



CHAMBER ACTION

The Committee on Commerce recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to funeral and cemetery services, funeral directing, embalming, and direct disposition; amending s. 470.002, F.S.; revising and providing definitions; amending s. 470.0085, F.S.; extending the embalmer apprentice period; amending s. 470.021, F.S.; providing additional requirements to be a direct disposal establishment; providing inspection requirements and criteria; amending s. 470.024, F.S.; revising requirements to be a funeral establishment; amending s. 470.025, F.S.; revising cremation requirements for cinerator facilities relating to simultaneous cremations, body parts, cremation containers, and the cremation chamber; providing exemption from liability for unintentional or incidental commingling of remains under certain conditions; amending s. 470.0255, F.S.; providing for cremation of parts of human bodies incidental to final disposition; amending s. 470.028, F.S.; providing for control and supervision of preneed agents; amending s. 470.029, F.S.; extending the filing



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29 | time for reports of bodies embalmed or handled; amending
30 | s. 470.031, F.S.; prohibiting any guarantee on the future
31 | price of any goods or services; providing penalties;
32 | amending s. 470.0355, F.S.; revising requirements for
33 | identification of human remains prior to final
34 | disposition; providing requirements for identification of
35 | human remains in licensed and unlicensed cemeteries and by
36 | direct disposal establishments; reenacting s. 470.036,
37 | F.S., relating to disciplinary proceedings, to incorporate
38 | the amendment to s. 470.031, F.S., in a reference thereto;
39 | amending s. 497.005, F.S.; revising and providing
40 | definitions; creating s. 497.306, F.S.; providing
41 | dimension and spacing standards for grave spaces;
42 | requiring a map of reference markers and a land survey for
43 | areas proposed to be developed by a licensed cemetery
44 | company; exempting adult grave spaces previously
45 | established; creating s. 497.307, F.S.; providing
46 | requirements for identification of human remains in
47 | licensed cemeteries; amending s. 497.405, F.S.;
48 | prohibiting any person from advertising for sale or making
49 | any arrangement for a preneed contract without having a
50 | valid certificate of authority; expanding the exemption
51 | from the required certificate of authority for certain
52 | religious-institution-owned cemeteries to include the sale
53 | and opening or closing of cremation interment containers
54 | to members and family members of the religious
55 | institution; amending s. 497.419, F.S.; requiring preneed
56 | contracts to include in the refund notice the exclusion



57 | for amounts allocable to burial rights, merchandise, and
 58 | services used by the purchaser; amending s. 497.436, F.S.;
 59 | authorizing the Board of Funeral and Cemetery Services to
 60 | review the trust funds, trust agreements, and outstanding
 61 | preneed contracts of, and perform other procedures at its
 62 | discretion with respect to, a certificateholder filing
 63 | notice to become inactive; providing an effective date.
 64 |

65 | Be It Enacted by the Legislature of the State of Florida:

66 |
 67 | Section 1. Section 470.002, Florida Statutes, is amended
 68 | to read:

69 | 470.002 Definitions.--As used in this chapter:

70 | (1)~~(15)~~ "Alternative container" means a nonmetal
 71 | receptacle or enclosure which is less expensive than a casket
 72 | and of sufficient strength to be used to hold and transport a
 73 | dead human body.

74 | (2)~~(22)~~ "At-need solicitation" means any uninvited contact
 75 | by a funeral director or direct disposer for the purpose of the
 76 | sale of funeral services or merchandise to the family or next of
 77 | kin of a person after that person has died.

78 | (3)~~(2)~~ "Board" means the Board of Funeral Directors and
 79 | Embalmers.

80 | (4) "Body parts" means:

81 | (a) Limbs or other portions of the anatomy that are
 82 | removed from a person or human remains for medical purposes
 83 | during treatment, surgery, biopsy, autopsy, or medical research;
 84 | or



85 (b) Human bodies or any portions of human bodies which
86 have been donated to science for medical research purposes.

87 ~~(5)(16)~~ "Casket" means a rigid container which is designed
88 for the encasement of human remains for burial, ~~and~~ which is
89 usually constructed of wood or metal, ornamented, and lined with
90 fabric, and which may or may not be combustible.

91 ~~(6)(27)~~ "Centralized embalming facility" means a facility,
92 not physically connected with a funeral establishment, in which
93 embalming takes place.

94 ~~(7)(14)~~ "Cinerator" means a facility where dead human
95 bodies are reduced to a residue, including bone fragments, by
96 direct flame, also known as "cremation," or by intense heat,
97 also known as "calcination."

