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LEGISLATIVE ACTION

Senate

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House

Senator Baxley moved the following:

Senate Amendment

Delete lines 275 - 506

and insert:

licenses, may serve as a funeral director in charge for not more
than a total of two of the following: funeral establishments,
centralized embalming facilities, direct disposal
establishments, or cinerator facilities, as long as the two
locations are not more than 75 miles apart as measured in a
straight line ~~The full-time funeral director in charge must have~~
~~an active license and may not be the full-time funeral director~~



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12 ~~in charge of any other funeral establishment or of any other~~
13 ~~direct disposal establishment. Effective October 1, 2010, The~~
14 ~~full-time~~ funeral director in charge must hold an active, valid
15 funeral director license and an active, valid embalmer license,
16 or combination license as a funeral director and an embalmer.
17 However, a funeral director may serve as funeral director in
18 charge without an embalmer license or combination license if the
19 establishment does not have an embalming room on site or may
20 continue as the ~~full-time~~ funeral director in charge without an
21 embalmer or combination license if, as of September 30, 2010:

22 (a) The funeral establishment and the funeral director both
23 have active, valid licenses.

24 (b) The funeral director is currently the full-time funeral
25 director in charge of the funeral establishment.

26 (c) The name of the funeral director was included, as
27 required in subsection (4), in the funeral establishment's most
28 recent application for issuance or renewal of its license or was
29 included in the establishment's report of change provided under
30 paragraph (12)(c).

31 Section 7. Paragraph (b) of subsection (2) of section
32 497.385, Florida Statutes, is amended to read:

33 497.385 Removal services; refrigeration facilities;
34 centralized embalming facilities.-In order to ensure that the
35 removal, refrigeration, and embalming of all dead human bodies
36 is conducted in a manner that properly protects the public's
37 health and safety, the licensing authority shall adopt rules to
38 provide for the licensure of removal services, refrigeration
39 facilities, and centralized embalming facilities operated
40 independently of funeral establishments, direct disposal



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41 establishments, and cinerator facilities.

42 (2) CENTRALIZED EMBALMING FACILITIES.—In order to ensure
43 that all funeral establishments have access to embalming
44 facilities that comply with all applicable health and safety
45 requirements, the licensing authority shall adopt rules to
46 provide for the licensure and operation of centralized embalming
47 facilities and shall require, at a minimum, the following:

48 (b) Each licensed centralized embalming facility shall have
49 at least one ~~full-time~~ embalmer in charge. The ~~full-time~~
50 embalmer in charge must have an active, valid embalmer license
51 or combination license as a funeral director and embalmer ~~and~~
52 ~~may not be the full-time embalmer in charge, full-time funeral~~
53 ~~director in charge, or full-time direct disposer in charge of~~
54 ~~any other establishment licensed under this chapter. A funeral~~
55 director in charge, with appropriate, active licenses, may serve
56 as a funeral director in charge for not more than a total of two
57 of the following: funeral establishments, centralized embalming
58 facilities, direct disposal establishments, or cinerator
59 facilities, as long as the two locations are not more than 75
60 miles apart as measured in a straight line.

61 Section 8. Paragraph (b) of subsection (2) of section
62 497.452, Florida Statutes, is amended, and paragraph (a) of that
63 subsection is republished, to read:

64 497.452 Preneed license required.—

65 (2) (a) No person may receive any funds for payment on a
66 preneed contract who does not hold a valid preneed license.

67 (b) ~~The provisions of Paragraph (a) does~~ ~~de~~ not apply to a
68 trust company ~~operating pursuant to chapter 660~~, to a national
69 or state bank holding trust powers, or to a federal or state



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70 savings and loan association having trust powers which company,
71 bank, or association receives any money in trust pursuant to the
72 sale of a preneed contract.

73 Section 9. Subsection (8) of section 497.453, Florida
74 Statutes, is amended to read:

75 497.453 Application for preneed license, procedures and
76 criteria; renewal; reports.—

77 (8) ANNUAL TRUST REPORTS.—

78 (a) On or before April 1 of each year, the preneed licensee
79 shall file in the form prescribed by rule a full and true
80 statement as to the activities of any trust established by it
81 pursuant to this part for the preceding calendar year.

