

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Insurance & Banking  
 2 Subcommittee

3 Representative Fetterhoff offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 169-552 and insert:

7 benefits payable to an employee of a state agency under s.  
 8 112.1816(2), and court-awarded attorney ~~attorney's~~ fees in other  
 9 proceedings against the state except for such awards in eminent  
 10 domain or for inverse condemnation or for awards by the Public  
 11 Employees Relations Commission. A party to a suit in any court,  
 12 to be entitled to have his or her attorney ~~attorney's~~ fees paid  
 13 by the state or any of its agencies, must serve a copy of the  
 14 pleading claiming the fees on the Department of Financial  
 15 Services; and thereafter the department shall be entitled to

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16 participate with the agency in the defense of the suit and any  
17 appeal thereof with respect to such fees.

18 Section 3. Section 284.31, Florida Statutes, is amended to  
19 read:

20 284.31 Scope and types of coverages; separate accounts.—  
21 The Insurance Risk Management Trust Fund must ~~shall~~, unless  
22 specifically excluded by the Department of Financial Services,  
23 cover all departments of the State of Florida and their  
24 employees, agents, and volunteers and must ~~shall~~ provide  
25 separate accounts for workers' compensation, general liability,  
26 fleet automotive liability, federal civil rights actions under  
27 42 U.S.C. s. 1983 or similar federal statutes, benefits payable  
28 under s. 112.1816(2), and court-awarded attorney ~~attorney's~~ fees  
29 in other proceedings against the state except for such awards in  
30 eminent domain or for inverse condemnation or for awards by the  
31 Public Employees Relations Commission. Unless specifically  
32 excluded by the Department of Financial Services, the Insurance  
33 Risk Management Trust Fund must ~~shall~~ provide fleet automotive  
34 liability coverage to motor vehicles titled to the state, or to  
35 any department of the state, when such motor vehicles are used  
36 by community transportation coordinators performing, under  
37 contract to the appropriate department of the state, services  
38 for the transportation disadvantaged under part I of chapter  
39 427. Such fleet automotive liability coverage is ~~shall be~~  
40 primary and is ~~shall be~~ subject to the provisions of s. 768.28

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41 and parts II and III of chapter 284, and applicable rules  
42 adopted thereunder, and the terms and conditions of the  
43 certificate of coverage issued by the Department of Financial  
44 Services.

45 Section 4. Section 284.385, Florida Statutes, is amended  
46 to read:

47 284.385 Reporting and handling of claims.—

48 (1) All departments covered by the State Risk Management  
49 Trust Fund under this part shall immediately report all known or  
50 potential claims to the Department of Financial Services for  
51 handling, except employment complaints that ~~which~~ have not been  
52 filed with the Florida Human Relations Commission, Equal  
53 Employment Opportunity Commission, or any similar agency. When  
54 deemed necessary, the Department of Financial Services shall  
55 assign or reassign the claim to counsel. The assigned counsel  
56 shall report regularly to the Department of Financial Services  
57 or to the covered department on the status of any such claims or  
58 litigation as required by the Department of Financial Services.  
59 ~~No~~ Such claims may not claim shall be compromised or settled for  
60 monetary compensation without the prior approval of the  
61 Department of Financial Services and prior notification to the  
62 covered department. All departments shall cooperate with the  
63 Department of Financial Services in its handling of claims. The  
64 Department of Financial Services and the Department of  
65 Management Services, with the cooperation of the state attorneys

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66 and the clerks of the courts, shall develop a system to  
67 coordinate the exchange of information concerning claims for and  
68 against the state, its agencies, and its subdivisions, to assist  
69 in collection of amounts due to them. The covered department is  
70 responsible ~~shall have the responsibility~~ for the settlement of  
71 any claim for injunctive or affirmative relief under 42 U.S.C.  
72 s. 1983 or similar federal or state statutes. The payment of a  
73 settlement or judgment for any claim covered and reported under  
74 this part may ~~shall~~ be made only from the State Risk Management  
75 Trust Fund.

76 (2) Benefits provided under s. 112.1816(2) may not be paid  
77 from the fund until each request for any out-of-pocket  
78 deductible, copayment, or coinsurance costs and one-time cash  
79 payout has been validated and approved by the Department of  
80 Management Services.