98 (8) "Closed container" means any container in which
99 cremated remains can be placed and closed in a manner so as to
100 prevent leakage or spillage of the remains.

101 (9) "Cremated remains" means all the remains of the human
102 body recovered after the completion of the cremation process,
103 including processing or pulverization which leaves only bone
104 fragments reduced to unidentifiable dimensions and may include
105 the residue of any foreign matter, including casket material,
106 bridgework, or eyeglasses that were cremated with the human
107 remains.

108 ~~(10)(24)~~ "Cremation" means the technical process, using
109 direct flame and heat, that reduces human remains to bone
110 fragments through heat and evaporation. Cremation includes the
111 processing and usually includes the pulverization of the bone
112 fragments ~~includes any mechanical or thermal process whereby a~~



113 ~~dead human body is reduced to ashes and bone fragments.~~
 114 ~~Cremation also includes any other mechanical or thermal process~~
 115 ~~whereby human remains are pulverized, burned, reinterred, or~~
 116 ~~otherwise further reduced in size or quantity.~~

117 (11) "Cremation chamber" means the enclosed space within
 118 which the cremation process takes place. Cremation chambers
 119 covered by these procedures must be used exclusively for the
 120 cremation of human remains.

121 (12) "Cremation container" means the container in which
 122 the human remains are transported to and placed in the cremation
 123 chamber for a cremation. A cremation container should meet
 124 substantially all of the following standards:

125 (a) Be composed of readily combustible materials suitable
 126 for cremation.

127 (b) Be able to be closed in order to provide a complete
 128 covering for the human remains.

129 (c) Be resistant to leakage or spillage.

130 (d) Be rigid enough to be handled with ease.

131 (e) Be able to provide protection for the health, safety,
 132 and personal integrity of crematory personnel.

133 (13) "Cremation interment container" means a rigid outer
 134 container that, subject to a cemetery's rules and regulations,
 135 is composed of concrete, steel, fiberglass, or some similar
 136 material in which an urn is placed prior to being interred in
 137 the ground and which is designed to support the earth above the
 138 urn.

139 (14)~~(1)~~ "Department" means the Department of Business and
 140 Professional Regulation.



141 (15)~~(8)~~ "Direct disposal establishment" means a facility
142 registered under this chapter where a direct disposer practices
143 direct disposition.

144 (16)~~(9)~~ "Direct disposer" means any person registered
145 under this chapter to practice direct disposition in this state.

146 (17)~~(28)~~ "Disinterment" means removal of a dead human body
147 from earth interment or aboveground interment.

148 (18)~~(5)~~ "Embalmer" means any person licensed under this
149 chapter to practice embalming in this state.

150 (19)~~(11)~~ "Final disposition" means the final disposal of a
151 dead human body by earth interment, aboveground interment,
152 cremation, burial at sea, or delivery to a medical institution
153 for lawful dissection if the medical institution assumes
154 responsibility for disposal. "Final disposition" does not
155 include the disposal or distribution of ashes and residue of
156 cremated human remains.

157 (20)~~(13)~~ "Funeral" or "funeral service" means the
158 observances, services, or ceremonies held to commemorate the
159 life of a specific deceased human being, and at which the human
160 remains are present.

161 (21)~~(3)~~ "Funeral director" means any person licensed under
162 this chapter to practice funeral directing in this state.

163 (22)~~(7)~~ "Funeral establishment" means a facility licensed
164 under this chapter where a funeral director or embalmer
165 practices funeral directing or embalming.

166 (23)~~(12)~~ "Funeral merchandise" or "merchandise" means any
167 merchandise commonly sold in connection with the funeral, final
168 disposition, or memorialization of human remains, including, but



169 not limited to, caskets, outer burial containers, alternative
 170 containers, cremation containers, cremation interment
 171 containers, urns, monuments, private mausoleums, flowers,
 172 shrubs, benches, vases, acknowledgment cards, register books,
 173 memory folders, prayer cards, and clothing.

174 ~~(24)(23)~~ "Human remains" or "remains," "dead human body"
 175 or "dead human bodies," means the body of a deceased human
 176 person for which a death certificate or fetal death certificate
 177 is required under chapter 382 and includes the body in any stage
 178 of decomposition and the residue of cremated human bodies.