82 (b) Any preneed licensee or group of preneed licensees
83 under common control that in aggregate sold in this state 15,000
84 or more preneed contracts in the preceding year shall
85 additionally comply with this paragraph.

86 1. As to each year, which is referred to in this paragraph
87 as "Year 1," in which any preneed licensee or group of preneed
88 licensees under common control in aggregate sell in this state
89 15,000 or more preneed contracts, the licensee or licensees
90 shall, during the following year, which is referred to in this
91 paragraph as "Year 2":

92 a. Prepare in regard to each such licensee a report of
93 preneed operations in this state in Year 1, on a form prescribed
94 by department rule;

95 b. Cause and pay for the report to be audited by an
96 independent certified public accounting firm concerning the
97 accuracy and fairness of the presentation of the data provided
98 in the report; and



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99 c. By December 31 of Year 2, provide the report to the
100 division, along with a written and signed opinion of the
101 certified public accounting firm concerning the accuracy and
102 fairness of the presentation of the data reported in the report.

103 2. The report required under subparagraph 1. shall be
104 prepared and submitted using forms and procedures specified by
105 department rule. The department may adopt rules specifying the
106 format of, and procedures for, the report and the information to
107 be included in the report.

108 Section 10. Paragraph (c) of subsection (1) of section
109 497.458, Florida Statutes, is amended to read:

110 497.458 Disposition of proceeds received on contracts.—

111 (1)

112 (c) Such deposits shall be made within 30 days after the
113 end of the calendar month in which payment is received, under
114 the terms of a revocable trust instrument entered into with a
115 trust company ~~operating pursuant to chapter 660~~, with a national
116 or state bank holding trust powers, or with a federal or state
117 savings and loan association holding trust powers.

118 Section 11. Subsection (7) is added to section 497.459,
119 Florida Statutes, to read:

120 497.459 Cancellation of, or default on, preneed contracts;
121 required notice.—

122 (7) NOTICE TO PURCHASER OR LEGALLY AUTHORIZED PERSON.—

123 (a) To ensure the performance of unfulfilled preneed
124 contracts, upon the occurrence of the earliest of any of the
125 following events, a preneed licensee shall provide to the
126 purchaser or to the beneficiary's legally authorized person
127 written notice of the preneed licensee's intent to distribute



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128 funds in accordance with the terms of the preneed contract, if
129 any obligation of the preneed licensee remains to be fulfilled
130 under the contract:

131 1. Fifty years after the date of execution of the preneed
132 contract by the purchaser.

133 2. The beneficiary of the preneed contract attains the age
134 of 105 years of age or older.

135 3. The social security number of the beneficiary of the
136 preneed contract, as shown on the contract, is contained within
137 the United States Social Security Administration Death Master
138 File.

139 (b)1. The notice in paragraph (a) must be provided by
140 certified mail, registered mail, or permitted delivery service,
141 return receipt requested, to the last known mailing address of
142 the purchaser or the beneficiary's legally authorized person,
143 whichever is applicable, as provided to the preneed licensee. If
144 the notice is returned as undeliverable within 30 calendar days
145 after the preneed licensee sent the notice, the trustee shall
146 perform a diligent search and inquiry to obtain a different
147 address for the purchaser or the beneficiary's legally
148 authorized person, whichever is applicable. For purposes of this
149 subparagraph, any address known and used by the purchaser or the
150 beneficiary's legally authorized person, whichever is
151 applicable, for sending regular mailings or other communications
152 from the purchaser or the beneficiary's legally authorized
153 person, whichever is applicable, to the preneed licensee or any
154 address produced through a current address service or searchable
155 database shall be included with other addresses produced from
156 the diligent search and inquiry, if any. If the trustee's



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157 diligent search and inquiry produces an address different from
158 the notice address, the trustee shall mail a copy of the notice
159 by certified mail, registered mail, or permitted delivery
160 service, return receipt requested, to any and all addresses
161 produced as a result of the diligent search and inquiry.

