

By Senator Holzendorf

2-100-02

1                                   A bill to be entitled  
2           An act relating to cemeteries; amending ss.  
3           497.201, 497.253, F.S.; prescribing the premium  
4           acreage requirement for cemeteries; providing  
5           an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

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

11           497.201 Cemetery companies; license; application;  
12 fee.--

13           (2) The department may require any person desiring to  
14 establish a cemetery company who applies for a license to  
15 provide any information reasonably necessary to make a  
16 determination of the applicant's eligibility for licensure.  
17 Any person desiring to establish a cemetery company shall  
18 first:

19           (a) File an application, which states the exact  
20 location of the proposed cemetery, which site shall contain  
21 not less than 15 ~~30~~ contiguous acres; provide a financial  
22 statement signed by all officers of the company which attest  
23 to a net worth of at least \$50,000, which net worth must be  
24 continuously maintained as a condition of licensure; and pay  
25 an application fee of \$5,000;

26           (b) Create a legal entity; and

27           (c) Demonstrate to the satisfaction of the board that  
28 the applicant possesses the ability, experience, financial  
29 stability, and integrity to operate a cemetery.

30           Section 2. Section 497.253, Florida Statutes, is  
31 amended to read:

1           497.253 Minimum acreage; sale or disposition of  
2 cemetery lands.--

3           (1) Each licensee shall set aside a minimum of 15 ~~30~~  
4 contiguous acres of land for use by the licensee as a cemetery  
5 and shall not sell, mortgage, lease, or encumber that property  
6 without prior written approval of the department.

7           (2) Any lands owned by a licensee and dedicated for  
8 use by it as a cemetery, which are contiguous, adjoining, or  
9 adjacent to the minimum of 15 ~~30~~ contiguous acres described in  
10 subsection (1), may be sold, conveyed, or disposed of by the  
11 licensee, after obtaining written approval of the department  
12 pursuant to subsection (3), for use by the new owner for other  
13 purposes than as a cemetery. All of the human remains which  
14 have been previously interred therein shall first have been  
15 removed from the lands proposed to be sold, conveyed, or  
16 disposed of; however, the provisions of ss. 470.0295 and  
17 497.515(7) must be complied with prior to any disinterment of  
18 human remains. Any and all titles, interests, or burial rights  
19 which may have been sold or contracted to be sold in lands  
20 which are the subject of the sale shall be conveyed to and  
21 revested in the licensee prior to consummation of any such  
22 sale, conveyance, or disposition.

23           (3)(a) If the property to be sold, conveyed, or  
24 disposed of under subsection (2) has been or is being used for  
25 the permanent interment of human remains, the applicant for  
26 approval of such sale, conveyance, or disposition shall cause  
27 to be published, at least once a week for 4 consecutive weeks,  
28 a notice meeting the standards of publication set forth in s.  
29 125.66(4)(b)2. The notice shall describe the property in  
30 question and the proposed noncemetery use and shall advise  
31 substantially affected persons that they may file a written

1 request for a hearing pursuant to chapter 120, within 14 days  
2 after the date of last publication of the notice, with the  
3 department if they object to granting the applicant's request  
4 to sell, convey, or dispose of the subject property for  
5 noncemetery uses.

6 (b) If the property in question has never been used  
7 for the permanent interment of human remains, no notice or  
8 hearing is required.

9 (c) If the property in question has been used for the  
10 permanent interment of human remains, the department shall  
11 approve the application, in writing, if it finds that it would  
12 not be contrary to the public interest. In determining whether  
13 to approve the application, the department shall consider any  
14 evidence presented concerning the following:

15 1. The historical significance of the subject  
16 property, if any.

17 2. The archaeological significance of the subject  
18 property, if any.

19 3. The public purpose, if any, to be served by the  
20 proposed use of the subject property.

21 4. The impact of the proposed change in use of the  
22 subject property upon the reasonable expectations of the  
23 families of the deceased regarding whether the cemetery  
24 property was to remain as a cemetery in perpetuity.

25 5. Whether any living relatives of the deceased  
26 actively oppose the relocation of their deceased's remains and  
27 the conversion of the subject property to noncemetery uses.

28 6. The elapsed time since the last interment in the  
29 subject property.

30 7. Any other factor enumerated in this chapter that  
31 the department considers relevant to the public interest.

1 (d) Any deed, mortgage, or other conveyance by a  
2 cemetery company or other owner pursuant to subsections (a)  
3 and (c) above must contain a disclosure in the following or  
4 substantially similar form:

5  
6 NOTICE: The property described herein was formerly used and  
7 dedicated as a cemetery. Conveyance of this property and its  
8 use for noncemetery purposes was authorized by the Florida  
9 Department of Banking and Finance by Order No. . . . ., dated  
10 . . . . .

11  
12 (e) The department shall adopt such rules as are  
13 necessary to carry out the provisions of this section.

14 (4) A licensee may convey and transfer to a  
15 municipality or county its real and personal property,  
16 together with moneys deposited in trust funds pursuant to this  
17 chapter, provided the municipality or county will accept  
18 responsibility for maintenance thereof and prior written  
19 approval of the department is obtained.

20 (5) The provisions of subsections (1) and (2) relating  
21 to a requirement for minimum acreage do ~~shall~~ not apply to any  
22 cemetery company licensed by the department on or before July  
23 1, 2002 ~~July 1, 2001~~, which owns a total of less than 15 ~~30~~  
24 acres of land; however, no cemetery company shall dispose of  
25 any land without the prior written consent of the department.

26 Section 3. This act shall take effect July 1, 2002.

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29 SENATE SUMMARY

30 Provides that cemeteries must contain not less than 15  
31 contiguous acres rather than not less than 30 contiguous  
acres.