179 ~~(25)(18)~~ "Legally authorized person" means, in the
 180 priority listed, the decedent, when written inter vivos
 181 authorizations and directions are provided by the decedent, the
 182 surviving spouse, unless the spouse has been arrested for
 183 committing against the deceased an act of domestic violence as
 184 defined in s. 741.28 that resulted in or contributed to the
 185 death of the deceased, a son or daughter who is 18 years of age
 186 or older, a parent, a brother or sister 18 years of age or over,
 187 a grandchild who is 18 years of age or older, or a grandparent;
 188 or any person in the next degree of kinship. In addition, the
 189 term may include, if no family exists or is available, the
 190 following: the guardian of the dead person at the time of death;
 191 the personal representative of the deceased; the attorney in
 192 fact of the dead person at the time of death; the health
 193 surrogate of the dead person at the time of death; a public
 194 health officer; the medical examiner, county commission or
 195 administrator acting under chapter 245, or other public
 196 administrator; a representative of a nursing home or other



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197 health care institution in charge of final disposition; or a
198 friend or other person not listed in this subsection who is
199 willing to assume the responsibility as authorized person. Where
200 there is a person in any priority class listed in this
201 subsection, the funeral establishment shall rely upon the
202 authorization of any one legally authorized person of that class
203 if that individual represents that he or she is not aware of any
204 objection to the cremation of the deceased's human remains by
205 others in the same class of the person making the representation
206 or of any person in a higher priority class.

207 (26) "Niche" means a compartment or cubicle for the
208 memorialization or permanent placement of a container or urn
209 containing cremated remains.

210 (27)~~(19)~~ "Outer burial container" means an enclosure into
211 which a casket is placed, including, but not limited to, a vault
212 made of concrete, steel, fiberglass, or copper, a sectional
213 concrete enclosure, a crypt, or a wooden enclosure.

214 (28)~~(20)~~ "Personal residence" means any residential
215 building in which one temporarily or permanently maintains his
216 or her abode, including, but not limited to, an apartment or a
217 hotel, motel, nursing home, convalescent home, home for the
218 aged, or a public or private institution.

219 (29)~~(10)~~ "Practice of direct disposition" means the
220 cremation of human remains without preparation of the human
221 remains by embalming and without any attendant services or rites
222 such as funeral or graveside services or the making of
223 arrangements for such final disposition.



224 ~~(30)(6)~~ "Practice of embalming" means disinfecting or
 225 preserving or attempting to disinfect or preserve dead human
 226 bodies by replacing certain body fluids with preserving and
 227 disinfecting chemicals.

228 ~~(31)(4)~~ "Practice of funeral directing" means the
 229 performance by a licensed funeral director of any of those
 230 functions authorized by s. 470.0087.

231 ~~(32)(21)~~ "Preneed sales agent" means any person who is
 232 registered under chapter 497 to sell preneed burial or funeral
 233 service and merchandise contracts or direct disposition
 234 contracts in this state.

235 (33) "Processing" means the reduction of identifiable bone
 236 fragments after the completion of the cremation process to
 237 unidentifiable bone fragments by manual means.

238 (34) "Pulverization" means the reduction of identifiable
 239 bone fragments after the completion of the cremation and
 240 processing to granulated particles by manual or mechanical
 241 means.

242 ~~(35)(25)~~ "Refrigeration facility" means a facility that is
 243 not physically connected with a funeral establishment, crematory
 244 or direct disposal establishment, that maintains space and
 245 equipment for the storage and refrigeration of dead human
 246 bodies, and that offers its service to funeral directors and
 247 funeral establishments for a fee.

248 ~~(36)(26)~~ "Removal service" means any service that operates
 249 independently of a funeral establishment, that handles the
 250 initial removal of dead human bodies, and that offers its



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251 service to funeral establishments and direct disposal
252 establishments for a fee.

253 (37)~~(17)~~ "Solicitation" means any communication which
254 directly or implicitly requests an immediate oral response from
255 the recipient.

256 (38) "Temporary container" means a receptacle for cremated
257 remains usually made of cardboard, plastic, or similar material
258 designated to hold the cremated remains until an urn or other
259 permanent container is acquired.

260 (39) "Urn" means a receptacle designed to permanently
261 encase cremated remains.

