

By the Committee on Regulated Industries

315-453A-99

1                                   A bill to be entitled  
 2           An act relating to funeral and cemetery  
 3           services; amending ss. 497.201 and 497.213,  
 4           F.S.; providing requirements as to contents of  
 5           cemetery license applications and license  
 6           renewals; requiring owners of specified types  
 7           of businesses to provide notice of intent to  
 8           acquire another similar business; requiring  
 9           owners of specified types of businesses to give  
 10          notice to prospective purchasers of the  
 11          ownership of the business; providing for  
 12          voidability of contracts; requiring disclosures  
 13          in advertisements and contracts; providing an  
 14          effective date.

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

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 18           Section 1. Subsection (2) of section 497.201, Florida  
 19 Statutes, is amended to read:

20           497.201 Cemetery companies; license; application;  
 21 fee.--

22           (2) The department may require any person desiring to  
 23 establish a cemetery company who applies for a license to  
 24 provide any information reasonably necessary to make a  
 25 determination of the applicant's eligibility for licensure.  
 26 Any person desiring to establish a cemetery company shall  
 27 first:

28           (a) File an application that ~~which~~, states the exact  
 29 location of the proposed cemetery, which site shall contain  
 30 not less than 15 contiguous acres, and that identifies the  
 31 business or corporation that will own the cemetery; provide a

1 financial statement signed by all officers of the company that  
2 attests ~~which attest~~ to a net worth of at least \$50,000, which  
3 net worth must be continuously maintained as a condition of  
4 licensure; and pay an application fee of \$5,000;

5 (b) Create a legal entity; and

6 (c) Demonstrate to the satisfaction of the board that  
7 the applicant possesses the ability, experience, financial  
8 stability, and integrity to operate a cemetery.

9 Section 2. Section 497.213, Florida Statutes, is  
10 amended to read:

11 497.213 Annual license fees.--

12 (1) The department shall collect from each cemetery  
13 company operating under the provisions of this chapter an  
14 annual license fee as follows:

15 (a) For a cemetery with less than \$25,000 annual gross  
16 sales.....\$250.

17 (b) For a cemetery with at least \$25,000 but less than  
18 \$100,000 annual gross sales.....\$350.

19 (c) For a cemetery with annual gross sales of at least  
20 \$100,000 but less than \$250,000.....\$600.

21 (d) For a cemetery with annual gross sales of at least  
22 \$250,000 but less than \$500,000.....\$900.

23 (e) For a cemetery with annual gross sales of at least  
24 \$500,000 but less than \$750,000.....\$1,350.

25 (f) For a cemetery with annual gross sales of at least  
26 \$750,000 but less than \$1,000,000.....\$1,750.

27 (g) For a cemetery with annual gross sales of  
28 \$1,000,000 or more.....\$2,650.

29 (2) An application for license renewal shall be  
30 submitted, along with the applicable license fee, on or before  
31 December 31 each year in the case of an existing cemetery

1 company and before any sale of cemetery property in the case  
2 of a new cemetery company or a change of ownership or control  
3 pursuant to ss. 497.205 and 497.209. The application must  
4 identify the business or corporation that owns or will own the  
5 cemetery. If the renewal application and fee are not received  
6 by December 31, the department shall collect a penalty in the  
7 amount of \$200 per month or fraction of a month for each month  
8 delinquent. For the purposes of this subsection, a renewal  
9 application and fee submitted by mail shall be considered  
10 timely submitted and received if postmarked by December 31 of  
11 the applicable year.

12 Section 3. Each person who currently owns a direct  
13 disposal establishment, funeral establishment, or cinerator in  
14 this state and who intends to purchase a direct disposal  
15 establishment, funeral establishment, or cinerator within this  
16 state must notify the department of this intended purchase at  
17 least 60 days before the purchase is finalized.

18 Section 4. Each direct disposal establishment, funeral  
19 establishment, or cinerator shall disclose to each prospective  
20 purchaser of merchandise or services, prior to the purchase of  
21 the merchandise or services, the name of the person, business,  
22 or corporation that owns the establishment or cinerator. If  
23 such disclosure is not made, the purchase is voidable. The  
24 establishment or cinerator has the burden of proof to show  
25 that the disclosure was timely made.

26 Section 5. Each direct disposal establishment, funeral  
27 establishment, or cinerator shall include in each  
28 advertisement, and in each contract for purchase of  
29 merchandise or services, a disclosure of the identity of the  
30 owner of the establishment or cinerator. As used in this  
31 section, the term "identity of the owner" includes, but is not

1 limited to, the identity of a publicly traded corporation  
2 owning more than 10 percent of a certificateholder or branch  
3 registrant.

4 Section 6. Each seller of burial rights, merchandise,  
5 or services shall disclose to each prospective purchaser,  
6 prior to the purchase of the burial rights, merchandise, or  
7 services, the name of the person, business, or corporation  
8 that owns the cemetery. If such disclosure is not made, the  
9 purchase is voidable. The seller has the burden of proof to  
10 show that the disclosure was timely made.

11 Section 7. Each cemetery shall include in each  
12 advertisement, and in each contract for purchase of  
13 merchandise or services, a disclosure of the identity of the  
14 owner of the cemetery. As used in this section, the term  
15 "identity of the owner" includes, but is not limited to, the  
16 identity of a publicly traded corporation owning more than 10  
17 percent of a certificateholder or branch registrant.

18 Section 8. This act shall take effect October 1, 1999.

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21 SENATE SUMMARY

22 Requires an applicant for a license or for the renewal of  
23 a license to operate a cemetery to identify the business  
24 or corporation that will own the cemetery. Requires the  
25 owner of a direct disposal establishment, funeral  
26 establishment, or cinerator who intends to purchase such  
27 an entity to notify the Department of Banking and  
28 Finance. Requires a direct disposal establishment,  
29 funeral establishment, or cinerator to disclose to a  
30 prospective purchaser of merchandise or services prior to  
31 the purchase of the merchandise or services the name of  
the owner of the establishment or cinerator. The name of  
the owner must also be included in an advertisement or  
contract for purchase of merchandise or services.  
Requires a seller of burial rights, merchandise, or  
services prior to the sale to disclose the cemetery  
owner's identity. Requires a cemetery to include the  
owner's identity in any advertisement or in any contract  
for purchase of services or merchandise.