where such funds
 1972 are deposited and the number used by the institution to identify
 1973 the account. With respect to contracts entered into before

1974 January 1, 1983, an application to issue or renew a preneed
 1975 license may not be denied solely on the basis of such
 1976 disclosure. The purchaser of any such contract may not be
 1977 required to liquidate the account if such account was
 1978 established before July 1, 1965. Information disclosed may be
 1979 used by the licensing authority to notify the contract purchaser
 1980 and the institution in which such funds are deposited should the
 1981 holder of a preneed license be unable to fulfill the
 1982 requirements of the contract.

1983 (k) The application shall require the applicant to
 1984 demonstrate that the applicant complies and will comply with all
 1985 requirements for preneed contract licensure under this chapter.

1986 (l) The application may require any other information
 1987 considered necessary by the department or board to meet its
 1988 responsibilities under this chapter.

1989 (m) The application shall be sworn to and signed in
 1990 accordance with s. 497.141(12) ~~by the applicant if a natural~~
 1991 ~~person, or by the president of an applicant that is not a~~
 1992 ~~natural person.~~

1993 (n) The application shall be accompanied by a
 1994 nonrefundable fee as determined by licensing authority rule but
 1995 not to exceed \$500.

1996 (2) ACTION CONCERNING APPLICATIONS.--A duly completed
 1997 application for licensure under this section, accompanied by the
 1998 required fees, shall be approved and a license issued, if the
 1999 licensing authority determines that the following conditions are
 2000 met:

2001 (a) The application is made by a funeral establishment,
 2002 cemetery company, direct disposal establishment, or monument
 2003 establishment, or on behalf of one of the preceding licensees by
 2004 its agent in the case of a corporate entity, licensed and in
 2005 good standing under this chapter.

2006 (b) The applicant meets net worth requirements specified
 2007 by rule of the licensing authority.

2008 1. The net worth required by rule to obtain or renew a
 2009 preneed license and write and carry up to \$100,000 in total
 2010 retail value of outstanding preneed contracts shall not exceed
 2011 \$20,000. The board may specify higher net worth requirements by
 2012 increments, for total retail value of outstanding preneed
 2013 contracts carried in excess of \$100,000, as the board determines
 2014 necessary for the protection of the public.

2015 2. An applicant to obtain or renew a preneed licensee that
 2016 cannot demonstrate the required initial minimum net worth may
 2017 voluntarily submit to the licensing authority and request
 2018 acceptance of alternative evidence of financial stability and
 2019 resources or agree to additional oversight in lieu of the
 2020 required net worth. Such additional evidence or oversight may
 2021 include, as appropriate, one or more of the following:

2022 a. An agreement to submit monthly financial statements of
 2023 the entity.

2024 b. An agreement to submit quarterly financial statements
 2025 of the entity.

2026 c. An appraisal of the entity's property or broker's
 2027 opinion of the entity's assets.

2028 d. A credit report of the entity or its principals.

- 2029 e. A subordination-of-debt agreement from the entity's
 2030 principals.
- 2031 f. An indemnification or subrogation agreement binding the
 2032 entity and its principals.
- 2033 g. A guarantee agreement for the entity from its
 2034 principals.
- 2035 h. A written explanation of past financial activity.
- 2036 i. Submission of a 12-month projected business plan that
 2037 includes:
- 2038 (I) A statement of cash flows.
- 2039 (II) Pro forma income statements, with sources of revenues
 2040 identified.
- 2041 (III) Marketing initiatives.
- 2042 j. Submission of previous department examination reports.
- 2043 k. An agreement of 100 percent voluntary trust by the
 2044 entity.
- 2045 3. The licensing authority may accept such alternative
 2046 evidence or arrangements in lieu of the required net worth only
 2047 if the licensing authority determines such alternative evidence
 2048 or arrangements are an adequate substitute for required net
 2049 worth and that acceptance would not substantially increase the
 2050 risk to existing or future customers of nonperformance by the
 2051 applicant or licensee on its retail sales agreements.
- 2052 (c) The applicant has and will have the ability to
 2053 discharge her or his liabilities as they become due in the
 2054 normal course of business, and has and will have sufficient
 2055 funds available during the calendar year to perform her or his
 2056 obligations under her or his contracts.

2057 (d) If the applicant or any entity under common control
 2058 with the applicant has entered into preneed contracts prior to
 2059 being authorized to do so under the laws of this state:

2060 1. The licensing authority determines that adequate
 2061 provision has been made to ensure the performance of such
 2062 contracts.

2063 2. The licensing authority determines that the improper
 2064 sale of such preneed contracts prior to authorization under this
 2065 chapter does not indicate, under the facts of the particular
 2066 application in issue, that the applicant has a disregard of the
 2067 laws of this state such as would expose the public to
 2068 unreasonable risk if the applicant were issued a preneed
 2069 license.

2070 3. Nothing in this section shall imply any authorization
 2071 to enter into preneed contracts without authorization under this
 2072 chapter.

2073 (e) Neither the applicant nor the applicant's principals
 2074 have a demonstrated history of conducting their business affairs
 2075 to the detriment of the public.

2076 (f) The applicant and the applicant's principals are of
 2077 good character and have no demonstrated history of lack of
 2078 trustworthiness or integrity in business or professional
 2079 matters.

2080 (g) The applicant does and will comply with all other
 2081 requirements of this chapter relating to preneed licensure.