262 Section 2. Section 470.0085, Florida Statutes, is amended
263 to read:

264 470.0085 Establishment of embalmer apprentice
265 program.--The board may adopt rules establishing an embalmer
266 apprentice program. An embalmer apprentice may perform only
267 those tasks, functions, and duties relating to embalming which
268 are performed under the direct supervision of a licensed
269 embalmer. An embalmer apprentice shall be eligible to serve in
270 an apprentice capacity for a period not to exceed 3 years ~~1 year~~
271 as may be determined by board rule or for a period not to exceed
272 5 ~~3~~ years if the apprentice is enrolled in and attending a
273 course in mortuary science or funeral service education at any
274 mortuary college or funeral service education college or school.
275 An embalmer apprentice shall be registered with the board upon
276 payment of a registration fee not to exceed \$50.

277 Section 3. Subsections (2) and (5) of section 470.021,
278 Florida Statutes, are amended to read:



279 | 470.021 Direct disposal establishment; standards and
280 | location; registration.--

281 | (2) The practice of direct disposition must be engaged in
282 | at a fixed location of at least 625 interior contiguous square
283 | feet and must maintain or make arrangements for suitable
284 | capacity for the refrigeration and storage of dead human bodies
285 | handled and stored by the establishment. No person may open or
286 | maintain an establishment at which to engage in or hold himself
287 | or herself out as engaging in the practice of direct disposition
288 | unless such establishment is registered with the board. Any
289 | change in location of such establishment shall be reported
290 | promptly to the board as prescribed by rule of the board.

291 | (5)(a) Each direct disposal establishment shall at all
292 | times be subject to the inspection of all its buildings,
293 | grounds, and vehicles used in the conduct of its business, by
294 | the department, the Department of Health, and local government
295 | inspectors and by their agents. The board shall adopt rules
296 | which establish such inspection requirements.

297 | (b) The board shall set by rule an annual inspection fee
298 | not to exceed \$100, payable upon application for registration
299 | and upon each renewal of such registration.

300 | (c) Each cinerator facility shall be inspected prior to
301 | the issuance and renewal of its license and shall:

302 | 1. Maintain one or more retorts for the reduction of dead
303 | human bodies.

304 | 2. Maintain refrigeration which satisfies the standards
305 | set by the Department of Health and which contains a sufficient



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306 number of shelves for the average daily number of bodies stored,
 307 if unembalmed bodies are kept at the site.

308 3. Maintain sufficient pollution control equipment to
 309 comply with requirements of the Department of Environmental
 310 Protection in order to secure annual approved certification.

311 4. Either have on site or immediately available sufficient
 312 sealed containers of a type required for the transportation of
 313 bodies as specified in Rule 10D-37.012, F.A.C.

314 5. Maintain the premises in a clean and sanitary
 315 condition.

316 6. Have appropriate Department of Environmental Protection
 317 permits.

318 7. Retain all signed contracts for a period of at least 2
 319 years.

320 Section 4. Subsection (1) of section 470.024, Florida
 321 Statutes, is amended to read:

322 470.024 Funeral establishment; licensure.--

323 (1) A funeral establishment shall be a place at a specific
 324 street address or location consisting of at least 1,250
 325 contiguous interior square feet and must maintain or make
 326 arrangements for ~~either~~ suitable capacity for the refrigeration
 327 and storage of dead human bodies handled and stored by the
 328 establishment and ~~or~~ a preparation room equipped with necessary
 329 ventilation and drainage and containing necessary instruments
 330 for embalming dead human bodies or must make arrangements for a
 331 preparation room as established by board rule.



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332 Section 5. Subsections (6), (13), (14), and (15) of
333 section 470.025, Florida Statutes, are amended, and subsection
334 (16) is added to said section, to read:

335 470.025 Cinerator facility; licensure.--

336 (6) No more than one dead human body may be placed in a
337 retort at one time, unless written permission has been received
338 from a legally authorized person for each body. The operator of
339 a cinerator facility shall be entitled to rely on the permission
340 of a legally authorized person to cremate more than one human
341 body.

342 (13) A cinerator facility shall not place human remains or
343 body parts in a retort or cremation chamber unless the human
344 remains are in an alternative container, cremation container, or
345 casket. Human remains may be transported in a cremation
346 container or stored if they are completely covered, and at all
347 times treated with dignity and respect. Cremation may include
348 the processing and pulverization of bone fragments. Cremated
349 remains may be placed in a temporary container following
350 cremation. None of the provisions contained in this subsection
351 require the purchase of a casket for cremation. This subsection
352 applies to at-need contracts and preneed contracts entered into
353 pursuant to chapter 497 after June 1, 1996.

