

By Senator Pruitt

27-2370-02

1 A bill to be entitled
2 An act relating to funeral and cemetery
3 services; providing a short title; providing
4 for transfer of all records, personnel,
5 property, and unexpended balances of
6 appropriations, allocations, or other funds for
7 the administration of ch. 497, F.S., relating
8 to funeral and cemetery services, from the
9 Department of Banking and Finance to the
10 Department of Business and Professional
11 Regulation; ending the terms of current members
12 of the Board of Funeral Directors and Embalmers
13 and of the Board of Funeral and Cemetery
14 Services; providing for appointment and
15 staggering of terms of members of the new Board
16 of Funeral Directors and Cemeteries; preserving
17 the validity of judicial and administrative
18 proceedings pending at the time of such
19 transfer and the validity of licenses and
20 registrations in effect at the time of such
21 transfer; amending ss. 20.165, 455.2226,
22 470.002, 470.003, 497.005, 497.105, 497.117,
23 497.201, 497.253, F.S.; revising terminology
24 and references, to conform; providing for
25 payment of fees and costs of legal counsel to
26 be paid from the Professional Regulation Trust
27 Fund, to conform; amending s. 215.321, F.S.,
28 relating to the Regulatory Trust Fund, to
29 remove deposit therein of funds received
30 pursuant to ch. 497, F.S.; amending s. 470.017,
31 F.S.; increasing college credit course

1 requirements for registration as a direct
2 disposer; amending s. 470.018, F.S.; increasing
3 continuing education requirements for renewal
4 of registration as a direct disposer; amending
5 s. 470.0295, F.S.; eliminating an exception to
6 the requirement that a licensed funeral
7 director be present during the disinterment and
8 reinterment of human remains; amending s.
9 470.0355, F.S.; revising requirements for the
10 identification of human remains; providing
11 rulemaking authority; amending s. 497.103,
12 F.S.; requiring the board to establish by rule
13 reasonable times for access to cemeteries;
14 amending s. 497.305, F.S.; prohibiting cemetery
15 companies from restricting cemetery access to
16 authorized installers of monuments and markers
17 during the access times established by board
18 rule; amending s. 497.325, F.S.; clarifying
19 applicability of certain illegal tying
20 arrangements to all entities owning and
21 operating a cemetery; amending s. 497.333,
22 F.S.; requiring that each written contract
23 provided to a customer include a complete
24 description of any grave space to be used for
25 the interment of human remains; repealing s.
26 497.361(5), F.S., relating to requirements for
27 delivery and deadlines for installation of
28 monuments; amending s. 497.419, F.S.; providing
29 that failure to install a monument within a
30 specified period after interment constitutes
31 breach of contract; authorizing extension of

1 such period by written agreement; amending ss.
2 497.233, 497.429, F.S.; conforming
3 cross-references; creating s. 497.442, F.S.;
4 prohibiting the preneed sale of undeveloped
5 cemetery property prior to the filing of a site
6 plan for board approval; requiring site plans
7 for undeveloped cemetery property to be
8 completed by a professional surveyor and
9 mapper; providing penalties; repealing s.
10 497.101, F.S., relating to the Board of Funeral
11 and Cemetery Services, to conform; repealing s.
12 497.107, F.S., relating to the headquarters of
13 the board, to conform; repealing s. 497.109,
14 F.S., relating to organization and meetings of
15 the board, to conform; providing for
16 construction of the act in pari materia with
17 laws enacted at the 2002 Regular Session;
18 providing effective dates.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. This act may be cited as the "Funeral and
23 Cemetery Services Industry Regulatory Unification Act."

24 Section 2. All records, personnel, property, and
25 unexpended balances of appropriations, allocations, or other
26 funds for the administration of chapter 497, Florida Statutes,
27 shall be transferred by a type two transfer as defined in
28 section 20.06(2), Florida Statutes, from the Department of
29 Banking and Finance to the Department of Business and
30 Professional Regulation.

31

1 Section 3. The transfer of regulatory authority over
2 chapter 497, Florida Statutes, provided by this act shall not
3 affect the validity of any judicial or administrative
4 proceeding pending on September 30, 2002, and the Department
5 of Business and Professional Regulation shall be substituted
6 for the Department of Banking and Finance as a party in
7 interest.