2082 (3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.--It is
 2083 the policy of this state to encourage competition for the public
 2084 benefit in the preneed contract business by, among other means,

2085 the entry of new licensees into that business. To facilitate
 2086 issuance of licenses concerning applications judged by the
 2087 licensing authority to be borderline as to qualification for
 2088 licensure, the licensing authority may issue a new license under
 2089 this section on a probationary basis, subject to conditions
 2090 specified by the licensing authority on a case-by-case basis,
 2091 which conditions may impose special monitoring, reporting, and
 2092 restrictions on operations for up to the first 12 months of
 2093 licensure, to ensure the licensee's responsibility, competency,
 2094 financial stability, and compliance with this chapter. Provided,
 2095 no such probationary license shall be issued unless the
 2096 licensing authority determines that issuance would not pose an
 2097 unreasonable risk to the public, and the licensing authority
 2098 must within 12 months after issuance of the license either
 2099 remove the probationary status or determine that the licensee is
 2100 not qualified for licensure under this chapter and institute
 2101 proceedings for revocation of licensure.

2102 (4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.--

2103 (a) Each licensee under this section must provide notice
 2104 as required by rule prior to any change in control of the
 2105 licensee. Any such change is subject to disapproval or to
 2106 reasonable conditions imposed by the licensing authority, for
 2107 the protection of the public to ensure compliance with this
 2108 chapter, based upon criteria established by rule, which criteria
 2109 shall promote the purposes of this part in protecting the
 2110 consumer.

2111 (b) The licensing authority may authorize the transfer of
 2112 a preneed license and establish by rule a fee for the transfer

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2113 in an amount not to exceed \$500. Upon receipt of an application
2114 for transfer, the executive director may grant a temporary
2115 preneed license to the proposed transferee, based upon criteria
2116 established by the licensing authority by rule, which criteria
2117 shall promote the purposes of this chapter in protecting the
2118 consumer. Such a temporary preneed license shall expire at the
2119 conclusion of the next regular meeting of the board unless
2120 renewed by the board. The licensing authority may by rule
2121 establish forms and procedures for the implementation of this
2122 paragraph.

2123 (5) RENEWAL OF LICENSES.--

2124 (a) A preneed license shall expire annually on June 1,
2125 unless renewed, or at such other time or times as may be
2126 provided by rule. The application for renewal of the license
2127 shall be on forms prescribed by rule and shall be accompanied by
2128 a renewal fee as specified in paragraph (c).

2129 (b) Within 3 months after the end of its fiscal period, or
2130 within an extension of time therefor, as the department for good
2131 cause may grant, the licensee shall file with the department a
2132 full and true statement of her or his financial condition,
2133 transactions, and affairs, prepared on a basis as adopted by
2134 rule, as of the end of the preceding fiscal period or at such
2135 other time or times as may be required by rule, together with
2136 such other information and data which may be required by rule.
2137 To facilitate uniformity in financial statements and to
2138 facilitate department analysis, there may be adopted by rule a
2139 form for financial statements. The rules regarding net worth,

2140 authorized by paragraph (2)(b), shall be applicable to the
 2141 renewal of preneed licenses.

2142 (c)1. Each annual application for renewal of a preneed
 2143 license that is not held by a monument establishment shall be
 2144 accompanied by the appropriate fee as follows:

2145 a.1. For a preneed licensee with no preneed contract sales
 2146 during the immediately preceding year....\$300.

2147 b.2. For a preneed licensee with at least 1 but fewer than
 2148 50 preneed contract sales during the immediately preceding
 2149 year....\$400.

2150 c.3. For a preneed licensee with at least 50 but fewer
 2151 than 250 preneed contract sales during the immediately preceding
 2152 year....\$500.

2153 d.4. For a preneed licensee with at least 250 but fewer
 2154 than 1,000 preneed contract sales during the immediately
 2155 preceding year....\$850.

2156 e.5. For a preneed licensee with at least 1,000 but fewer
 2157 than 2,500 preneed contract sales during the immediately
 2158 preceding year....\$1,500.

2159 f.6. For a preneed licensee with at least 2,500 but fewer
 2160 than 5,000 preneed contract sales during the immediately
 2161 preceding year....\$2,500.

2162 g.7. For a preneed licensee with at least 5,000 but fewer
 2163 than 15,000 preneed contract sales during the immediately
 2164 preceding year....\$6,000.

2165 h.8. For a preneed licensee with at least 15,000 but fewer
 2166 than 30,000 preneed contract sales during the immediately
 2167 preceding year....\$12,500.

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2168 ~~i.9.~~ For a preneed licensee with 30,000 preneed contract
2169 sales or more during the immediately preceding year....\$18,500.

2170 2. Each annual application for renewal of a preneed
2171 license that is held by a monument establishment shall be
2172 accompanied by the appropriate fee determined by its total gross
2173 aggregate at-need and preneed retail sales for the 12-month
2174 period ending 2 full calendar months prior to the month in which
2175 the renewal is required, as follows:

2176 a. Total sales of \$1 to \$50,000, renewal fee \$1,000.

2177 b. Total sales of \$50,001 to \$250,000, renewal fee \$1,500.

2178 c. Total sales of \$250,001 to \$500,000, renewal fee
2179 \$2,000.

2180 d. Total sales over \$500,000, renewal fee \$2,500.

2181 (d) An application for renewal shall disclose the
2182 existence of all preneed contracts for service or merchandise
2183 funded by any method other than a method permitted by this
2184 chapter, which contracts are known to the applicant and were
2185 entered into by the applicant, or any other entity under common
2186 control with the applicant, during the annual license period
2187 then ending. Such disclosure shall include the name and address
2188 of the contract purchaser, the name and address of the
2189 institution where such funds are deposited, and the number used
2190 by the institution to identify the account.

