

STORAGE NAME: h3763z.rpp  
DATE: June 30, 1998

**\*\*FINAL ACTION\*\***  
**\*\*SEE FINAL ACTION STATUS SECTION\*\***

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
REAL PROPERTY & PROBATE  
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 3763, 1st Engrossed  
**RELATING TO:** Funeral and Cemetery Services  
**SPONSOR(S):** Representative Crist and Others  
**COMPANION BILL(S):** S 1572 (Identical)  
**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**  
(1) REAL PROPERTY & PROBATE 5 YEAS 0 NAYS

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I. FINAL ACTION STATUS:

Real Property & Probate reported the bill favorably with a strike-everything amendment. The House adopted two amendments on the floor and certified the engrossed bill to the Senate. The Senate passed the House bill without amendment, on May 1, 1998. The bill became law without the Governor's signature on May 28, 1998. See 98-268, Laws of Florida.

II. SUMMARY:

HB 3763 is entitled the "Cemetery Preservation and Consumer Protection Act." The bill amends several sections and creates new sections in Chapter 497, Florida Statutes, dealing with funeral and cemetery services. The bill provides a definition of "care and maintenance" as it relates to cemeteries, requires all licensed cemeteries to perform care and maintenance, and authorizes the Board of Funeral and Cemetery Services [hereinafter the Board] to make rules spelling out the minimum care and maintenance functions to be performed.

If a licensed cemetery wishes to sell lands within the cemetery, the cemetery will have to give public notice and possibly undergo a public hearing to seek approval for the sale, if the land in question has ever been used for interments of human remains. If the land in question has never been used for interments, then no public notice or hearing will be required before the Department of Banking and Finance [hereafter the Department] approves or denies the sale.

New mausoleums and columbaria (buildings used as repositories for cremated remains) must be built in accordance with construction standards to be developed by the Board. These standards will be promulgated as part of the state's minimum building codes by the Board of Building Codes and Standards. However, the uniform standard building code pursuant to HB 4181 may supersede the mausoleum standards contemplated by this bill. Significant alterations or renovations of existing mausoleums or columbaria must also comply with the new standards. The Board must also make rules assuring that all crypts and niches are securely and permanently sealed after human remains have been placed therein. Requirements for preconstruction trust funds for new mausoleums are extended to include columbaria.

The bill enhances criminal penalties for cemetery vandalism from misdemeanors to felonies. Grave robbing is upgraded to a second degree felony. The bill specifies the Attorney General as a potential plaintiff, allows an action to be filed in either circuit or county court, and adds a subsection allowing the use of nuisance abatement procedures for violations causing physical problems at cemeteries. Greater flexibility is given counties in carrying out their duties to bury or cremate unclaimed bodies.

The bill creates a task force within the Department to study the problems related to abandoned cemeteries in Florida and make recommendations to the Legislature.

The bill will have a fiscal impact.

### III. SUBSTANTIVE RESEARCH:

#### A. PRESENT SITUATION:

Due to Florida's aging population and the influx of retirees to the state, the cemetery industry has become one of the fastest-growing segments of the economy, with over \$200 million gross sales by cemetery licensees last year. Chapter 497, Florida Statutes, regulating the cemetery industry, primarily addresses regulation of sales practices by licensees, and assuring the financial stability and safety of both cemetery companies and trust funds for the perpetual care and maintenance of cemeteries. The few references in the existing statute to care and maintenance and other physical operations at cemeteries are very general, e.g., "the failure to maintain cemetery grounds properly may cause significant emotional stress", section 497.002(1), Florida Statutes; income from the care and maintenance trust fund of the cemetery shall be used solely for the care and maintenance of the cemetery, including "maintenance of the monuments, which maintenance shall not be deemed to include the cleaning, refinishing, repairing, or replacement of monuments; for reasonable costs for administering the care and maintenance, and for reasonable costs of administering the trust fund," section 497.241, Florida Statutes. There is no statutory guidance concerning what must be done by a cemetery company in order to provide proper and adequate care and maintenance.