8 Section 4. Notwithstanding the transfer of regulatory
9 authority over chapter 497, Florida Statutes, provided by this
10 act, all licenses and registrations issued pursuant to chapter
11 497, Florida Statutes, which are valid on September 30, 2001,
12 shall remain in effect subject to the provisions of chapter
13 497, Florida Statutes.

14 Section 5. (1) The terms of all current members of
15 the Board of Funeral Directors and Embalmers and of the Board
16 of Funeral and Cemetery Services shall expire on October 1,
17 2002. Members shall be appointed to the new Board of Funeral
18 Directors and Cemeteries pursuant to section 470.003, Florida
19 Statutes, to terms beginning on October 1, 2002, and staggered
20 as follows, notwithstanding section 470.003(3), Florida
21 Statutes:

22 (a) Three members shall be appointed for terms of 2
23 years each, one of whom must be a funeral director member, one
24 of whom must be a cemetery owner or operator member, and one
25 of whom must be a consumer member.

26 (b) Three members shall be appointed for terms of 3
27 years each, one of whom must be a funeral director member, one
28 of whom must be a cemetery owner or operator member, and one
29 of whom must be a consumer member.

30 (c) Three members shall be appointed for terms of 4
31 years each, one of whom must be a funeral director member, one

1 of whom must be a cemetery owner or operator member, and one
2 of whom must be the monument dealer member.

3
4 As the terms of these members expire, the Governor shall
5 appoint their successors for terms of 4 years in accordance
6 with section 470.003(3), Florida Statutes.

7 (2) This section shall take effect upon this act
8 becoming a law.

9 Section 6. Paragraph (a) of subsection (4) of section
10 20.165, Florida Statutes, is amended to read:

11 20.165 Department of Business and Professional
12 Regulation.--There is created a Department of Business and
13 Professional Regulation.

14 (4)(a) The following boards are established within the
15 Division of Professions:

16 1. Board of Architecture and Interior Design, created
17 under part I of chapter 481.

18 2. Florida Board of Auctioneers, created under part VI
19 of chapter 468.

20 3. Barbers' Board, created under chapter 476.

21 4. Florida Building Code Administrators and Inspectors
22 Board, created under part XII of chapter 468.

23 5. Construction Industry Licensing Board, created
24 under part I of chapter 489.

25 6. Board of Cosmetology, created under chapter 477.

26 7. Electrical Contractors' Licensing Board, created
27 under part II of chapter 489.

28 8. Board of Employee Leasing Companies, created under
29 part XI of chapter 468.

30 9. Board of Funeral Directors and Cemeteries
31 ~~Embalmers~~, created under chapter 470.

1 10. Board of Landscape Architecture, created under
2 part II of chapter 481.

3 11. Board of Pilot Commissioners, created under
4 chapter 310.

5 12. Board of Professional Engineers, created under
6 chapter 471.

7 13. Board of Professional Geologists, created under
8 chapter 492.

9 14. Board of Professional Surveyors and Mappers,
10 created under chapter 472.

11 15. Board of Veterinary Medicine, created under
12 chapter 474.

13 Section 7. Section 215.321, Florida Statutes, is
14 amended to read:

15 215.321 Regulatory Trust Fund.--All funds received
16 pursuant to ss. 494.001-494.0077, ~~chapter 497~~, chapter 516,
17 chapter 520, or part I of chapter 559 shall be deposited into
18 the Regulatory Trust Fund.

19 Section 8. Subsection (1) of section 455.2226, Florida
20 Statutes, is amended to read:

21 455.2226 Funeral directors and embalmers; instruction
22 on human immunodeficiency virus and acquired immune deficiency
23 syndrome.--

24 (1) The Board of Funeral Directors and Cemeteries
25 ~~Embalmers~~ shall require each person licensed or certified
26 under chapter 470 to complete a continuing educational course,
27 approved by the board, on human immunodeficiency virus and
28 acquired immune deficiency syndrome as part of biennial
29 relicensure or recertification. The course shall consist of
30 education on the modes of transmission, infection control
31 procedures, clinical management, and prevention of human

1 immunodeficiency virus and acquired immune deficiency
2 syndrome. Such course shall include information on current
3 Florida law on acquired immune deficiency syndrome and its
4 impact on testing, confidentiality of test results, and
5 treatment of patients.