2191 (e) In addition to any other penalty that may be provided
2192 for under this chapter, there may be levied a late fee as
2193 determined by licensing authority rule but not to exceed \$50 a
2194 day for each day the preneed licensee fails to file its annual
2195 statement, and there may be levied a late fee as determined by

2196 | licensing authority rule but not to exceed \$50 a day for each
 2197 | day the preneed licensee fails to file the statement of
 2198 | activities of the trust. Upon notice to the preneed licensee by
 2199 | the department that the preneed licensee has failed to file the
 2200 | annual statement or the statement of activities of the trust,
 2201 | the preneed licensee's authority to sell preneed contracts shall
 2202 | cease while such default continues.

2203 | (6) QUARTERLY PAYMENTS.--In addition to other amounts
 2204 | required to be paid by this section, each preneed licensee shall
 2205 | pay to the Regulatory Trust Fund an amount established by rule
 2206 | not to exceed \$10 for each preneed contract entered into. This
 2207 | amount must be paid within 60 days after the end of each
 2208 | quarter. These funds must be used to defray the cost of
 2209 | administering the provisions of this part.

2210 | (7) BRANCH OPERATIONS AND LICENSURE.--

2211 | (a) Any person or entity that is part of a common business
 2212 | enterprise that has a preneed license issued pursuant to this
 2213 | section and desires to operate under a name other than that of
 2214 | the common business enterprise, may submit an application on a
 2215 | form adopted by rule to become a branch licensee. The
 2216 | application shall be accompanied by an application fee as
 2217 | determined by licensing authority rule but not to exceed \$300.

2218 | (b) Upon a determination that such branch applicant
 2219 | qualifies to sell preneed contracts under this part except for
 2220 | the requirements of paragraph (2)(c), and if the sponsoring
 2221 | preneed licensee under whose preneed license the branch
 2222 | applicant seeks branch status meets the requirements of such
 2223 | paragraph and is in compliance with all requirements of this

2224 part regarding its preneed license and operations thereunder, a
 2225 branch license shall be issued.

2226 (c) Branch licenses shall be renewed annually by payment
 2227 of a renewal fee set by licensing authority rule and not to
 2228 exceed \$300. Branch licenses may be renewed only so long as the
 2229 preneed license of the sponsoring preneed licensee remains in
 2230 good standing.

2231 (d) Violations of this part by the branch shall be deemed
 2232 to be violations of this part by its sponsoring preneed
 2233 licensee, unless the licensing authority determines that
 2234 extenuating circumstances indicate that it would be unjust to
 2235 attribute the branch's misconduct to the sponsoring preneed
 2236 licensee. Preneed sales of the branch shall be deemed to be
 2237 sales of the sponsoring licensee for purposes of renewal fees
 2238 and trust requirements under this chapter.

2239 (e) The sponsoring preneed licensee shall be responsible
 2240 for performance of preneed contracts entered into by its branch
 2241 if the branch does not timely fulfill any such contract.

2242 (8) ANNUAL TRUST REPORTS.--On or before April 1 of each
 2243 year, the preneed licensee shall file in the form prescribed by
 2244 rule a full and true statement as to the activities of any trust
 2245 established by it pursuant to this part for the preceding
 2246 calendar year.

2247 (9) DEPOSIT OF FUNDS.--All sums collected under this
 2248 section shall be deposited to the credit of the Regulatory Trust
 2249 Fund.

2250 Section 31. Subsection (6) of section 497.456, Florida
 2251 Statutes, as renumbered and amended by section 105 of chapter
 2252 2004-301, Laws of Florida, is amended to read:

2253 497.456 Preneed Funeral Contract Consumer Protection Trust
 2254 Fund.--

2255 (6) Upon the commencement of a delinquency proceeding
 2256 pursuant to this chapter against a preneed licensee, the
 2257 licensing authority may use up to 50 percent of the balance of
 2258 the trust fund not already committed to a prior delinquency
 2259 proceeding ~~solely~~ for the purpose of establishing a receivership
 2260 and providing restitution to preneed contract purchasers and
 2261 their estates due to a preneed licensee's failure to provide the
 2262 benefits of a preneed contract or failure to refund the
 2263 appropriate principal amount by reason of cancellation thereof.
 2264 The balance of the trust fund shall be determined as of the date
 2265 of the delinquency proceeding.

2266 Section 32. Paragraph (h) of subsection (1) and subsection
 2267 (4) of section 497.458, Florida Statutes, as renumbered and
 2268 amended by section 107 of chapter 2004-301, Laws of Florida, are
 2269 amended to read:

2270 497.458 Disposition of proceeds received on contracts.--

2271 (1)

2272 (h) In no event may trust funds be loaned, directly or
 2273 indirectly, to any of the following persons: the preneed
 2274 licensee; any entity under any degree of common control with the
 2275 preneed licensee; any employee, director, full or partial owner,
 2276 or principal of the preneed licensee; or any person related by
 2277 blood or marriage to any of those persons. In no event may trust

2278 funds, directly or indirectly, be invested in or with, or loaned
 2279 to, any business or business venture in which any of the
 2280 following persons have an interest: the preneed licensee, any
 2281 entity under any degree of common control with the preneed
 2282 licensee, any employee, director, full or partial owner, or
 2283 principal of the preneed licensee, or any person related by
 2284 blood or marriage to any of those persons. ~~In no event may said~~
 2285 ~~funds be loaned to a preneed licensee, an affiliate of a preneed~~
 2286 ~~licensee, or any person directly or indirectly engaged in the~~
 2287 ~~burial, funeral home, or cemetery business.~~