162 2. If the purchaser or the beneficiary's legally authorized
163 person, whichever is applicable, fails to respond to such notice
164 within 120 days after delivery of the last mailed notice under
165 subparagraph 1., the funds held in trust must be distributed in
166 accordance with the terms of the preneed contract, the trust
167 agreement, and any applicable provisions of chapter 717.

168 (c) This subsection does not affect a purchaser's rights to
169 cancel the preneed contract and receive a refund or a preneed
170 licensee's obligations to refund established by this chapter.

171 (d) The licensing authority shall have authority to adopt
172 rules for the review and approval of notice forms used by
173 preneed licensees to provide notice under this subsection.

174 Section 12. Subsection (2) of section 497.464, Florida
175 Statutes, is amended to read:

176 497.464 Alternative preneed contracts.—

177 (2) The contract must require that a trust be established
178 by the preneed licensee on behalf of, and for the use, benefit,
179 and protection of, the purchaser and that the trustee must be a
180 trust company ~~operating pursuant to chapter 660~~, a national or
181 state bank holding trust powers, or a federal or state savings
182 and loan association holding trust powers.

183 Section 13. Subsection (8) of section 497.604, Florida
184 Statutes, is amended to read:

185 497.604 Direct disposal establishments, license required;



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186 licensing procedures and criteria; license renewal; regulation;
187 display of license.—

188 (8) SUPERVISION OF FACILITIES.—

189 (a) ~~Effective October 1, 2010,~~ Each direct disposal
190 establishment shall have a ~~one full-time licensed~~ funeral
191 director ~~acting as the direct disposer~~ in charge, subject to s.
192 497.380(7). However, a licensed direct disposer may continue
193 acting as the direct disposer in charge, if, as of September 30,
194 2010:

195 1. The direct disposal establishment and the licensed
196 direct disposer both have active, valid licenses.

197 2. The licensed direct disposer is currently acting as the
198 direct disposer in charge of the direct disposal establishment.

199 3. The name of the licensed direct disposer was included,
200 as required in paragraph (2)(c), in the direct disposal
201 establishment's most recent application for issuance or renewal
202 of its license or was included in the establishment's notice of
203 change provided under subsection (7).

204 (b) The ~~licensed~~ funeral director in charge or ~~licensed~~
205 direct disposer in charge of a direct disposal establishment
206 must be reasonably available to the public during normal
207 business hours for the establishment ~~and may be in charge of~~
208 ~~only one direct disposal establishment~~. The ~~licensed~~ funeral
209 director in charge or ~~licensed~~ direct disposer in charge of the
210 establishment is responsible for making sure the facility, its
211 operations, and all persons employed in the facility comply with
212 all applicable state and federal laws and rules. A funeral
213 director in charge, with appropriate, active licenses, may serve
214 as a funeral director in charge for not more than a total of two



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215 of the following: funeral establishments, centralized embalming
216 facilities, direct disposal establishments, or cinerator
217 facilities, as long as the two locations are not more than 75
218 miles apart as measured in a straight line.

219 Section 14. Subsection (8) of section 497.606, Florida
220 Statutes, is amended to read:

221 497.606 Cinerator facility, licensure required; licensing
222 procedures and criteria; license renewal; regulation.—

223 (8) SUPERVISION OF FACILITIES.—Each cinerator facility
224 shall have a ~~one full-time licensed~~ direct disposer in charge or
225 a ~~licensed~~ funeral director in charge for that facility. ~~Such~~
226 ~~person may be in charge of only one facility.~~ Such ~~licensed~~
227 funeral director in charge or ~~licensed~~ direct disposer in charge
228 shall be responsible for making sure the facility, its
229 operations, and all persons employed in the facility comply with
230 all applicable state and federal laws and rules. A funeral
231 director in charge, with appropriate, active licenses, may serve
232 as a funeral director in charge for not more than a total of two
233 of the following: funeral establishments, centralized embalming
234 facilities, direct disposal establishments, or cinerator
235 facilities, as long as the two locations are not more than 75
236 miles apart as measured