Pursuant to section 497.229, Florida Statutes, cemeteries are required to have a minimum of 15 acres to be licensed. If the cemetery company has more than 15 acres within its boundaries and wishes to sell or otherwise convey some of the surplus land for non-cemetery purposes, they may do so with the approval of the Department of Banking and Finance. However, there is no statutory guidance to assist the Department in deciding whether to approve the request. The present law requires that if there have previously been human remains interred in the land to be sold, those human remains must first be removed and the cemetery company must acquire all outstanding burial rights and other property interests in the land. There is no present requirement that the public be informed that cemetery land is proposed to be sold and converted to non-cemetery uses, nor any requirement that the purchaser be informed that the land was previously used for burials.

Mausoleums and columbaria are marketed as being durable and permanent structures to serve as the final resting place for the deceased. However, no statutes have been found establishing standards for materials, construction, or durability of such structures.

The Standard Building Code, used by most local governments in Florida as a minimum code, has no specific requirements for mausoleums or columbaria; instead, the code lumps them in the general category of "storage buildings."

Purchasers of burial rights in a proposed mausoleum under construction are protected by the provisions of section 497.257, Florida Statutes, which require that a proportionate share of the cost of completion of the construction be placed in a preconstruction trust fund. If the construction is halted, the trustee may use the trust funds to complete the building. However, there is no similar provision protecting purchasers of burial rights in a proposed columbarium.

Section 872.02 (1), Florida Statutes, provides misdemeanor penalties for vandalism-related activities directed towards graves, tombs, monuments, fences, etc., where the damage is less than \$100. Subsection (2) makes "wilfully disturbing" the contents of a grave or tomb a third degree felony.

Enforcement of chapter 497, Florida Statutes, by the Board is covered by several statutory sections, but only section 497.527, Florida Statutes, presently gives a citizen a right of action against a person or company violating chapter 497, Florida Statutes. Under that provision, any person may bring an action in circuit court against an alleged violator, and, if they prevail, they may recover either their actual damages or \$500, whichever is greater.

Section 245.07, Florida Statutes, imposes a duty on counties to bury or cremate the remains of all persons whose bodies are unclaimed. Counties are restricted to burial or cremation within the boundaries of the county. A funeral director who cremates remains at the request of the county is immune from liability, but a cemetery company is not.

A study by the Board in 1992 indicated that there are abandoned cemeteries in the state which have no identifiable person in charge to perform care and maintenance.

**B. EFFECT OF PROPOSED CHANGES:**

HB 3763 provides a general definition of care and maintenance and directs the Board to make rules detailing the responsibilities of licensed cemeteries regarding minimum levels of care and maintenance. The Board may create different classes of cemeteries, with different rules to apply to each class, if justified by evidence presented to the Board.

These new rules must be in place by July 1, 1999.

The bill adds a provision to section 497.229, Florida Statutes, authorizing the use of the "nuisance abatement" remedy under section 60.05, Florida Statutes, to address violations of chapter 497, Florida Statutes, and the Board's rules which impact on the physical aspects of operating a cemetery or in mausoleum construction. The remedy obtained by use of section 60.05, Florida Statutes, is limited to correcting the physical conditions created by a violation of Chapter 497, Florida Statutes, or the rules of the Board.

The bill amends present section 497.253, Florida Statutes, dealing with a cemetery removing the dedicated status from, and selling a portion of, its land by imposing

additional requirements for Department approval when the land to be sold has been used for the interment of human remains (the human remains must have been relocated, with permission of an authorized person, before approval for the sale may be given). In such a case, public notice must be given in local newspapers, and persons who wish to object to the application may request a public hearing pursuant to chapter 120, Florida Statutes. If a hearing is requested and held, the Department must consider evidence presented by the parties concerning specified factors and may grant the application if it would not be contrary to the public interest. Notice must be recorded in the deed conveying the land that it has been used for cemetery purposes. If the land has never been used for burials, then no public notice or public hearing is required before the Department considers the application. The Department is empowered to make rules carrying out this section.