2288 ~~(4)(a) Trust funds shall not be invested in or loaned to~~
 2289 ~~or for the benefit of any business venture in which the preneed~~
 2290 ~~licensee, its principals, or persons related by blood or~~
 2291 ~~marriage to the licensee or its principals, have a direct or~~
 2292 ~~indirect interest, without the prior approval of the licensing~~
 2293 ~~authority.~~

2294 ~~(b) Trust funds shall not be loaned to or for the benefit~~
 2295 ~~of the preneed licensee, its principals, or persons related by~~
 2296 ~~blood or marriage to the licensee or its principals, without the~~
 2297 ~~prior approval of the licensing authority.~~

2298 ~~(c) No approval of such loans or investments shall be~~
 2299 ~~given unless it be shown by clear and convincing evidence that~~
 2300 ~~such loan or investment would be in the interest of the preneed~~
 2301 ~~contract holders whose contracts are secured by the trust funds.~~

2302 ~~(d) The licensing authority may adopt rules exempting from~~
 2303 ~~the prohibition of paragraph (1)(h) this subsection, pursuant to~~
 2304 ~~criteria established in such rule, the investment of trust funds~~
 2305 ~~in investments, such as widely and publicly traded stocks and~~

2306 | bonds, notwithstanding that the licensee, its principals, or
 2307 | persons related by blood or marriage to the licensee or its
 2308 | principals have an interest by investment in the same entity,
 2309 | where neither the licensee, its principals, or persons related
 2310 | by blood or marriage to the licensee or its principals have the
 2311 | ability to control the entity invested in, and it would be in
 2312 | the interest of the preneed contract holders whose contracts are
 2313 | secured by the trust funds to allow the investment.

2314 | Section 33. Paragraphs (d) and (h) of subsection (2) and
 2315 | subsection (5) of section 497.466, Florida Statutes, as
 2316 | renumbered and amended by section 115 of chapter 2004-301, Laws
 2317 | of Florida, are amended to read:

2318 | 497.466 Preneed sales agents, license required;
 2319 | application procedures and criteria; responsibility of preneed
 2320 | licensee.--

2321 | (2) APPLICATION PROCEDURES.--

2322 | (d) The applicant shall be required to make disclosure of
 2323 | the applicant's criminal records, if any, as required by s.
 2324 | 497.142. The application shall require the preneed sales agent
 2325 | applicant to disclose whether the preneed sales agent applicant
 2326 | has ever been convicted or found guilty of, or entered a plea of
 2327 | no contest to, regardless of adjudication, any crime in any
 2328 | jurisdiction.

2329 | (h) The applicant shall submit fingerprints in accordance
 2330 | with s. 497.142. The applicant shall be required to submit her
 2331 | or his fingerprints in accordance with part I of this chapter.

2332 | (5) SIMPLIFIED PROCEDURES FOR SUBSEQUENT CHANGE OF
 2333 | SPONSORING LICENSEE.--The board may by rule establish simplified

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2334 requirements and procedures under which any preneed sales agent,
2335 who within the 12 months preceding application under this
2336 subsection held in good standing a preneed sales agent license
2337 under this section, may obtain a preneed sales agent's license
2338 under this section to represent a different sponsoring preneed
2339 licensee. If the applicant has previously submitted fingerprints
2340 to the department pursuant to s. 497.142, the simplified
2341 requirements shall dispense with the requirement for another
2342 submission of fingerprints by the applicant. The licensing
2343 authority may by rule prescribe forms to be used by applicants
2344 under this subsection, which forms may dispense with the
2345 requirement for any information not deemed by the licensing
2346 authority to be necessary to tracking the identity of the
2347 preneed licensee responsible for the activities of the preneed
2348 sales agent. No preneed sales agent licensee whose sales agent
2349 license issued by the board was revoked or suspended or
2350 otherwise terminated while in other than good standing, shall be
2351 eligible to use the simplified requirements and procedures. The
2352 issuance of a preneed sales agent license under this subsection
2353 shall not operate as a bar to any subsequent disciplinary action
2354 relating to grounds arising prior to obtaining the license under
2355 this subsection. There shall be a fee payable to the department
2356 under such simplified procedures, which fee shall be the same as
2357 the fee paid upon initial application for a preneed sales agent
2358 license, except that no fingerprint fee shall be required if
2359 such fingerprint fee is required for initial applications.

2360 Section 34. Section 497.468, Florida Statutes, is created
2361 to read:

2362 497.468 Disclosure of information to the public.--A
 2363 preneed licensee offering to provide burial rights, merchandise,
 2364 or services to the public shall:

2365 (1) Provide by telephone, upon request, accurate
 2366 information regarding the retail prices of burial merchandise
 2367 and services offered for sale by the licensee.

2368 (2) Fully disclose all regularly offered services and
 2369 merchandise prior to the selection of burial services or
 2370 merchandise. The full disclosure required shall identify the
 2371 prices of all burial rights, services, and merchandise provided
 2372 by the licensee.

2373 (3) Not make any false or misleading statements of the
 2374 legal requirement as to the necessity of a casket or outer
 2375 burial container.

2376 (4) Provide a good faith estimate of all fees and costs
 2377 the customer will incur to use any burial rights, merchandise,
 2378 or services purchased.

2379 (5) Provide to the customer, upon the purchase of any
 2380 burial right, merchandise, or service, a written contract, the
 2381 form of which has been approved by the licensing authority
 2382 pursuant to procedures specified by rule.