6 Section 9. Subsection (2) of section 470.002, Florida
7 Statutes, is amended to read:

8 470.002 Definitions.--As used in this chapter:

9 (2) "Board" means the Board of Funeral Directors and
10 Cemeteries ~~Embalmers~~.

11 Section 10. Section 470.003, Florida Statutes, is
12 amended to read:

13 470.003 Board of Funeral Directors and Cemeteries
14 ~~Embalmers~~; membership; appointment; terms; headquarters.--

15 (1) The Board of Funeral Directors and Cemeteries
16 ~~Embalmers~~ is created within the Department of Business and
17 Professional Regulation and shall consist of nine ~~seven~~
18 members appointed by the Governor and confirmed by the Senate.

19 (2) Three ~~Five~~ members of the board must be funeral
20 directors licensed under this chapter, ~~no more than two of~~
21 ~~whom may be associated with a cemetery company through~~
22 ~~ownership interests or through employment with a company which~~
23 ~~has an ownership interest in a cemetery.~~ Three members must
24 be owners or operators of a cemetery licensed under chapter
25 497. ~~The remaining~~ Two members must be residents of the state
26 who have never been licensed as funeral directors or embalmers
27 and who are in no way connected with a cemetery, the death
28 care industry, or the practice of embalming, funeral
29 directing, or direct disposition. One member must be a
30 monument dealer affiliated with a monument establishment
31 registered under chapter 497. At least one consumer member of

1 the board must be 60 years of age or older. No licensee on
2 the board may be associated by employment or ownership with a
3 funeral establishment or cemetery which is owned partly or
4 wholly by a person, business, corporation, or other entity
5 which is associated with another licensee on the board.

6 (3) The Governor shall appoint members for terms of 4
7 years, and such members shall serve until their successors are
8 appointed.

9 (4) The board may be contacted through the
10 headquarters of the department in the City of Tallahassee.

11 ~~(5)(4)~~ All provisions of chapter 455 and s. 20.165
12 relating to activities of regulatory boards shall apply.

13 Section 11. Paragraph (d) of subsection (2) of section
14 470.017, Florida Statutes, is amended to read:

15 470.017 Registration as a direct disposer.--

16 (2) Any person who desires to be registered as a
17 direct disposer shall file an application with the department
18 on a form furnished by the department. The department shall
19 register each applicant who has remitted a registration fee
20 set by the department, not to exceed \$200; has completed the
21 application form and remitted a nonrefundable application fee
22 set by the department, not to exceed \$50; and meets the
23 following requirements:

24 (d) Has received a passing grade in the following a
25 college credit courses, as provided by rule of the board:
26 ~~course in Florida mortuary law, ethics,~~
27 microbiology-infectious diseases, thanatology, and accounting.

28 Section 12. Subsection (2) of section 470.018, Florida
29 Statutes, is amended to read:

30 470.018 Renewal of registration of direct disposer.--

31

1 (2) The department shall adopt rules establishing a
2 procedure for the biennial renewal of registrations. The
3 board shall prescribe by rule continuing education
4 requirements of up to 6 ~~3~~ classroom hours and may by rule
5 establish criteria for accepting alternative nonclassroom
6 continuing education on an hour-for-hour basis, in addition to
7 a board-approved course on communicable diseases that includes
8 the course on human immunodeficiency virus and acquired immune
9 deficiency syndrome required by s. 455.2226, for the renewal
10 of a registration.

11 Section 13. Subsection (1) of section 470.0295,
12 Florida Statutes, is amended to read:

13 470.0295 Disinterment; transportation; authorization
14 and notification.--

15 (1) The disinterment and reinterment of human remains
16 shall require the physical presence of a licensed funeral
17 director, ~~unless the reinterment is to be made in the same~~
18 ~~cemetery.~~

19 Section 14. Section 470.0355, Florida Statutes, is
20 amended to read:

21 470.0355 Identification of human remains.--

22 (1) The licensee or registrant in charge of the final
23 disposition of dead human remains shall, prior to final
24 disposition of such dead human remains, affix on the ankle or
25 wrist of the deceased, and affix on or otherwise attach to ~~or~~
26 ~~in~~ the casket and outer burial container or any alternative
27 container or cremation container, proper identification of the
28 dead human remains. The identification or tag shall be
29 encased in or consist of durable and long-lasting material
30 containing the name, date of birth, and date of death, ~~and~~
31 ~~social security number~~ of the deceased, if available. If the

1 dead human remains are cremated, proper identification shall
2 be placed in the container or urn containing the remains.

