

By Senator Powell

24-01116-23

2023430__

1 A bill to be entitled
2 An act relating to abandoned and historic cemeteries;
3 creating s. 267.21, F.S.; creating the Historic
4 Cemeteries Program within the Division of Historical
5 Resources of the Department of State; designating the
6 State Historic Preservation Officer as the program's
7 director and requiring him or her to hire employees,
8 subject to legislative appropriation; providing the
9 duties and responsibilities of the program; requiring
10 the program to provide grants, subject to legislative
11 appropriation, to certain entities for certain
12 purposes; authorizing the division to adopt rules;
13 creating s. 267.22, F.S.; creating the Historic
14 Cemeteries Program Advisory Council within the
15 division; providing for membership, terms, and duties
16 of the council; providing that members shall serve
17 without compensation but may be reimbursed for per
18 diem and travel expenses; amending s. 497.005, F.S.;
19 revising the definition of the term "legally
20 authorized person" to include a member of a
21 representative community organization; amending s.
22 704.06, F.S.; revising the definition of the term
23 "conservation easement" to include a right or interest
24 in real property which is appropriate to retaining the
25 structural integrity or physical appearance of certain
26 cemeteries; authorizing certain entities to acquire
27 conservation easements to preserve certain cemeteries;
28 amending s. 704.08, F.S.; providing an easement to the
29 state for certain purposes; providing for an

24-01116-23

2023430__

30 appropriation; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Section 267.21, Florida Statutes, is created to
35 read:

36 267.21 Historic Cemeteries Program.—

37 (1) The Historic Cemeteries Program is created within the
38 division. The State Historic Preservation Officer shall serve as
39 the director of the program and shall, subject to legislative
40 appropriation, employ three full-time employees to operate the
41 program. The program shall have the following duties and
42 responsibilities:

43 (a) Serve as the organizational center for recording and
44 updating in the Florida Master Site File records of cemeteries
45 in this state established at least 50 years ago.

46 (b) Develop guidelines for use by state agencies, local
47 governments, and developers in the identification, location, and
48 maintenance of abandoned and historic cemeteries.

49 (c) Serve as an interagency governmental liaison to
50 municipalities, planning departments, colleges and universities,
51 and community organizations to facilitate collaboration and the
52 sharing of information relating to abandoned and historic
53 cemeteries.

54 (d) Coordinate with the University of South Florida's Black
55 Cemetery Network to facilitate the inclusion of abandoned
56 African-American cemeteries in the Black Cemetery Network.

57 (e) Research, identify, and record abandoned cemeteries,
58 with an emphasis on abandoned African-American cemeteries.

24-01116-23

2023430__

59 (f) When abandoned cemeteries are located, provide
60 notification and guidance to relevant persons and assist with
61 efforts to identify relatives and descendants, funeral
62 directors, religious organizations, qualified nonprofit
63 organizations, and property owners.

64 (g) Assist constituents, descendant communities, state and
65 federal agencies, local governments, and other stakeholders with
66 inquiries relating to abandoned cemeteries.

67 (h) In coordination with the Department of Education,
68 develop a curriculum relating to abandoned and historic
69 cemeteries, with a focus on citizenship, social responsibility,
70 and history.

71 (i) Establish a priority for the placement of historical
72 markers for erased, forgotten, lost, or abandoned African-
73 American cemeteries.

74 (2) The Historic Cemeteries Program shall, subject to
75 legislative appropriation, provide grants to the following
76 entities:

77 (a) Research institutions, colleges and universities, and
78 qualified nonprofit organizations, for the purpose of conducting
79 genealogical and historical research necessary to identify and
80 contact the relatives and descendants of persons buried in
81 abandoned African-American cemeteries.

82 (b) Local governments and qualified nonprofit
83 organizations, for the purposes of repairing, restoring, and
84 maintaining abandoned African-American cemeteries.

85 (3) The division may adopt rules to implement this section.

86 Section 2. Section 267.22, Florida Statutes, is created to
87 read:

24-01116-23

2023430__

88 267.22 Historic Cemeteries Program Advisory Council.-

89 (1) The Historic Cemeteries Program Advisory Council, an
90 advisory council as defined in s. 20.03(7), is created within
91 the division and shall be composed of members appointed by the
92 Secretary of State after considering the recommendations of the
93 director of the division. The council shall be composed of an
94 inclusive group of members who are regionally distributed and
95 representative of communities throughout this state. Members
96 shall serve 4-year staggered terms. As soon as practicable after
97 July 1, 2023, the council shall meet to elect a chair from its
98 membership. Except as otherwise provided in this section, the
99 council shall operate in a manner consistent with s. 20.052.

100 (2) The council shall provide guidance and recommendations
101 to the division regarding the duties and responsibilities of the
102 Historic Cemeteries Program created under s. 267.21.

103 (3) Members of the council shall serve without compensation
104 but may be reimbursed for per diem and travel expenses pursuant
105 to s. 112.061.