2383 (a) The written contract shall be completed as to all
 2384 essential provisions prior to the signing of the contract by the
 2385 customer.

2386 (b) The written contract shall provide an itemization of
 2387 the amounts charged for all services, merchandise, and fees,
 2388 which itemization shall be clearly and conspicuously segregated
 2389 from everything else on the written contract.

2390 (c) A description of the merchandise covered by the
 2391 contract to include, when applicable, model, manufacturer, and
 2392 other relevant specifications.

2393 (6) Provide the licensee's policy on cancellation and
 2394 refunds to each customer.

2395 (7) In a manner established by rule of the licensing
 2396 authority, provide on the signature page, clearly and
 2397 conspicuously in boldfaced 10-point type or larger, the
 2398 following:

2399 (a) The words "purchase price."

2400 (b) The amount to be trusted.

2401 (c) The amount to be refunded upon contract cancellation.

2402 (d) The amounts allocated to merchandise, services, and
 2403 cash advances.

2404 (e) The toll-free number of the department which is
 2405 available for questions or complaints.

2406 (f) A statement that the purchaser shall have 30 days from
 2407 the date of execution of contract to cancel the contract and
 2408 receive a total refund of all moneys paid for items not used.

2409 (8) Effective October 1, 2006, display in its offices for
 2410 free distribution to all potential customers, and provide to all
 2411 customers at the time of sale, a brochure explaining how and by
 2412 whom preneed sales are regulated, summarizing consumer rights
 2413 under the law, and providing the name, address, and phone number
 2414 of the department's consumer affairs division. The format and
 2415 content of the brochure shall be as prescribed by rule. The
 2416 licensing authority may cause the publication of such brochures
 2417 and by rule establish requirements that preneed licensees

2418 purchase and make available such brochures as so published, in
 2419 the licensee's offices, to all potential customers.

2420 (9) Provide to each customer a complete description of any
 2421 monument, marker, or memorialization to be placed at the
 2422 gravesite pursuant to the preneed contract.

2423 Section 35. Paragraphs (c), (e), (f), and (h) of
 2424 subsection (2) of section 497.550, Florida Statutes, as
 2425 renumbered and amended by section 118 of chapter 2004-301, Laws
 2426 of Florida, are amended, and paragraph (j) is added to
 2427 subsection (2) of said section, to read:

2428 497.550 Licensure of monument establishments required;
 2429 procedures and criteria.--

2430 (2) APPLICATION PROCEDURES.--A person seeking licensure as
 2431 a monument establishment shall apply for such licensure using
 2432 forms prescribed by rule.

2433 (c) The applicant shall be required to make disclosure of
 2434 the applicant's criminal records, if any, as required by s.
 2435 497.142. ~~The application shall require the applicant to disclose~~
 2436 ~~whether the applicant or any of its principals have ever been~~
 2437 ~~convicted or found guilty of, or entered a plea of no contest~~
 2438 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

2439 (e) The applicant shall submit fingerprints in accordance
 2440 with s. 497.142. ~~The application shall require the applicant's~~
 2441 ~~principals to provide fingerprints in accordance with part I of~~
 2442 ~~this chapter.~~

2443 (f) The applicant shall be a natural person at least 18
 2444 years of age, a corporation, a partnership, or a limited

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2445 ~~liability company formed prior to January 1, 2005, which limited~~
 2446 ~~liability company already holds a license under this chapter.~~

2447 (h) The application shall be signed in accordance with s.
 2448 497.141(12) ~~by the applicant if a natural person, or by the~~
 2449 ~~president of an applicant that is a corporation.~~

2450 (j) Upon receipt of the application and application fee,
 2451 the licensing authority shall inspect the proposed monument
 2452 establishment facilities in accordance with rules of the
 2453 licensing authority.

2454 Section 36. Section 497.551, Florida Statutes, as created
 2455 by chapter 2004-301, Laws of Florida, is amended to read:

2456 497.551 Renewal of monument establishment licensure.--

2457 (1) A monument establishment license must be renewed
 2458 biennially by the licensee.

2459 (2) ~~A monument establishment licensee that does not hold a~~
 2460 ~~preneed sales license as of 90 days prior to the date its~~
 2461 ~~monument establishment license renewal is due, shall renew its~~
 2462 ~~monument establishment license by payment of a renewal fee~~
 2463 ~~established by rule not to exceed \$250.~~

2464 (3) ~~A monument establishment licensee which as of 90 days~~
 2465 ~~prior to its monument establishment license renewal date also~~
 2466 ~~holds a preneed sales license issued under this chapter, shall~~
 2467 ~~renew its monument establishment license by payment of a renewal~~
 2468 ~~fee determined by its total gross aggregate at need and preneed~~
 2469 ~~retail sales for the 12-month period ending 2 full calendar~~
 2470 ~~months prior to the month in which the renewal is required, as~~
 2471 ~~follows:~~

2472 (a) ~~Total sales of \$1 to \$50,000, renewal fee \$1,000.~~

2473 ~~(b) Total sales of \$50,001 to \$250,000, renewal fee~~
 2474 ~~\$1,500.~~

2475 ~~(c) Total sales of \$250,001 to \$500,000, renewal fee~~
 2476 ~~\$2,000.~~

2477 ~~(d) Total sales over \$500,000, renewal fee \$2,500.~~

2478 (3)~~(4)~~ Rules may be adopted providing procedures, forms,
 2479 and uniform timeframes for monument establishment license
 2480 renewals.