The bill creates section 497.255, Florida Statutes, imposing a requirement that all newly constructed or significantly renovated mausoleums and columbaria must meet construction standards set out in rules of the Board after approval by the Board of Building Codes and Standards. The approved standards are incorporated into the state minimum building codes and enforced by local building officials. These standards must encompass specified requirements aimed at assuring that mausoleums are durable and permanent, in accordance with modern mausoleum construction and engineering science. Significant renovations or alterations of existing mausoleums and columbaria must also meet the standards. If the construction follows the new standards and uses non-combustible materials, the structure will be exempt from requirements to have sprinkler systems. The Board's rulemaking for the construction standards must be completed by July 1, 1999. The Board may create different classes of structures or construction standards, with different rules to apply to each class, if justified by evidence presented to the Board. The Board also is authorized to make rules requiring that all crypts and niches, both in new mausoleums and existing ones, are securely and permanently sealed after human remains have been placed therein.

The bill amends section 497.257, Florida Statutes, by adding the same requirement for preconstruction trust funds for newly constructed columbaria as now apply to newly constructed mausoleums.

The bill amends section 497.417, Florida Statutes, by deleting paragraph (4)(b), which allowed the trustee of a preneed trust to invest in life insurance policies or annuity contracts.

The bill repeals subsection (12) of section 497.429, Florida Statutes, which required the trustee of one type of preneed trust to send an annual valuation to each customer.

The bill amends section 497.527, Florida Statutes, to specify that the Attorney General may file suit to enforce chapter 497, Florida Statutes. Suit may be filed in the court having jurisdiction over the relief sought, whether circuit or county court. The defendant will be liable for actual damages caused by a violation, but the provision for minimum damages is deleted.

The bill upgrades cemetery vandalism from a first degree misdemeanor to a third

degree felony and upgrades disturbing the contents of a grave or tomb from a third to a second degree felony. The term "grave" is defined to include any mausoleum, columbarium, or crypt.

Section 245.07, Florida Statutes, is amended to allow a board of county commissioners to delegate their responsibility to bury or cremate unclaimed bodies and to allow such dispositions to take place outside the boundaries of the county. Licensees under chapter 497, Florida Statutes, are given the same immunity from civil liability for cremating remains at the request of the county as funeral directors now enjoy.

The bill creates a Task Force on Abandoned and Neglected Cemeteries within the Department of Banking and Finance, consisting of eleven members appointed by the Comptroller and representing various groups or classes of parties having an interest in the problem. One of the members must represent independent funeral directors who are not affiliated with a cemetery company. The members serve without pay, but are compensated for travel and per diem expenses. The Task Force will study enumerated problems and possible solutions concerning abandoned and neglected cemeteries, prepare a preliminary report by December 1, 1998, and a final report by January 15, 1999 with findings and recommendations.

The bill contains an appropriation of \$131,042 and one position in the next fiscal year to implement the bill.

The effective date of the bill is July 1 of the year in which enacted, although the requirements to comply with the new standards do not take effect until the rules implementing those requirements have been adopted. The section creating the Task Force takes effect upon becoming law.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the Board and the Department are empowered to make necessary rules to carry out the Act. Also, the Department will participate in any public hearing which might be requested with respect to the sale of dedicated cemetery land.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, licensees of the Board will have to comply with the requirements of the rules concerning care and maintenance and mausoleum construction, if they are not already utilizing standards as high or higher than those set under the new rules. The Board of Building Codes and Standards will assist the Board in developing and promulgating the mausoleum construction

standards. The persons appointed to the Task Force will work toward the goals of the Task Force. Elements of the criminal justice system may be impacted by the higher criminal penalties. The civil justice system may be impacted by litigation brought by persons utilizing the civil remedies contained in the bill.