354 (14) Each cinerator facility shall ensure that all
355 alternative containers, cremation containers, or caskets used
356 for cremation contain no amount of chlorinated plastics not
357 authorized by the Department of Environmental Protection, that
358 they also are composed of readily combustible materials suitable
359 for cremation, able to be closed to provide a complete covering



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360 for the human remains, resistant to leakage or spillage, rigid
 361 enough for handling with ease, and able to provide for the
 362 health, safety, and personal integrity of the public and
 363 crematory personnel.

364 (15) The board shall adopt, by rule, criteria for
 365 acceptable cremation and alternative containers.

366 (16) The operator of a cinerator facility shall establish
 367 written procedures for the removal of remains and bone
 368 fragments, to the extent possible, resulting from the cremation
 369 of a human body and the postcremation processing, shipping,
 370 packing, or identifying of those remains. If an operator follows
 371 these procedures, the operator is not liable for the
 372 unintentional or incidental commingling of human remains and
 373 bone fragments resulting from more than one cremation cycle or
 374 from postcremation processing, shipping, packing, or identifying
 375 of those remains. A copy of the procedures shall be available,
 376 upon request, to the department and legally authorized persons.

377 Section 6. Section 470.0255, Florida Statutes, is amended
 378 to read:

379 470.0255 Cremation; procedure required.--

380 (1) At the time of the arrangement for a cremation
 381 performed by any person licensed pursuant to this chapter, the
 382 person contracting for cremation services shall be required to
 383 designate his or her intentions with respect to the disposition
 384 of the cremated remains of the deceased in a signed declaration
 385 of intent which shall be provided by and retained by the funeral
 386 or direct disposal establishment. A cremation may not be
 387 performed until a legally authorized person gives written



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388 authorization for such cremation. The cremation must be
389 performed within 48 hours after a specified time which has been
390 agreed to in writing by the person authorizing the cremation.

391 (2) With respect to any person who intends to provide for
392 the cremation of the deceased, if, after a period of 120 days
393 from the time of cremation the cremated remains have not been
394 claimed, the funeral or direct disposal establishment may
395 dispose of the cremated remains. Such disposal shall include
396 scattering them at sea or placing them in a licensed cemetery
397 scatter garden or pond or in a church columbarium or otherwise
398 disposing of the remains as provided by rule of the department
399 or board.

400 (3) Pursuant to the request of a legally authorized person
401 and incidental to final disposition, cremation may be performed
402 on parts of human remains. This subsection does not authorize
403 the cremation of body parts as defined in s. 470.002.

404 Section 7. Section 470.028, Florida Statutes, is amended
405 to read:

406 470.028 Preneed sales; registration of agents; control and
407 supervision of agents.--

408 (1) All sales of preneed funeral service contracts or
409 direct disposition contracts shall be made pursuant to chapter
410 497.

411 (2) No person may act as an agent for a funeral
412 establishment or direct disposal establishment with respect to
413 the sale of preneed contracts unless such person is registered
414 pursuant to chapter 497.



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415 (3) Each licensee or registrant shall be subject to
 416 discipline if his or her agent violates any provision of this
 417 chapter applicable to such licensee or registrant as established
 418 by board rule.

419 (4)(a) The funeral director in charge of a funeral
 420 establishment shall be responsible for the control and
 421 activities of the establishment's preneed agents.

422 (b) The direct disposer in charge or a funeral director
 423 acting as a direct disposer in charge of a direct disposal
 424 establishment shall be responsible for the control and
 425 activities of the establishment's preneed agents.

426 Section 8. Subsection (1) of section 470.029, Florida
 427 Statutes, is amended to read:

428 470.029 Reports of cases embalmed and bodies handled.--

429 (1) Each funeral establishment, direct disposal
 430 establishment, cinerator facility, and centralized embalming
 431 facility shall report on a form prescribed and furnished by the
 432 department the name of the deceased and such other information
 433 as may be required with respect to each dead human body embalmed
 434 or otherwise handled by the establishment or facility. Such
 435 forms shall be signed by the embalmer who performs the
 436 embalming, if the body is embalmed, and the funeral director in
 437 charge of the establishment or facility or by the direct
 438 disposer who disposes of the body. The board shall prescribe by
 439 rule the procedures in submitting such documentation. Reports
 440 required by this subsection shall be filed by the 20th ~~10th~~ day
 441 of each month for final dispositions handled the preceding
 442 month.



443 Section 9. Section 470.031, Florida Statutes, is amended
444 to read:

445 470.031 Prohibitions; penalties.--

446 (1) No person may:

447 (a) Practice funeral directing, embalming, or direct
448 disposition unless the person holds an active license or
449 registration under this chapter.