106 Section 3. Subsection (43) of section 497.005, Florida
107 Statutes, is amended to read:

108 497.005 Definitions.—As used in this chapter, the term:

109 (43) "Legally authorized person" means, in the priority
110 listed:

111 (a) The decedent, when written inter vivos authorizations
112 and directions are provided by the decedent;

113 (b) The person designated by the decedent as authorized to
114 direct disposition pursuant to Pub. L. No. 109-163, s. 564, as
115 listed on the decedent's United States Department of Defense
116 Record of Emergency Data, DD Form 93, or its successor form, if

24-01116-23

2023430__

117 the decedent died while in military service as described in 10
118 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States
119 Armed Forces, United States Reserve Forces, or National Guard;

120 (c) The surviving spouse, unless the spouse has been
121 arrested for committing against the deceased an act of domestic
122 violence as defined in s. 741.28 that resulted in or contributed
123 to the death of the deceased;

124 (d) A son or daughter who is 18 years of age or older;

125 (e) A parent;

126 (f) A brother or sister who is 18 years of age or older;

127 (g) A grandchild who is 18 years of age or older;

128 (h) A grandparent; or

129 (i) Any person in the next degree of kinship.

130

131 In addition, the term may include, if no family member exists or
132 is available, the guardian of the dead person at the time of
133 death; the personal representative of the deceased; the attorney
134 in fact of the dead person at the time of death; the health
135 surrogate of the dead person at the time of death; a public
136 health officer; the medical examiner, county commission, or
137 administrator acting under part II of chapter 406 or other
138 public administrator; a representative of a nursing home or
139 other health care institution in charge of final disposition; or
140 a friend or other person, including a member of a representative
141 community organization, not listed in this subsection who is
142 willing to assume the responsibility as the legally authorized
143 person. Where there is a person in any priority class listed in
144 this subsection, the funeral establishment shall rely upon the
145 authorization of any one legally authorized person of that class

24-01116-23

2023430__

146 if that person represents that she or he is not aware of any
147 objection to the cremation of the deceased's human remains by
148 others in the same class of the person making the representation
149 or of any person in a higher priority class.

150 Section 4. Subsections (1) and (3) of section 704.06,
151 Florida Statutes, are amended to read:

152 704.06 Conservation easements; creation; acquisition;
153 enforcement.—

154 (1) As used in this section, "conservation easement" means
155 a right or interest in real property which is appropriate to
156 retaining land or water areas predominantly in their natural,
157 scenic, open, agricultural, or wooded condition; retaining such
158 areas as suitable habitat for fish, plants, or wildlife;
159 retaining the structural integrity or physical appearance of
160 sites or properties of historical, architectural,
161 archaeological, or cultural significance, including abandoned
162 and neglected cemeteries that are at least 50 years old; or
163 maintaining existing land uses and which prohibits or limits any
164 or all of the following:

165 (a) Construction or placing of buildings, roads, signs,
166 billboards or other advertising, utilities, or other structures
167 on or above the ground.

168 (b) Dumping or placing of soil or other substance or
169 material as landfill or dumping or placing of trash, waste, or
170 unsightly or offensive materials.

171 (c) Removal or destruction of trees, shrubs, or other
172 vegetation.

173 (d) Excavation, dredging, or removal of loam, peat, gravel,
174 soil, rock, or other material substance in such manner as to

24-01116-23

2023430__

175 affect the surface.

176 (e) Surface use except for purposes that permit the land or
177 water area to remain predominantly in its natural condition.

178 (f) Activities detrimental to drainage, flood control,
179 water conservation, erosion control, soil conservation, or fish
180 and wildlife habitat preservation.

181 (g) Acts or uses detrimental to such retention of land or
182 water areas.

183 (h) Acts or uses detrimental to the preservation of the
184 structural integrity or physical appearance of sites or
185 properties of historical, architectural, archaeological, or
186 cultural significance, including abandoned and neglected
187 cemeteries that are at least 50 years old.

188 (3) Conservation easements may be acquired by any
189 governmental body or agency or by a charitable corporation or
190 trust whose purposes include protecting natural, scenic, or open
191 space values of real property, assuring its availability for
192 agricultural, forest, recreational, or open space use,
193 protecting natural resources, maintaining or enhancing air or
194 water quality, or preserving sites or properties of historical,
195 architectural, archaeological, or cultural significance,
196 including abandoned and neglected cemeteries that are at least
197 50 years old.

198 Section 5. Section 704.08, Florida Statutes, is amended to
199 read:

200 704.08 Cemeteries; right of ingress and egress for visiting
201 or maintenance.—

202 (1) The relatives and descendants of any person buried in a
203 cemetery shall have an easement for ingress and egress for the

24-01116-23

2023430__

204 purpose of visiting the cemetery at reasonable times and in a
205 reasonable manner. The owner of the land may designate the
206 easement. If the cemetery is abandoned or otherwise not being
207 maintained, such relatives and descendants may request the owner
208 to provide for reasonable maintenance of the cemetery, and, if
209 the owner refuses or fails to maintain the cemetery, the
210 relatives and descendants shall have the right to maintain the
211 cemetery.

212 (2) If credible evidence supports a determination that
213 there is an abandoned cemetery located on, underneath, or
214 adjacent to land owned by a private owner, the state must have
215 an easement for ingress and egress for the purpose of
216 maintaining and conducting research and noninvasive searches at
217 such cemetery at reasonable times and in a reasonable manner
218 after providing the owner with reasonable notice.

219 Section 6. The Legislature shall appropriate funds for the
220 purpose of including abandoned African-American cemeteries in
221 this state in the University of South Florida's Black Cemetery
222 Network.

223 Section 7. This act shall take effect July 1, 2023.