2481 Section 37. Subsection (4) of section 497.552, Florida
 2482 Statutes, as created by chapter 2004-301, Laws of Florida, is
 2483 amended to read:

2484 497.552 Required facilities.--Effective January 1, 2006, a
 2485 monument establishment shall at all times have and maintain a
 2486 full-service place of business at a specific street address or
 2487 location in Florida complying with the following requirements:

2488 (4) It shall have facilities on site for inscribing
 2489 monuments and equipment to deliver and install markers and
 2490 monuments.

2491 Section 38. Subsection (5) of section 497.553, Florida
 2492 Statutes, as created by chapter 2004-301, Laws of Florida, is
 2493 amended, and subsection (6) is added to said section, to read:

2494 497.553 Regulation of monument establishments.--

2495 (5) Commencing January 1, 2006, the failure of a monument
 2496 establishment to deliver and install a purchased monument or
 2497 marker by the date agreed in the sales agreement shall entitle
 2498 the customer to a full refund of all amounts paid by the
 2499 customer for the monument and its delivery and installation,
 2500 unless the monument establishment has obtained a written

2501 agreement from the customer extending the delivery date. Such
 2502 refund shall be made within 30 days after receipt by the
 2503 monument establishment of the customer's written request for a
 2504 refund. This subsection does not preclude the purchase and
 2505 installation of a new monument from any other registered
 2506 monument establishment or ~~preneed sales~~ licensee.

2507 (6)(a) A change in ownership shall be promptly reported
 2508 using forms and procedures specified by rule and may require the
 2509 relicensure of the licensee, including reinspection and payment
 2510 of applicable fees, as required by rule.

2511 (b) A change in location shall be promptly reported to the
 2512 licensing authority pursuant to procedures established by rule.
 2513 Operations by the licensee at a new location may not commence
 2514 until an inspection by the licensing authority of the
 2515 facilities, pursuant to rules of the licensing authority, has
 2516 been conducted and passed at the new location.

2517 Section 39. Paragraph (b) of subsection (2) and subsection
 2518 (4) of section 497.554, Florida Statutes, as created by chapter
 2519 2004-301, Laws of Florida, are amended, and subsection (7) is
 2520 added to said section, to read:

2521 497.554 Monument establishment sales representatives.--

2522 (2) APPLICATION PROCEDURES.--Licensure as a monument
 2523 establishment sales agent shall be by submission of an
 2524 application for licensure to the department on a form prescribed
 2525 by rule.

2526 (b) The applicant shall be required to make disclosure of
 2527 the applicant's criminal records, if any, as required by s.
 2528 497.142. The applicant shall submit fingerprints in accordance

2529 ~~with s. 497.142. The application shall require the applicant to~~
 2530 ~~disclose whether the applicant has ever been convicted or found~~
 2531 ~~guilty of, or entered a plea of no contest to, regardless of~~
 2532 ~~adjudication, any crime in any jurisdiction.~~

2533 (4) RENEWAL; TERMINATION OF AUTHORITY.--

2534 (a) A monument establishment sales agent license under
 2535 this section shall be renewed upon payment of a fee determined
 2536 by rule of the licensing authority but not to exceed \$250. Once
 2537 ~~issued, a monument establishment sales agent license of an agent~~
 2538 ~~not licensed to make preneed sales shall remain in effect~~
 2539 ~~without renewal until surrendered, or the sponsoring monument~~
 2540 ~~establishment terminates the agent's authority to sell on behalf~~
 2541 ~~of that monument establishment, or the license is revoked or~~
 2542 ~~suspended by the licensing authority for cause.~~

2543 (b) The monument establishment whose officer signed the
 2544 sales agent application shall terminate that agent's authority
 2545 to sell on behalf of that monument establishment, and the
 2546 monument establishment in writing shall advise the licensing
 2547 authority of such termination within 30 days after the
 2548 termination.

2549 (7) EFFECTIVE DATE.--The provisions of this section shall
 2550 be effective October 1, 2006.

2551 Section 40. Section 497.555, Florida Statutes, as created
 2552 by chapter 2004-301, Laws of Florida, is amended to read:

2553 497.555 Required rules.--Rules shall be adopted
 2554 establishing minimum standards for access to all cemeteries by
 2555 licensed monument establishments for the purpose of delivering
 2556 and installing markers and monuments. In all cases, cemeteries

2557 and monument establishments must comply with these minimum
 2558 standards.

2559 Section 41. Paragraphs (d) and (f) of subsection (2) of
 2560 section 497.602, Florida Statutes, as renumbered and amended by
 2561 section 127 of chapter 2004-301, Laws of Florida, are amended to
 2562 read:

2563 497.602 Direct disposers, license required; licensing
 2564 procedures and criteria; regulation.--

2565 (2) APPLICATION PROCEDURES.--

2566 (d) The applicant shall be required to make disclosure of
 2567 the applicant's criminal records, if any, as required by s.
 2568 497.142. ~~The application shall require the applicant to disclose~~
 2569 ~~whether the applicant has ever been convicted or found guilty~~
 2570 ~~of, or entered a plea of no contest to, regardless of~~
 2571 ~~adjudication, any crime in any jurisdiction.~~

2572 (f) The applicant shall submit fingerprints in accordance
 2573 with s. 497.142. ~~The application shall require the applicant to~~
 2574 ~~provide fingerprints in accordance with part I of this chapter.~~