3 (2) Any licensee or registrant responsible for removal
4 of dead human remains to any establishment, facility, or
5 location shall ensure that the remains are identified by a tag
6 or other means of identification that is affixed to the ankle
7 or wrist of the deceased at the time the remains are removed
8 from the place of death or other location. The tag or other
9 identification may not be removed from the human remains,
10 except to relocate the tag or other identification from the
11 ankle to the wrist or from the wrist to the ankle. The tag or
12 other identification must accompany the remains until final
13 disposition. When cremation is the final disposition, the tag
14 or other identification may be removed just prior to cremation
15 and maintained within the permanent file.

16 (3) Any licensee or registrant may rely on the
17 representation of a legally authorized person to establish the
18 identity of dead human remains.

19 (4) The board shall adopt rules pursuant to ss.
20 120.536(1) and 120.54 to implement the requirements and
21 operating procedures for the identification of human remains
22 set forth in this section.

23 Section 15. Subsections (4) and (16) of section
24 497.005, Florida Statutes, are amended to read:

25 497.005 Definitions.--As used in this chapter:

26 (4) "Board" means the Board of Funeral Directors and
27 Cemeteries created under s. 470.003 ~~Cemetery Services.~~

28 (16) "Department" means the Department of Business and
29 Professional Regulation ~~Banking and Finance.~~

30 Section 16. Subsection (3) of section 497.103, Florida
31 Statutes, is amended to read:

1 497.103 Rulemaking authority of board and
2 department.--

3 (3) The board shall adopt and enforce rules governing
4 the operation of cemeteries in this state and arrange for the
5 preparation, publication, and dissemination to the public of
6 these rules and other information and material relevant to the
7 operation of cemeteries. Such rules shall include
8 establishing reasonable times for access to all cemeteries,
9 including the time of day and days of the week for access to
10 install monuments and markers.

11 Section 17. Section 497.105, Florida Statutes, is
12 amended to read:

13 497.105 ~~Department of Banking and Finance~~ Powers and
14 duties of department.--The department ~~of Banking and Finance~~
15 shall:

16 (1) Adopt rules establishing procedures for the
17 renewal of licenses, registrations, and certificates of
18 authority.

19 (2) Appoint the executive director of the board ~~of~~
20 ~~Funeral and Cemetery Services~~, subject to the approval of the
21 board.

22 (3) With the advice of the board, submit a biennial
23 budget to the Legislature at a time and in the manner provided
24 by law.

25 (4) Develop a training program for persons newly
26 appointed to membership on the board. The program shall
27 familiarize such persons with the substantive and procedural
28 laws and rules which relate to the regulation under this
29 chapter and with the structure of the department.

30
31

1 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54
2 to implement the provisions of this chapter conferring duties
3 upon it.

4 (6) Establish by rule procedures by which the
5 department shall use the expert or technical advice of the
6 board, for the purposes of investigation, inspection, audit,
7 evaluation of applications, other duties of the department, or
8 any other areas the department may deem appropriate.

9 (7) Require all proceedings of the board or panels
10 thereof within the department and all formal or informal
11 proceedings conducted by the department, an administrative law
12 judge, or a hearing officer with respect to licensing,
13 registration, certification, or discipline to be
14 electronically recorded in a manner sufficient to ensure the
15 accurate transcription of all matters so recorded.

16 (8) Select only those investigators approved by the
17 board. Such investigators shall report to and work in
18 coordination with the executive director of the board and are
19 responsible for all inspections and investigations other than
20 financial examinations.