81 Section 5. Section 284.45, Florida Statutes, is created to  
82 read:

83 284.45 Sexual harassment victims.—

84 (1) An individual working for an entity covered by the  
85 State Risk Management Trust Fund may not engage in retaliatory  
86 conduct of any kind against a sexual harassment victim. As used  
87 in this section, the term "sexual harassment victim" means an  
88 individual employed, or being considered for employment, with an  
89 entity participating in the State Risk Management Trust Fund who  
90 becomes a victim of workplace sexual harassment through the

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91 course of employment, or while being considered for employment,  
92 with the entity.

93 (2) The willful and knowing dissemination of personal  
94 identifying information of a sexual harassment victim, which is  
95 confidential and exempt pursuant to s. 119.071(2)(n), to any  
96 party other than a governmental entity in furtherance of its  
97 official duties or pursuant to a court order is a misdemeanor of  
98 the first degree, punishable as provided in s. 775.082.

99 Section 6. Subsections (1), (2), (3), (6), and (8) of  
100 section 497.101, Florida Statutes, are amended to read:

101 497.101 Board of Funeral, Cemetery, and Consumer Services;  
102 membership; appointment; terms.—

103 (1) The Board of Funeral, Cemetery, and Consumer Services  
104 is created within the Department of Financial Services and shall  
105 consist of 10 members, 9 of whom shall be appointed by the  
106 Governor from nominations made by the Chief Financial Officer  
107 and confirmed by the Senate. The Chief Financial Officer shall  
108 nominate one to three persons for each of the nine vacancies on  
109 the board, and the Governor shall fill each vacancy on the board  
110 by appointing one of the ~~three~~ persons nominated by the Chief  
111 Financial Officer to fill that vacancy. If the Governor objects  
112 to each of the ~~three~~ nominations for a vacancy, she or he shall  
113 inform the Chief Financial Officer in writing. Upon notification  
114 of an objection by the Governor, the Chief Financial Officer  
115 shall submit one to three additional nominations for that

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116 vacancy until the vacancy is filled. One member must be the  
117 State Health Officer or her or his designee.

118 (2) Two members of the board must ~~shall~~ be funeral  
119 directors licensed under part III of this chapter who are  
120 associated with a funeral establishment. One member of the board  
121 must ~~shall~~ be a funeral director licensed under part III of this  
122 chapter who is associated with a funeral establishment licensed  
123 under part III of this chapter which ~~that~~ has a valid preneed  
124 license issued pursuant to this chapter and who owns or operates  
125 a cinerator facility approved under chapter 403 and licensed  
126 under part VI of this chapter. Two members of the board must  
127 ~~shall~~ be persons whose primary occupation is associated with a  
128 cemetery company licensed pursuant to this chapter. Two ~~Three~~  
129 members of the board must ~~shall~~ be consumers who are residents  
130 of this ~~the~~ state, have never been licensed as funeral directors  
131 or embalmers, are not connected with a cemetery or cemetery  
132 company licensed pursuant to this chapter, and are not connected  
133 with the death care industry or the practice of embalming,  
134 funeral directing, or direct disposition. One of the two  
135 consumer members must ~~shall~~ be at least 60 years of age, ~~and one~~  
136 ~~shall be licensed as a certified public accountant under chapter~~  
137 473. One member of the board must be a consumer who is a  
138 resident of this state; is licensed as a certified public  
139 accountant under chapter 473; has never been licensed as a  
140 funeral director or an embalmer; is not a principal or an

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141 employee of any licensee licensed under this chapter; and does  
142 not otherwise have control, as defined in s. 497.005, over any  
143 licensee licensed under this chapter. One member of the board  
144 must ~~shall~~ be a principal of a monument establishment licensed  
145 under this chapter as a monument builder. One member must ~~shall~~  
146 be the State Health Officer or her or his designee. There may  
147 ~~shall~~ not be two or more board members who are principals or  
148 employees of the same company or partnership or group of  
149 companies or partnerships under common control.