2575 Section 42. Paragraphs (f), (h), and (j) of subsection
 2576 (2), paragraphs (a) and (b) of subsection (3), and subsection
 2577 (7) of section 497.604, Florida Statutes, as renumbered and
 2578 amended by section 129 of chapter 2004-301, Laws of Florida, are
 2579 amended, and paragraph (f) is added to subsection (9) of said
 2580 section, to read:

2581 497.604 Direct disposal establishments, license required;
 2582 licensing procedures and criteria; license renewal;
 2583 regulation.--

2584 (2) APPLICATION PROCEDURES.--

2585 (f) The applicant shall be required to make disclosure of
 2586 the applicant's criminal records, if any, as required by s.
 2587 497.142. ~~The application shall require the applicant to disclose~~
 2588 ~~whether the applicant or any of the applicant's principals~~
 2589 ~~including its proposed supervising licensee has ever been~~
 2590 ~~convicted or found guilty of, or entered a plea of no contest~~
 2591 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

2592 (h) The applicant shall submit fingerprints in accordance
 2593 with s. 497.142. ~~The application shall require the applicant and~~
 2594 ~~its principals to provide fingerprints in accordance with part I~~
 2595 ~~of this chapter.~~

2596 (j) The application shall be signed in accordance with s.
 2597 497.141(12) ~~by the applicant if a natural person or by the~~
 2598 ~~president of an applicant that is not a natural person.~~

2599 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
 2600 application for licensure under this section, accompanied by the
 2601 required fee, shall be approved if the licensing authority
 2602 determines that the following conditions are met:

2603 (a) The applicant is a natural person at least 18 years of
 2604 age, a corporation, a partnership, or a limited liability
 2605 company ~~formed prior to January 1, 2006, which limited liability~~
 2606 ~~company already holds a license under this chapter.~~

2607 (b) The applicant does or will prior to commencing
 2608 operations under the license comply with all requirements of
 2609 this chapter relating to the license applied for. The applicant
 2610 shall have passed an inspection prior to issuance of a license
 2611 under this section, in accordance with rules of the licensing
 2612 authority.

2613 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee under
 2614 this section must provide notice as required by rule prior to
 2615 any change in location or control of the licensee or licensed
 2616 person in charge of the licensee's operations. A change in
 2617 control is subject to approval by the licensing authority and to
 2618 reasonable conditions imposed by the licensing authority, for
 2619 the protection of the public to ensure compliance with this
 2620 chapter. Operations by the licensee at a new location may not
 2621 commence until an inspection by the licensing authority of the
 2622 facilities at the new location, pursuant to rules of the
 2623 licensing authority, has been conducted and passed. ~~Each~~
 2624 ~~licensee under this section must provide notice as required by~~
 2625 ~~rule prior to any change in location or control of the licensee~~
 2626 ~~or licensed person in charge of the licensee's operations. Any~~
 2627 ~~such change is subject to disapproval or to reasonable~~
 2628 ~~conditions imposed by the licensing authority, for the~~
 2629 ~~protection of the public to ensure compliance with this chapter.~~

2630 (9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.--

2631 (f) A direct disposal establishment shall retain all
 2632 signed contracts for a period of at least 2 years.

2633 Section 43. Paragraphs (f), (h), and (j) of subsection
 2634 (2), paragraph (b) of subsection (3), subsection (7), and
 2635 paragraphs (i), (j), and (k) of subsection (9) of section
 2636 497.606, Florida Statutes, as renumbered and amended by section
 2637 131 of chapter 2004-301, Laws of Florida, are amended to read:

2638 497.606 Cinerator facility, licensure required; licensing
 2639 procedures and criteria; license renewal; regulation.--

2640 (2) APPLICATION PROCEDURES.--

2641 (f) The applicant shall be required to make disclosure of
 2642 the applicant's criminal records, if any, as required by s.
 2643 497.142. ~~The application shall require the applicant to disclose~~
 2644 ~~whether the applicant or any of the applicant's principals~~
 2645 ~~including its proposed supervising licensee has ever been~~
 2646 ~~convicted or found guilty of, or entered a plea of no contest~~
 2647 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

2648 (h) The applicant shall submit fingerprints in accordance
 2649 with s. 497.142. ~~The application shall require the applicant and~~
 2650 ~~its principals to provide fingerprints in accordance with part I~~
 2651 ~~of this chapter.~~

2652 (j) The application shall be signed in accordance with s.
 2653 497.141(12) by the applicant if a natural person or by the
 2654 ~~president of an applicant that is not a natural person.~~

2655 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
 2656 application for licensure under this section, accompanied by the
 2657 required fee, shall be approved if the licensing authority
 2658 determines that the following conditions are met:

2659 (b) The applicant is a natural person at least 18 years of
 2660 age, a corporation, a partnership, or a limited liability
 2661 company formed ~~prior to January 1, 2006, which limited liability~~
 2662 ~~company already holds a license under this chapter.~~

2663 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee under
 2664 this section must provide notice as required by rule prior to
 2665 any change in location or, control of the licensee, or licensed
 2666 person in charge of the licensee's operations. A change in
 2667 control is subject to approval by the licensing authority and to
 2668 reasonable conditions ~~Any such change is subject to disapproval~~

2669 ~~er to reasonable conditions~~ imposed by the licensing authority,
 2670 for the protection of the public to ensure compliance with this
 2671 chapter. Operations by the licensee at a new location may not
 2672 commence until an inspection by the licensing authority of the
 2673 facilities, pursuant to rules of the licensing authority, has
 2674 been conducted and passed at the new location.