21 Section 18. Section 497.117, Florida Statutes, is
22 amended to read:

23 497.117 Legal and investigative services.--

24 (1) The Department of Legal Affairs shall provide
25 legal services to the board ~~within the Department of Banking~~
26 ~~and Finance~~, but the primary responsibility of the Department
27 of Legal Affairs shall be to represent the interests of the
28 citizens of the state by vigorously counseling the board with
29 respect to its obligations under the laws of the state.
30 Subject to the prior approval of the Attorney General, the
31 board may retain independent legal counsel to provide legal

1 advice to the board on a specific matter. Fees and costs of
2 such counsel shall be paid from the Professional Regulation
3 ~~Regulatory~~ Trust Fund of the department of ~~Banking and~~
4 ~~Finance~~.

5 (2) The Department of Business and Professional
6 Regulation ~~Banking and Finance~~ may employ or utilize the legal
7 services of outside counsel and the investigative services of
8 outside personnel. However, no attorney employed or utilized
9 by the department shall prosecute a matter or provide legal
10 services to the board with respect to the same matter.

11 Section 19. Subsection (3) of section 497.201, Florida
12 Statutes, is amended to read:

13 497.201 Cemetery companies; license; application;
14 fee.--

15 (3) If the board finds that the applicant meets the
16 criteria established in subsection (2), the department shall
17 notify the applicant that a license will be issued when:

18 (a) The establishment of a care and maintenance trust
19 fund containing not less than \$50,000 has been certified by a
20 trust company operating pursuant to chapter 660, a state or
21 national bank holding trust powers, or a savings and loan
22 association holding trust powers as provided in s. 497.423.

23 (b) The applicant has filed with the department
24 development plans which are sufficient to ensure the
25 department that the cemetery will provide adequate service to
26 the community and which have been approved by the appropriate
27 local governmental agency regulating zoning in the area of the
28 proposed cemetery.

29 (c) The applicant holds an unencumbered fee simple
30 title to at least 30 contiguous acres of land.

31

1 (d) The applicant has designated as general manager a
2 person who has integrity, 3 years of cemetery management
3 experience as defined by board rule, and the ability to
4 operate a cemetery.

5 (e) The applicant has fully developed not less than 2
6 acres for use as burial space, such development to include a
7 paved road from a public roadway to the developed section.

8 (f) The applicant has recorded, in the public records
9 of the county in which the land is located, a notice which
10 contains the following language:

11
12 NOTICE

13
14 The property described herein shall not be sold, conveyed,
15 leased, mortgaged, or encumbered without the prior written
16 approval of the Department of Business and Professional
17 Regulation ~~Banking and Finance~~, as provided in the Florida
18 Funeral and Cemetery Services Act.

19
20 Such notice shall be clearly printed in boldfaced type of not
21 less than 10 points and may be included on the face of the
22 deed of conveyance to the licensee or may be contained in a
23 separate recorded instrument which contains a description of
24 the property.

25 Section 20. Paragraph (x) of subsection (1) of section
26 497.233, Florida Statutes, is amended to read:

27 497.233 Disciplinary proceedings.--

28 (1) The following acts constitute grounds for which
29 the disciplinary actions in subsection (2) may be taken:

30 (x) Sale of an irrevocable preneed contract to a
31 person who is not an applicant for or recipient of

1 Supplemental Security Income, Aid to Families with Dependent
2 Children, or Medicaid pursuant to s. 497.419(8)~~(7)~~.

3 Section 21. Subsection (3) of section 497.253, Florida
4 Statutes, is amended to read:

5 497.253 Minimum acreage; sale or disposition of
6 cemetery lands.--

7 (3)(a) If the property to be sold, conveyed, or
8 disposed of under subsection (2) has been or is being used for
9 the permanent interment of human remains, the applicant for
10 approval of such sale, conveyance, or disposition shall cause
11 to be published, at least once a week for 4 consecutive weeks,
12 a notice meeting the standards of publication set forth in s.
13 125.66(4)(b)2. The notice shall describe the property in
14 question and the proposed noncemetery use and shall advise
15 substantially affected persons that they may file a written
16 request for a hearing pursuant to chapter 120, within 14 days
17 after the date of last publication of the notice, with the
18 department if they object to granting the applicant's request
19 to sell, convey, or dispose of the subject property for
20 noncemetery uses.