150 (3) Board members shall be appointed for terms of 4 years,  
151 and the State Health Officer shall serve as long as that person  
152 holds that office. The designee of the State Health Officer  
153 shall serve at the pleasure of the Governor. ~~When the terms of~~  
154 ~~the initial board members expire, the Chief Financial Officer~~  
155 ~~shall stagger the terms of the successor members as follows: one~~  
156 ~~funeral director, one cemetery representative, the monument~~  
157 ~~builder, and one consumer member shall be appointed for terms of~~  
158 ~~2 years, and the remaining members shall be appointed for terms~~  
159 ~~of 4 years. All subsequent terms shall be for 4 years.~~

160 (6) The board shall maintain its headquarters and records  
161 ~~of the board shall be~~ in the Division of Funeral, Cemetery, and  
162 Consumer Services of the Department of Financial Services in the  
163 City of Tallahassee. The board may be contacted through the  
164 Division of Funeral, Cemetery, and Consumer Services of the  
165 Department of Financial Services in the City of Tallahassee. The

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166 Chief Financial Officer shall annually appoint from among the  
167 board members a chair and vice chair of the board. The board  
168 shall meet at least every 6 months, and more often as necessary.  
169 Special meetings of the board shall be convened upon the  
170 direction of the Chief Financial Officer. A quorum is necessary  
171 for the conduct of business by the board. The participation by a  
172 board member in a meeting conducted through communications media  
173 technology constitutes that individual's presence at such  
174 meeting. Board members appearing at a board meeting in person as  
175 well as board members appearing through the use of  
176 communications media technology shall be counted for the  
177 determination of a quorum. As used in this subsection,  
178 "communications media technology" means the electronic  
179 transmission of printed matter, audio, full-motion video,  
180 freeze-frame video, compressed video, and digital video by any  
181 method available. Unless otherwise provided by law, six board  
182 members shall constitute a quorum for the conduct of the board's  
183 business.

184 ~~(8) The department shall adopt rules establishing forms by~~  
185 ~~which persons may apply for membership on the board and~~  
186 ~~procedures for applying for such membership. Such forms shall~~  
187 ~~require disclosure of the existence and nature of all current~~  
188 ~~and past employments by or contracts with, and direct or~~  
189 ~~indirect affiliations or interests in, any entity or business~~  
190 ~~that at any time was licensed by the board or by the former~~

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191 ~~Board of Funeral and Cemetery Services or the former Board of~~  
192 ~~Funeral Directors and Embalmers or that is or was otherwise~~  
193 ~~involved in the death care industry, as specified by department~~  
194 ~~rule.~~

195 Section 7. Subsections (2) through (5) of section 497.157,  
196 Florida Statutes, are redesignated as subsections (4) through  
197 (7), respectively, new subsections (2) and (3) and subsection  
198 (8) are added to that section, and present subsection (3) of  
199 that section is amended, to read:

200 497.157 Unlicensed practice; remedies concerning  
201 violations by unlicensed persons.—

202 (2) A person may not be, act as, or advertise or hold  
203 himself or herself out to be a funeral director, an embalmer, or  
204 a direct disposer unless he or she is currently licensed by the  
205 department.

206 (3) A person may not be, act as, or advertise or hold  
207 himself or herself out to be a preneed sales agent unless he or  
208 she is currently licensed by the department and appointed by a  
209 preneed main licensee for which he or she is executing preneed  
210 contracts.

211 (5)(3) Where the department determines that an emergency  
212 exists regarding any violation of this chapter by any unlicensed  
213 person or entity, the department may issue and serve an  
214 immediate final order upon such unlicensed person or entity, in  
215 accordance with s. 120.569(2)(n). Such an immediate final order

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216 may impose such prohibitions and requirements as are reasonably  
217 necessary to protect the public health, safety, and welfare, and  
218 is ~~shall be~~ effective when served.

219 (a) For the purpose of enforcing such an immediate final  
220 order, the department may file an emergency or other proceeding  
221 in the circuit courts of the state seeking enforcement of the  
222 immediate final order by injunctive or other order of the court.  
223 The court shall issue its injunction or other order enforcing  
224 the immediate final order pending administrative resolution of  
225 the matter under subsection (4) ~~(2)~~, unless the court determines  
226 that such action would work a manifest injustice under the  
227 circumstances. Venue for judicial actions under this paragraph  
228 must ~~shall~~ be, at the election of the department, in the courts  
229 of Leon County, or in a county where the respondent resides or  
230 has a place of business.