450 (b) Use the name or title "funeral director," "embalmer,"
451 or "direct disposer" when the person has not been licensed or
452 registered pursuant to this chapter.

453 (c) Represent as his or her own the license or
454 registration of another.

455 (d) Give false or forged evidence to the board, a member
456 thereof, or the department for the purpose of obtaining a
457 license or registration.

458 (e) Use or attempt to use a license or registration which
459 has been suspended or revoked.

460 (f) Knowingly employ unlicensed persons in the practice of
461 funeral directing, embalming, or direct disposing.

462 (g) Knowingly conceal information relative to violations
463 of this chapter.

464 (h) Operate an unlicensed cinerator facility.

465 (i) Except as provided for in chapter 497, guarantee the
466 price of goods and services at a future date.

467 (2) Any person who violates the provisions of this section
468 commits a misdemeanor of the second degree, punishable as
469 provided in s. 775.082 or s. 775.083.



470 Section 10. Section 470.0355, Florida Statutes, is amended
471 to read:

472 470.0355 Identification of human remains.--

473 (1) PRIOR TO FINAL DISPOSITION.--

474 (a)(1) The licensee or registrant in charge of the final
475 disposition of dead human remains shall, prior to final
476 disposition of such dead human remains, affix on the ankle or
477 wrist of the deceased, and ~~or~~ in the casket or alternative
478 container or cremation container, proper identification of the
479 dead human remains. The identification or tag shall be encased
480 in or consist of durable and long-lasting material containing
481 the name, date of birth, and date of death, ~~and social security~~
482 ~~number~~ of the deceased, if available. If the dead human remains
483 are cremated, proper identification shall be placed in the
484 container or urn containing the remains.

485 (b)(2) Any licensee or registrant responsible for removal
486 of dead human remains to any establishment, facility, or
487 location shall ensure that the remains are identified by a tag
488 or other means of identification that is affixed to the ankle or
489 wrist of the deceased at the time the remains are removed from
490 the place of death or other location.

491 (c)(3) Any licensee or registrant may rely on the
492 representation of a legally authorized person to establish the
493 identity of dead human remains.

494 (2) IN UNLICENSED CEMETERIES.--Effective October 1, 2003,
495 the identification of human remains interred in an unlicensed
496 cemetery shall be the responsibility of the licensed funeral
497 establishment in charge of the funeral arrangements for the



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498 deceased person. The licensed funeral establishment in charge of
499 the funeral arrangements for the interment in an unlicensed
500 cemetery of human remains shall place on the outer burial
501 container, cremation interment container, or other container or
502 on the inside of a crypt or niche a tag or permanent identifying
503 mark containing the name of the decedent and the date of death,
504 if available. The materials and locations of the tag or mark
505 shall be more specifically described by the rule of the board.

506 (3) IN LICENSED CEMETERIES.--Effective October 1, 2003,
507 human remains at licensed cemeteries shall be identified as
508 follows:

509 (a) Each licensed cemetery shall place on the outer burial
510 container, cremation interment container, or other container or
511 on the inside of a crypt or niche a tag or permanent identifying
512 marker containing the name of the decedent and the date of
513 death, if available. The materials and the location of the tag
514 or marker shall be more specifically described by rule of the
515 board.

516 (b) Each licensed cemetery may rely entirely on the
517 identity stated on the burial transit permit or on the
518 identification supplied by a person licensed under chapter 470
519 to establish the identity of the dead human remains delivered by
520 such person for burial and shall not be liable for any
521 differences between the identity shown on the burial transit
522 permit or identification and the actual identity of the dead
523 human remains delivered by such person and buried in the
524 cemetery.



525 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
 526 establishments shall establish a system of identification of
 527 human remains received which shall be designed to track the
 528 identity of the remains from the time of receipt until delivery
 529 of the remains to the authorized persons. This is in addition to
 530 the requirements for identification of human remains set forth
 531 in subsection (1). A copy of the identification procedures shall
 532 be available, upon request, to the department and legally
 533 authorized persons.

534 Section 11. For the purpose of incorporating the amendment
 535 to section 470.031, Florida Statutes, in a reference thereto,
 536 paragraph (a) of subsection (1) of section 470.036, Florida
 537 Statutes, is reenacted to read:

538 470.036 Disciplinary proceedings.--

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

541 (a) Violation of any provision of s. 455.227(1) or s.
 542 470.031.