- (3) any entitlement to a government service or benefit?

No

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No, local governments already have the authority to charge fees for building permits and inspections.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No, except to the extent that the public is the beneficiary of the protections afforded by the bill, and licensees will pass on their costs of compliance with the bill to their customers.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

The bill will increase the minimum standards that licensees will have to comply with, so in that sense the bill interferes with presently lawful performance below the minimum standards.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

The bill amends sections 497.005, 497.229, 497.253, 497.257, 497.417, 497.429, 497.527, 872.02, and 245.07, Florida Statutes.

The bill creates sections 497.0255, and 497.255, Florida Statutes.

**E. SECTION-BY-SECTION RESEARCH:**

**Section 1.**

The bill is cited as the "Cemetery Preservation and Consumer Protection Act."

**Section 2.**

Amends section 497.005, Florida Statutes, to establish a comprehensive definition of "care and maintenance" as that term relates to a cemetery and its lots, graves, grounds, crypts, mausoleums, columbaria, etc. As specified in the rules of the Board of Funeral



and Cemetery Services, the term may include, but is not limited to: mowing the grass at reasonable intervals; raking and cleaning the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep and repair of drains, water lines, roads, buildings, and other improvements. The term may also include, but is not limited to, reasonable overhead expenses necessary for such purposes, including maintenance of machinery, tools, and equipment used for such purpose. The term may also include repair or restoration of improvements necessary or desirable as a result of wear, deterioration, accident, damage, or destruction. The term does not include expenses for the construction and development of new grave spaces or interment structures.

**Section 3.**

Creates section 497.0255, Florida Statutes, to require every licensed cemetery to ensure that cemeteries are well cared for and maintained. This provision requires the Board to promulgate necessary rules by July 1, 1999, to implement and enforce this section. The Board may create different classes of cemeteries, with different rules to apply to each class, if justified by evidence presented to the Board. However, the rules must provide minimum standards applicable to all cemeteries. The statute provides an example of class criteria.

**Section 4.**

Amends section 497.229, Florida Statutes, to state that any cemetery which is constructed, physically operated, or maintained in violation of the provisions of this chapter or rules of the Board, shall be deemed a public nuisance under section 60.05, (injunction law), and the non-conforming physical conditions may be abated.

**Section 5.**

Section 497.253, Florida Statutes, relating to sale or disposition of cemetery lands, is substantially amended.

Subsection (2) of section 497.253, Florida Statutes, is amended to reference new subsection (3), and to provide that the provisions of ss. 497.515(7) and 470.0295, Florida Statutes, must be complied with prior to any disinterment of human remains.

A new subsection (3) is added to section 497.253, Florida Statutes. This subsection provides that an applicant who wishes to sell, convey, or dispose of a cemetery or portion thereof, that has been used for the permanent interment of human remains must publish a notice meeting the standards of publication set forth in s. 125.66(40)(b)2., F.S. The notice must describe the property and the proposed noncemetery use, and must advise substantially affected persons that they can file a written request for a hearing pursuant to chapter 120 within 14 days after the last publication of the notice, if they object to the sale, conveyance, or other disposition of the cemetery for noncemetery use.

A new paragraph (3)(b) is added to section 497.253, Florida Statutes, to provide that if the property has never been used for the permanent interment of human remains, then no notice or hearing is required.