231 (b) After serving an immediate final order to cease and  
232 desist upon any person or entity, the department shall within 10  
233 days issue and serve upon the same person or entity an  
234 administrative complaint as set forth in subsection (4) ~~(2)~~,  
235 except that, absent order of a court to the contrary, the  
236 immediate final order will ~~shall~~ be effective throughout the  
237 pendency of proceedings under subsection (4) ~~(2)~~.

238 (8) Any person who is not licensed under this chapter and  
239 who engages in activity requiring licensure under this chapter

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240 commits a felony of the third degree, punishable as provided in  
241 s. 775.082, s. 775.083, or s. 775.084.

242 Section 8. Subsection (6) of section 497.159, Florida  
243 Statutes, is amended to read:

244 497.159 Crimes.—

245 ~~(6) Any person who is not licensed under this chapter who~~  
246 ~~engages in activity requiring licensure under this chapter,~~  
247 ~~commits a misdemeanor of the second degree, punishable as~~  
248 ~~provided in s. 775.082 or s. 775.083.~~

249 Section 9. Subsection (4) of section 497.375, Florida  
250 Statutes, is amended to read:

251 497.375 Funeral directing; licensure of a funeral director  
252 intern.—

253 (4) (a) A funeral director intern license expires 1 year  
254 after issuance and, except as provided in paragraph (b),  
255 paragraph (c) or paragraph ~~(ee)~~, may not be renewed.

256 (b) A funeral director intern who is eligible for licensure  
257 under subparagraph (1) (b) 2. may renew her or his funeral  
258 director intern license for an additional 1-year period if the  
259 funeral director in charge of the funeral director intern  
260 training agency certifies to the licensing authority that the  
261 intern has completed at least one-half of the course of study in  
262 mortuary science or funeral service arts.

263 (c) The licensing authority may adopt rules that allow a  
264 funeral director intern to renew her or his funeral director

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265 intern license for an additional 1-year period if the funeral  
266 director intern demonstrates her or his failure to complete the  
267 internship before expiration of the license due to illness,  
268 personal injury, or other substantial hardship beyond her or his  
269 reasonable control or demonstrates that she or he has completed  
270 the requirements for licensure as a funeral director but is  
271 awaiting the results of a licensure examination. However, a  
272 funeral director intern who renews her or his license under  
273 paragraph (b) is not eligible to renew the license under this  
274 paragraph.

275 (d) The licensing authority may require payment of a  
276 nonrefundable fee for the renewal of any funeral director intern  
277 license. The fee shall be set by rule of the licensing authority  
278 but may not exceed the fee set pursuant to paragraph (1)(a) for  
279 an initial funeral director intern license.

280 (e) Upon expiration of a funeral director intern license,  
281 any intern that has completed the educational credentials  
282 required for a license as a funeral director and has applied for  
283 licensure may continue to perform the tasks, functions, and  
284 duties related to funeral directing in the manner provided in  
285 subsection 1(d) until a license is issued or denied, or for a  
286 period 90 days, whichever occurs sooner.

287 Section 10. Subsection (2) of section 497.377, Florida  
288 Statutes, is amended to read:

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289 497.377 Combination funeral directors and embalmers;  
290 internships.

291 (2) (a) An applicant who has not completed the educational  
292 credentials required for a combination license as both funeral  
293 director and embalmer is eligible for licensure as a combination  
294 funeral director and embalmer intern if the applicant:

295 1. Is currently enrolled in and attending a college  
296 accredited by the American Board of Funeral Service Education  
297 (ABFSE) in a course of study in mortuary science accredited by  
298 ABFSE.

299 2. Has completed at least 75 percent of the course of study  
300 in mortuary science as certified by the college in which the  
301 applicant is currently enrolled.

302 3. Has taken and received a passing grade in a college  
303 credit course in mortuary law or funeral service law and has  
304 taken and received a passing grade in a college credit course in  
305 ethics.