543 Section 12. Section 497.005, Florida Statutes, is amended
 544 to read:

545 497.005 Definitions.--As used in this chapter:

546 (1) "At-need solicitation" means any uninvited contact by
 547 a licensee or her or his agent for the purpose of the sale of
 548 burial services or merchandise to the family or next of kin of a
 549 person after her or his death has occurred.

550 (2) "Bank of belowground crypts" means any construction
 551 unit of belowground crypts which is acceptable to the department



552 and which a cemetery uses to initiate its belowground crypt
553 program or to add to existing belowground crypt structures.

554 (3) "Belowground crypts" consist of interment space in
555 preplaced chambers, either side by side or multiple depth,
556 covered by earth and sod and known also as "lawn crypts,"
557 "westminsters," or "turf-top crypts."

558 (4) "Board" means the Board of Funeral and Cemetery
559 Services.

560 (5) "Burial merchandise," "funeral merchandise," or
561 "merchandise" means any personal property offered or sold by any
562 person for use in connection with the final disposition,
563 memorialization, interment, entombment, or inurnment of human
564 remains.

565 (6) "Burial right" means the right to use a grave space,
566 mausoleum, columbarium, ossuary, or scattering garden for the
567 interment, entombment, inurnment, or other disposition of human
568 remains.

569 (7) "Burial service," "funeral service," or "service"
570 means any service offered or provided by any person in
571 connection with the final disposition, memorialization,
572 interment, entombment, or inurnment of human remains.

573 (8) "Care and maintenance" means the perpetual process of
574 keeping a cemetery and its lots, graves, grounds, landscaping,
575 roads, paths, parking lots, fences, mausoleums, columbaria,
576 vaults, crypts, utilities, and other improvements, structures,
577 and embellishments in a well-cared-for and dignified condition,
578 so that the cemetery does not become a nuisance or place of
579 reproach and desolation in the community. As specified in the



580 rules of the board, "care and maintenance" may include, but is
 581 not limited to, any or all of the following activities: mowing
 582 the grass at reasonable intervals; raking and cleaning the grave
 583 spaces and adjacent areas; pruning of shrubs and trees;
 584 suppression of weeds and exotic flora; and maintenance, upkeep,
 585 and repair of drains, water lines, roads, buildings, and other
 586 improvements. "Care and maintenance" may include, but is not
 587 limited to, reasonable overhead expenses necessary for such
 588 purposes, including maintenance of machinery, tools, and
 589 equipment used for such purposes. "Care and maintenance" may
 590 also include repair or restoration of improvements necessary or
 591 desirable as a result of wear, deterioration, accident, damage,
 592 or destruction. "Care and maintenance" does not include expenses
 593 for the construction and development of new grave spaces or
 594 interment structures to be sold to the public.

595 (9) "Casket" means a rigid container which is designed for
 596 the encasement of human remains, and which is usually
 597 constructed of wood or metal, ornamented, and lined with fabric,
 598 and which may or may not be combustible.

599 (10) "Cemetery" means a place dedicated to and used or
 600 intended to be used for the permanent interment of human
 601 remains. A cemetery may contain land or earth interment;
 602 mausoleum, vault, or crypt interment; a columbarium, ossuary,
 603 scattering garden, or other structure or place used or intended
 604 to be used for the interment or disposition of cremated human
 605 remains; or any combination of one or more of such structures or
 606 places.



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607 (11) "Cemetery company" means any legal entity that owns
608 or controls cemetery lands or property.

609 (12) "Certificateholder" or "licensee" means the person or
610 entity that is authorized under this chapter to sell preneed
611 funeral or burial services, preneed funeral or burial
612 merchandise, or burial rights. Each term shall include the
613 other, as applicable, as the context requires. For the purposes
614 of chapter 120, all certificateholders, licensees, and
615 registrants shall be considered licensees.

616 (13) "Columbarium" means a structure or building which is
617 substantially exposed above the ground and which is intended to
618 be used for the inurnment of cremated human remains.

619 (14) "Common business enterprise" means a group of two or
620 more business entities that share common ownership in excess of
621 50 percent.

622 (15) "Cremation" includes any mechanical or thermal
623 process whereby a dead human body is reduced to ashes. Cremation
624 also includes any other mechanical or thermal process whereby
625 human remains are pulverized, burned, reinterred, or otherwise
626 further reduced in size or quantity.

627 (16) "Department" means the Department of Banking and
628 Finance.

629 (17) "Direct disposer" means any person who is registered
630 in this state to practice direct disposition pursuant to the
631 provisions of chapter 470.