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

24 (c) If the property in question has been used for the
25 permanent interment of human remains, the department shall
26 approve the application, in writing, if it finds that it would
27 not be contrary to the public interest. In determining whether
28 to approve the application, the department shall consider any
29 evidence presented concerning the following:

30 1. The historical significance of the subject
31 property, if any.

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

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

5 4. The impact of the proposed change in use of the
6 subject property upon the reasonable expectations of the
7 families of the deceased regarding whether the cemetery
8 property was to remain as a cemetery in perpetuity.

9 5. Whether any living relatives of the deceased
10 actively oppose the relocation of their deceased's remains and
11 the conversion of the subject property to noncemetery uses.

12 6. The elapsed time since the last interment in the
13 subject property.

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

16 (d) Any deed, mortgage, or other conveyance by a
17 cemetery company or other owner pursuant to paragraphs
18 ~~subsections~~ (a) and (c) above must contain a disclosure in the
19 following or substantially similar form:

20
21 NOTICE: The property described herein was formerly used and
22 dedicated as a cemetery. Conveyance of this property and its
23 use for noncemetery purposes was authorized by the Florida
24 Department of Business and Professional Regulation ~~Banking and~~
25 ~~Finance~~ by Order No., dated

26
27 (e) The department shall adopt such rules as are
28 necessary to carry out the provisions of this section.

29 Section 22. Subsection (3) of section 497.305, Florida
30 Statutes, is amended to read:

31 497.305 Cemetery companies; authorized functions.--

1 (3) A cemetery company may adopt bylaws establishing
2 minimum standards for burial merchandise or the installation
3 thereof. However, a cemetery company may not restrict access
4 to any cemetery by any person needing access to install a
5 monument or marker on behalf of a registered monument
6 establishment, if such access is within the reasonable times
7 for access established by board rule.

8 Section 23. Subsection (2) of section 497.325, Florida
9 Statutes, is amended to read:

10 497.325 Illegal tying arrangements.--

11 (2)(a) Noncemetery licensed persons and firms shall
12 have the right to sell monuments and to perform or provide on
13 cemetery property foundation, preparation, and installation
14 services for monuments. However, a cemetery company or any
15 other entity owning and operating a cemetery may establish
16 reasonable rules regarding the style and size of a monument or
17 its foundation, provided such rules are applicable to all
18 monuments from whatever source obtained and are enforced
19 uniformly as to all monuments. Such rules shall be
20 conspicuously posted and readily accessible to inspection and
21 copy by interested persons.

22 (b) No person who is authorized to sell grave space
23 and no cemetery company or other entity owning and operating a
24 cemetery may:

25 1. Require the payment of a setting or service charge,
26 by whatever name known, from third party installers for the
27 placement of a monument;

28 2. Refuse to provide care or maintenance for any
29 portion of a gravesite on which a monument has been placed; or

30 3. Waive liability with respect to damage caused by
31 cemetery employees or agents to a monument after installation,

1
2 where the monument or installation service is not purchased
3 from the person authorized to sell grave space or the cemetery
4 company or other legal entity providing grave space or from or
5 through any other person or corporation designated by the
6 person authorized to sell grave space or the cemetery company
7 or other legal entity providing grave space. No cemetery
8 company or other entity owning and operating a cemetery may be
9 held liable for the improper installation of a monument where
10 the monument is not installed by the cemetery company or its
11 agents or by such other entity or its agents.

12 Section 24. Subsection (6) of section 497.333, Florida
13 Statutes, is amended to read:

14 497.333 Disclosure of information to public.--A
15 licensee offering to provide burial rights, merchandise, or
16 services to the public shall:

17 (6) Provide to the customer, upon the purchase of any
18 burial right, merchandise, or service, a written contract, the
19 form of which has been approved by the board.

20 (a) The written contract shall be completed as to all
21 essential provisions prior to the signing of the contract by
22 the customer.

23 (b) The written contract shall provide an itemization
24 of the amounts charged for all services, merchandise, and
25 fees, which itemization shall be clearly and conspicuously
26 segregated from everything else on the written contract.

27 (c) A description of the merchandise covered by the
28 contract to include, when applicable, model, manufacturer, and
29 other relevant specifications.

30 (d) A complete description of any grave space to be
31 used for the interment of human remains.