306 (b) An application for a combination funeral director and  
307 embalmer intern license must include the name and address of the  
308 funeral director licensed under s. 497.373 or s. 497.374(1) and  
309 the embalmer licensed under s. 497.368 or s. 497.369 under whose  
310 supervision the intern will receive training and the name of the  
311 licensed funeral establishment at which the training will be  
312 conducted.

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313 (c) A combination funeral director and embalmer intern may  
314 perform only the tasks, functions, and duties relating to  
315 funeral directing and embalming which are performed under the  
316 direct supervision of a licensed funeral director who has an  
317 active, valid license under s. 497.373 or s. 497.374(1) and an  
318 embalmer who has an active, valid license under s. 497.368 or s.  
319 497.369. However, a combination funeral director and embalmer  
320 intern may perform such tasks, functions, and duties under the  
321 general supervision of a licensed funeral director and embalmer  
322 upon graduation from a college accredited by ABFSE with a degree  
323 as specified in s. 497.373(1)(d) and upon passage of the  
324 examination required under s. 497.373(2)(b) if the funeral  
325 director in charge of the internship training establishment,  
326 after 6 months of direct supervision, certifies to the licensing  
327 authority that the intern is competent to complete the  
328 internship under general supervision.

329 (d)1. A combination funeral director and embalmer intern  
330 license expires 1 year after issuance and, except as provided in  
331 subparagraph 2., may not be renewed. ,however, upon expiration  
332 of a combination funeral director and embalmer intern license,  
333 any intern that has completed the educational credentials  
334 required for a combination license as both funeral director and  
335 embalmer and has applied for licensure may continue to perform  
336 the tasks, functions, and duties related to funeral directing  
337 and embalming in the manner provided in subsection 2(c) until a

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338 license is issued or denied, or for a period 90 days, whichever  
339 occurs sooner.

340 2. The licensing authority may adopt rules that allow a  
341 combination funeral director and embalmer intern to renew her or  
342 his combination funeral director and embalmer intern license for  
343 an additional 1 year if the combination funeral director and  
344 embalmer intern demonstrates her or his failure to complete the  
345 internship before expiration of the license due to illness,  
346 personal injury, or other substantial hardship beyond her or his  
347 reasonable control or demonstrates that she or he has completed  
348 the requirements for licensure as a combination funeral director  
349 and embalmer but is awaiting the results of a licensure  
350 examination.

351 Section 11. Subsection (1) of section 497.458, Florida  
352 Statutes, is amended to read:

353 497.458 Disposition of proceeds received on contracts.

354 (1) (c) Unless the preneed contract has been fulfilled, such  
355 deposits shall be made within 30 days after the end of the  
356 calendar month in which payment is received under the terms of a  
357 revocable trust instrument entered into with a trust company,  
358 with a national or state bank holding trust powers, or with a  
359 federal or state savings and loan association holding trust  
360 powers.

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**T I T L E   A M E N D M E N T**

363  
364 Remove lines 23-60 and insert:  
365 circumstances; amending s. 497.101, F.S.; revising  
366 provisions relating to membership of the Board of  
367 Funeral, Cemetery, and Consumer Services within the  
368 Department of Financial Services; authorizing use of  
369 communications media technology for board member  
370 participation; defining the term "communications media  
371 technology"; deleting a requirement for the department  
372 to adopt certain rules; making technical changes;  
373 amending s. 497.157, F.S.; prohibiting persons from  
374 acting as or advertising themselves as being funeral  
375 directors, embalmers, direct disposers, or preneed  
376 sales agents unless they are so licensed; prohibiting  
377 persons from engaging in certain activities requiring  
378 licensure without holding required licenses; revising  
379 the criminal penalty for unlicensed activity; making  
380 technical changes; amending s. 497.159, F.S.;  
381 conforming a provision to changes made by the act;  
382 amending s. 497.375, F.S.; allowing licensed funeral  
383 director interns to continue performing tasks while  
384 transitioning to a career license; amending s.  
385 497.377, F.S.; allowing licensed combination funeral  
386 director and embalmer interns to continue performing  
387 tasks while transitioning to a career license;

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1209 (2021)

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388 | amending s. 497.458, F.S., adding that deposits shall  
389 | be made unless the preneed contract has been  
390 | fulfilled; amending s. 552.081, F.S.;;  
391 |