A new paragraph (3)(c) is added to section 497.253, Florida Statutes, to provide that if the property has been used for permanent interment of human remains, the department must approve the application, in writing, if it finds that it would not be contrary to the public interest. To determine whether to approve the application, the department must consider any evidence presented concerning the following:

1. The historical significance of the subject property, if any.
2. The archaeological significance of the subject property, if any.
3. The public purpose, if any, to be served by the proposed use of the subject property.
4. The impact of the proposed change in use upon the inventory of remaining cemetery facilities in the community and upon the other factors enumerated in section 497.201(3), Florida Statutes.
5. The impact of the proposed change in use of the property upon the reasonable expectations of the families of the deceased regarding whether the cemetery property was to remain as a cemetery in perpetuity.
6. Whether any living relatives of the deceased actively oppose the relocation of their deceased's remains and the conversion of the subject property to noncemetery uses.
7. The elapsed time since the last interment in the subject property.
8. Any other factor enumerated in the chapter that the department considers relevant to the public interest.

A new paragraph (3)(d) is added to section 497.253, Florida Statutes, to provide that any deed, mortgage, or other conveyance by a cemetery company or other owner pursuant to subsections (a) and (c) must contain a disclosure in a form substantially similar to the form provided.

A new paragraph (3)(e) is added to provide that the department must adopt rules necessary to carry out the provisions of this section.

## **Section 6.**

Section 497.255, Florida Statutes, is created relating to standards for construction and significant alteration or renovation of mausoleums and columbaria.

Subsection (1) of section 497.255, Florida Statutes, provides that all newly constructed and significantly altered or renovated mausoleums and columbaria must conform to the standards adopted under this section. This is in addition to complying with applicable building codes.

Subsection (2) of section 497.255, Florida Statute, requires the board to adopt, by no later than July 1, 1999, rules establishing minimum standards for all newly constructed and significantly altered or renovated mausoleums and columbaria. If the renovations or alterations are to existing structures, the rules will apply only when physically feasible, to the altered or renovated portion of the structures, except as provided in subsection (4).

In developing the required rules, the board may define different classes of structures or construction standards, and may provide for different rules to apply to each class.

However, the designated classes and the different rules must be in the public interest and must be supported by findings by the board based on evidence of industry practices, economic and physical feasibility, location, or intended uses. The rules must, however, provide minimum standards applicable to all construction. The bill provides an example of different rules for different structures.

The board is directed to develop the rules in cooperation with, and with technical assistance from, the Board of Building Codes and Standards of the Department of Community Affairs. The rules are to be included as part of the State Minimum Building Codes under part VII of chapter 553, Florida Statutes. If the Board of Building Codes and Standards finds that some of the proposed standards are not appropriate for inclusion in the building codes, the board may include those standards in a distinct chapter of its rules. If the board elects to divide the standards into two or more chapters, all such rules are binding on licensees and others subject to the jurisdiction of the board, but only the chapter containing provisions appropriate for building codes must be transmitted to the Board of Building Codes and Standards pursuant to subsection (3). The rules may be in the form of standards for design and construction; methods, materials, and specifications for construction; or other mechanisms. The rules must encompass, at a minimum, the following standards:

- (a) No structure can be built or significantly altered for use for interment, entombment, or inurnment purposes unless constructed of material and workmanship which will ensure its durability and permanence, as well as the safety, convenience, comfort, and health of the community in which it is located, pursuant to modern mausoleum construction and engineering science.
- (b) The structure must be so arranged that the exterior of any vault, niche, or crypt may be readily examined at any time by any person authorized by law to do so.
- (c) The structure must contain adequate provision for drainage and ventilation.
- (d) The structure must be of fire-resistant construction. Mausoleums or columbaria constructed of noncombustible materials, as defined in the Standard Building Code, are not required to have a sprinkler system.
- (e) The structure must be resistant to hurricane and other storm damage to the highest degree provided under applicable building codes for buildings of that class.
- (f) Suitable provisions must be made for sealing each crypt with durable materials so that no effluvia or odors may escape therefrom except as provided by design and sanitary engineering standards. This paragraph provides requirements for the seals and for the outer or exposed covering of each crypt.
- (g) Requirements must be established for interior and exterior fastenings for hangers, clips, doors, and other objects.