1 Section 25. Subsection (5) of section 497.361, Florida
2 Statutes, is repealed:

3 497.361 Registration of monument establishments.--

4 ~~(5) Monuments shall be delivered as established by~~
5 ~~this chapter and installed no later than 120 days after the~~
6 ~~date of sale. The establishment may request two 30-day~~
7 ~~extensions. Extensions may be granted by the executive~~
8 ~~director.~~

9 Section 26. Present subsections (6) through (10) of
10 section 497.419, Florida Statutes, are renumbered as
11 subsections (7) through (11), respectively, and a new
12 subsection (6) is added to that section to read:

13 497.419 Cancellation of, or default on, preneed
14 contracts.--

15 (6) Failure to install a monument within 180 days
16 after interment is a breach of contract unless the
17 certificateholder has a written agreement to extend the
18 installation date. The purchaser is entitled to a refund of
19 all money paid for the merchandise. Such refund must be made
20 within 30 days after receipt by the certificateholder of the
21 contract purchaser's written request for a refund. This
22 subsection does not preclude the purchase and installation of
23 a new monument from any other registered monument dealer.

24 Section 27. Subsection (9) of section 497.429, Florida
25 Statutes, is amended to read:

26 497.429 Alternative preneed contracts.--

27 (9) The contract may provide that the
28 certificateholder may cancel the contract, but only in the
29 event that the purchaser is more than 90 days in default of
30 the terms of the contract; and, unless subject to the
31 provisions of s. 497.419(7)~~(6)~~, must provide that the

1 purchaser, or her or his representative, has the right, at any
2 time prior to the performance of the contract, to cancel the
3 preneed contract and re-vest title to all the funds paid on the
4 preneed contract, except for applicable liquidated damages,
5 and the certificateholder's rights in the net income of the
6 trust.

7 Section 28. Section 497.442, Florida Statutes, is
8 created to read:

9 497.442 Preneed sale of undeveloped cemetery
10 property.--The preneed sale of undeveloped cemetery property
11 prior to the filing of a site plan for board approval is
12 prohibited. Each site plan for undeveloped cemetery property
13 submitted to the board for approval must be completed by a
14 professional surveyor and mapper licensed under chapter 472.

15 Section 29. Sections 497.101, 497.107, and 497.109,
16 Florida Statutes, are repealed.

17 Section 30. If any law that is amended by this act was
18 also amended by a law enacted at the 2002 Regular Session of
19 the Legislature, such laws shall be construed as if they had
20 been enacted at the same session of the Legislature, and full
21 effect should be given to each if that is possible.

22 Section 31. Except as otherwise provided in this act,
23 this act shall take effect October 1, 2002.

24
25
26
27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Transfers the administration of ch. 497, F.S., relating to funeral and cemetery services, from the Department of Banking and Finance to the Department of Business and Professional Regulation, effective October 1, 2002. Ends the terms of current members of the Board of Funeral Directors and Embalmers and of the Board of Funeral and Cemetery Services on October 1, 2002, and provides for appointment and staggering of terms of members of the new Board of Funeral Directors and Cemeteries. Provides that fees and costs of legal counsel shall be paid from the Professional Regulation Trust Fund rather than the Regulatory Trust Fund, and eliminates deposit into the Regulatory Trust Fund of funds received pursuant to ch. 497, F.S.

Increases college credit course requirements for registration as a direct disposer and continuing education requirements for renewal of such registration. Eliminates an exception to the requirement that a licensed funeral director be present during the disinterment and reinterment of human remains. Revises requirements for the identification of human remains. Requires the board to establish by rule reasonable times for access to cemeteries, and prohibits cemetery companies from restricting cemetery access to authorized installers of monuments and markers during such times. Clarifies applicability of certain illegal tying arrangements not only to cemetery companies but also to other entities owning and operating a cemetery. Requires that each written contract provided to a customer include a complete description of any grave space to be used for the interment of human remains. Repeals a provision relating to requirements for delivery and deadlines for installation of monuments. Provides that failure to install a monument within a specified period after interment constitutes breach of contract and authorizes extension of such period by written agreement. Prohibits the preneed sale of undeveloped cemetery property prior to the filing of a site plan for board approval, and requires site plans for undeveloped cemetery property to be completed by a professional surveyor and mapper. (See bill for details.)