2675 (9) REGULATION OF CINERATOR FACILITIES.--

2676 ~~(i) There shall be adopted by rule criteria for acceptable~~
 2677 ~~cremation and alternative containers.~~

2678 (i)(j) There shall be rules adopted requiring each
 2679 facility to submit periodic reports to the department which
 2680 include the names of persons cremated, the date and county of
 2681 death, the name of each person supervising each cremation, the
 2682 name and license number of the establishment requesting
 2683 cremation, and the types of containers used to hold the body
 2684 during cremation.

2685 (j)(k) Each cinerator facility must be inspected prior to
 2686 the initial issuance of its license and annually thereafter
 2687 ~~issuance and renewal of its license~~ and shall:

2688 1. Maintain one or more retorts for the reduction of dead
 2689 human bodies.

2690 2. Maintain refrigeration that satisfies the standards set
 2691 by the Department of Health and contains a sufficient
 2692 refrigerated space ~~number of shelves~~ for the average daily
 2693 number of bodies stored, if unembalmed bodies are kept at the
 2694 site.

2695 3. Maintain sufficient pollution control equipment to
 2696 comply with requirements of the Department of Environmental
 2697 Protection in order to secure annual approved certification.

2698 4. Either have on site or immediately available sufficient
 2699 gasketed ~~sealed~~ containers of a type required for the
 2700 transportation of bodies as specified in applicable state rules.

2701 5. Maintain the premises in a clean and sanitary
 2702 condition.

2703 6. Have appropriate Department of Environmental Protection
 2704 permits.

2705 ~~7. Retain all signed contracts for a period of at least 2~~
 2706 ~~years.~~

2707 Section 44. Subsection (3) of section 497.607, Florida
 2708 Statutes, as renumbered and amended by section 132 of chapter
 2709 2004-301, Laws of Florida, is amended, and subsection (4) is
 2710 added to said section, to read:

2711 497.607 Cremation; procedure required.--

2712 (3) Pursuant to the request of a legally authorized person
 2713 and incidental to final disposition, cremation may be performed
 2714 on parts of human remains. ~~This subsection does not authorize~~
 2715 ~~the cremation of body parts as defined in s. 497.005.~~

2716 (4) The licensing authority shall by no later than October
 2717 1, 2008, adopt rules regarding the cremation of human remains by
 2718 chemical means. Such rules shall define cremation by chemical
 2719 means, and shall specify such acceptable or required processes,
 2720 equipment, and procedures for cremation by chemical means as are
 2721 reasonably necessary for the protection of the public health,
 2722 safety, and welfare. Cremation by chemical means shall not be

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2723 authorized in this state except when done in accordance with
 2724 such rules and by a cinerator facility licensed under this
 2725 chapter. In regard to unclaimed human remains delivered pursuant
 2726 to s. 406.50 to the control of the anatomical board of this
 2727 state headquartered at the University of Florida Health Science
 2728 Center, the provisions of this subsection and chapter shall not
 2729 be construed to prohibit the anatomical board from causing at
 2730 any time before or after October 1, 2008, the final disposition
 2731 of such unclaimed human remains through cremation by chemical
 2732 means or otherwise, when performed in facilities owned and
 2733 operated by the anatomical board or the University of Florida
 2734 Health Science Center pursuant to and using such processes,
 2735 equipment, and procedures as the anatomical board determines to
 2736 be proper and adequate.

2737 Section 45. Section 152 of chapter 2004-301, Laws of
 2738 Florida, is amended to read:

2739 Section 152. (1) The rules of the Board of Funeral
 2740 Directors and Embalmers and of the Department of Business and
 2741 Professional Regulation relating to the Board of Funeral
 2742 Directors and Embalmers or implementation of chapter 470,
 2743 Florida Statutes, which were in effect at 11:59 p.m. on the day
 2744 prior to this act taking effect shall become on the subjects
 2745 which they address the rules of the Department of Financial
 2746 Services and the Board of Funeral, Cemetery, and Consumer
 2747 Services and shall remain in effect until amended or repealed in
 2748 the manner provided by law.

2749 (2) The rules of the Board of Funeral and Cemetery
 2750 Services which were in effect at 11:59 p.m. on the day prior to

2751 this act taking effect shall become on the subjects which they
 2752 address the rules of the Department of Financial Services and
 2753 the Board of Funeral, Cemetery, and Consumer Services and shall
 2754 remain in effect until specifically amended or repealed in the
 2755 manner provided by law.

2756 (3) The rules of the Department of Financial Services
 2757 relating to chapter 497, Florida Statutes, which were in effect
 2758 at 11:59 p.m. ~~P.M.~~ on the day prior to this act taking effect
 2759 shall continue in force until thereafter repealed or amended
 2760 pursuant to chapter 120, Florida Statutes, and this act.

2761 Section 46. Subsection (3) of section 626.785, Florida
 2762 Statutes, is amended to read:

2763 626.785 Qualifications for license.--

2764 (3) Notwithstanding any other provisions of this chapter,
 2765 a funeral director, a direct disposer, or an employee of a
 2766 funeral establishment which holds a certificate of authority
 2767 pursuant to s. 497.405 may obtain an agent's license to sell
 2768 only policies of life insurance covering the expense of a
 2769 prearrangement for funeral services or merchandise so as to
 2770 provide funds at the time the services and merchandise are
 2771 needed. The face amount of insurance covered by any such policy
 2772 shall not exceed \$12,500 ~~\$7,500~~.

2773 Section 47. Sections 497.275, 497.388, and 497.556,
 2774 Florida Statutes, are repealed.

2775 Section 48. This act shall take effect October 1, 2005.