Subsection (3) of section 497.255, Florida Statutes, requires the board to transmit the rules adopted under subsection (2), i.e. the "mausoleum standards," to the Board of Building Codes and Standards. The Board of Building Codes and Standards will initiate rulemaking under chapter 120 to consider the mausoleum standards. If the standards

are not deemed acceptable, they are to be returned to the board with details of changes needed to make them acceptable.

If the mausoleum standards are acceptable, the board of Building Codes and Standards must adopt a rule designating the mausoleum standards as an approved revision to the State Minimum Building Codes under part VII of chapter 553.

Each local enforcement agency must consider and inspect for compliance with the mausoleum standards as if they were part of the local building code, but shall have no continuing duty to inspect after final approval of the construction pursuant to the local building code. Subsequent amendments to the mausoleum standards are to be accomplished pursuant to the foregoing procedure. Any such designated mausoleum standards shall be a part of the State Minimum Building Codes under s. 553.73, F.S., until the adoption and effective date of a new statewide uniform minimum building code, which may supersede the mausoleum standards as provided by the law enacting the new statewide uniform minimum building code. **House Bill 4181 which was signed into law by the Governor on May 28, 1998, created a statewide uniform building code. See 98-287, Laws of Florida.**

Subsection (4) of section 497.255, Florida Statutes, provides that in addition to the rules adopted under subsection (2), the board must adopt rules providing that after the effective date of such rules, all interments, inurnments, and entombments in mausoleums and columbaria, regardless of whether they are newly constructed or existing, must, when physically feasible, be sealed in accordance with standards promulgated pursuant to paragraph (2)(f).

Subsection (5) of section 497.255, Florida Statutes, provides that for purposes of this section, the term "significant alteration or renovation" means any addition, renovation or repair which results in the creation of new crypt or niche spaces.

#### **Section 7.**

Section 497.257, Florida Statutes, is amended to add the term "columbaria" into the section requiring preconstruction trust funds for mausoleums. The total amount to be deposited to the preconstruction trust fund for each unit of the project is computed by dividing the cost of the project plus 10 percent of the cost, as computed by a licensed contractor, engineer, or architect, by the number of crypts in the section or bank of below ground crypts *or the number of niches in the columbarium*.

#### **Section 8.**

Section 497.417(4), Florida Statutes, is amended to delete paragraph (b), which allowed trustees of certain preneed trusts to invest in life insurance policies or annuity contracts.

#### **Section 9.**

This section of the bill repeals subsection (12) of section 497.429, Florida Statutes, which required trustees of certain preneed trusts to send an annual valuation to each customer.

**Section 10.**

Section 497.527, Florida Statutes, is amended to add the Attorney General to the provision which allows any person to bring a civil action against a person or company violating the provisions of this chapter, and to allow the action to be brought in the appropriate court of the county, rather than requiring all such actions to be brought in the circuit court. The provision for \$500 minimum damages is deleted, but the defendant may be liable for all actual damages caused by the violation.

**Section 11.**

Section 872.02, Florida Statutes, is amended to increase the penalty for defacing or otherwise vandalizing a tomb or monument from a first degree misdemeanor to a third degree felony. The bill increases the penalty for grave robbing from a third to a second degree felony. The bill clarifies that the word "tomb" includes any mausoleum, columbarium or below-ground crypt.

**Section 12.**

Section 245.07, Florida Statutes, is amended to allow counties to bury or cremate unclaimed bodies outside the county boundaries, and extends the immunity from liability accorded funeral directors to include licensees under chapter 497, Florida Statutes.

**Section 13.**

Creates an 11-member Task Force on Abandoned and Neglected Cemeteries to be appointed by the Comptroller to study the problem of abandoned and neglected cemeteries. The Task Force is created within the Department of Banking and Finance.

The task force must do the following:

- (a) Examine the extent to which some cemeteries are abandoned and have no existing responsible person or entity in charge, or are neglected and not receiving adequate care and maintenance.
- (b) Examine the extent to which some cemeteries are neglected due to a lack of sufficient funds to perform adequate care and maintenance or for other reasons.
- (c) Examine the extent to which neglected cemeteries create problems for citizens and local governments due to vandalism, storm damage, dilapidation, public health concerns, public safety concerns, lack of enforceable standards, and strain on local government financial resources.
- (d) Examine the extent to which neglected cemeteries represent a loss of significant historic or archaeological resources.
- (e) Examine whether or not bringing presently unlicensed operating cemeteries under state regulation as to physical facilities and care and maintenance may help ameliorate the problems caused by neglected cemeteries.

(f) Examine whether or not a program of grants to assist in providing adequate care and maintenance for abandoned and neglected cemeteries may help ameliorate the problems caused by neglected cemeteries and, if so, how the grant program should be structured, administered, and funded.

(g) Examine current governmental and nongovernmental programs that help or could help ameliorate the problems caused by neglected cemeteries, to see if some expansion or increased emphasis or support could do more to help ameliorate the problems caused by neglected cemeteries in a more cost-effective manner than a grant program.

(h) Report findings and make recommendations concerning solutions to problems found by the task force, including a draft of any legislation deemed advisable to implement recommended solutions.

The task force is directed to produce a preliminary report by December 1, 1998, and a final report by January 15, 1999. After submission of the final report, members of the task force may, with the approval of the chair, receive reimbursement for travel necessary to consult with the department or the Legislature concerning issues raised by the final report or other work of the task force until termination of the task force, i.e. sine die of the 1999 Regular Legislative session.

This section takes effect upon becoming a law.

#### **Section 14.**

The bill contains an appropriation of \$131,042 and one career service position to the Department from the Department's Regulatory Trust Fund to carry out the purposes of the Act.

#### **Section 15.**

Provides an effective date of July 1, 1998, however, certain provisions of the act will not take effect until the Board promulgates specified rules.

### **IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:**

#### **A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

##### **1. Non-recurring Effects:**

The Department of Banking and Finance estimates that there will be \$51,000 of non-recurring expenses next year related to the Task Force. The Department of Community Affairs will divert an indeterminate amount of staff time to assisting the Board in developing and promulgating the mausoleum construction standards. The Department of Community Affairs has not yet provided a fiscal impact statement on this bill.

2. Recurring Effects:

The Department of Banking and Finance estimates that there will be \$80,042 of recurring expenses per year over the next three years. Law enforcement, the courts, and corrections may be impacted by increased criminal penalties.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Local governments will nominate members to the Task Force, who will be reimbursed for travel and per diem only.

2. Recurring Effects:

Local governments will incur expense in processing building permits under the new standards, however, there are few newly constructed mausoleums in any locality.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Depending on their present standards, some licensees may incur additional costs in their care and maintenance activities and mausoleum construction projects to comply with the new standards when they become effective in July, 1999.

Members of the private sector will serve on the Task Force without compensation.

2. Direct Private Sector Benefits:

Consumers should benefit from the improved services and facilities brought about by compliance with this bill. There will be a more level "playing field" resulting from the minimum standards promulgated in the new rules, since marginal operators will not be able to gain an economic advantage over their competitors by providing minimal care and maintenance, or by using inferior building materials or techniques.

3. Effects on Competition, Private Enterprise and Employment Markets:

Since all licensed cemeteries will have to comply with the new rules, it is expected that there will be no significant effect on these factors. See preceding comment.

D. FISCAL COMMENTS:

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VIII. SIGNATURES:

COMMITTEE ON REAL PROPERTY & PROBATE:

Prepared by:

Legislative Research Director:

John P. Ingle

Justice Council Attorney

P.K. Jameson



**STORAGE NAME:** h3763z.rpp

**DATE:** June 30, 1998

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**FINAL RESEARCH PREPARED BY COMMITTEE ON REAL PROPERTY & PROBATE:**

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John P. Ingle

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