632 (18) "Final disposition" means the final disposal of a
633 dead human body whether by interment, entombment, burial at sea,
634 cremation, or any other means and includes, but is not limited



635 to, any other disposition of remains for which a segregated
636 charge is imposed.

637 (19) "Funeral director" means any person licensed in this
638 state to practice funeral directing pursuant to the provisions
639 of chapter 470.

640 (20) "Grave space" means a space of ground in a cemetery
641 intended to be used for the interment in the ground of human
642 remains.

643 (21) "Human remains" means the bodies of deceased persons
644 and includes bodies in any stage of decomposition and cremated
645 remains.

646 (22) "Mausoleum" means a structure or building which is
647 substantially exposed above the ground and which is intended to
648 be used for the entombment of human remains.

649 (23) "Mausoleum section" means any construction unit of a
650 mausoleum which is acceptable to the department and which a
651 cemetery uses to initiate its mausoleum program or to add to its
652 existing mausoleum structures.

653 (24) "Monument" means any product used for identifying a
654 grave site and cemetery memorials of all types, including
655 monuments, markers, and vases.

656 (25) "Monument establishment" means a facility that
657 operates independently of a cemetery or funeral establishment
658 and that offers to sell monuments or monument services to the
659 public for placement in a cemetery.

660 (26) "Net assets" means the amount by which the total
661 assets of a certificateholder, excluding goodwill, franchises,
662 customer lists, patents, trademarks, and receivables from or



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663 advances to officers, directors, employees, salespersons, and
664 affiliated companies, exceed total liabilities of the
665 certificateholder. For purposes of this definition, the term
666 "total liabilities" does not include the capital stock, paid-in
667 capital, or retained earnings of the certificateholder.

668 (27) "Net worth" means total assets minus total
669 liabilities pursuant to generally accepted accounting
670 principles.

671 (28) "Niche" means a compartment or cubicle for the
672 memorialization or permanent placement of an urn containing
673 cremated remains.

674 (29)~~(28)~~ "Ossuary" means a receptacle used for the
675 communal placement of cremated human remains without benefit of
676 an urn or any other container in which remains will be
677 commingled with other cremated human remains and are
678 nonrecoverable. It may or may not include memorialization.

679 (30)~~(29)~~ "Outer burial container" means an enclosure into
680 which a casket is placed and includes, but is not limited to,
681 vaults made of concrete, steel, fiberglass, or copper; sectional
682 concrete enclosures; crypts; and wooden enclosures.

683 (31)~~(30)~~ "Preneed contract" means any arrangement or
684 method, of which the provider of funeral merchandise or services
685 has actual knowledge, whereby any person agrees to furnish
686 funeral merchandise or service in the future.

687 (32)~~(31)~~ "Religious institution" means an organization
688 formed primarily for religious purposes which has qualified for
689 exemption from federal income tax as an exempt organization



690 under the provisions of s. 501(c)(3) of the Internal Revenue
691 Code of 1986, as amended.

692 ~~(33)~~~~(32)~~ "Scattering garden" means a location set aside,
693 within a cemetery, which is used for the spreading or
694 broadcasting of cremated remains that have been removed from
695 their container and can be mixed with or placed on top of the
696 soil or ground cover or buried in an underground receptacle on a
697 commingled basis and that are nonrecoverable. It may or may not
698 include memorialization.

699 ~~(34)~~~~(33)~~ "Servicing agent" means any person acting as an
700 independent contractor whose fiduciary responsibility is to
701 assist both the trustee and certificateholder hereunder in
702 administrating their responsibilities pursuant to this chapter.

703 ~~(35)~~~~(34)~~ "Solicitation" means any communication which
704 directly or implicitly requests an immediate oral response from
705 the recipient.

706 ~~(36)~~~~(35)~~ "Statutory accounting" means generally accepted
707 accounting principles, except as modified by this chapter.

708 ~~(37)~~ "Urn" means a receptacle designed to permanently
709 encase cremated remains.

710 Section 13. Section 497.306, Florida Statutes, is created
711 to read:

712 497.306 Standards for grave spaces.--

713 (1) A standard adult grave space shall measure at least 42
714 inches in width and 96 inches in length, except for preinstalled
715 vaults in designated areas. For interments, except cremated
716 remains, the covering soil shall measure no less than 12 inches
717 from the top of the outer burial container, unless such level of



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718 soil is not physically possible. In any interment, the family or
 719 next of kin may waive the 12-inch coverage minimum.

720 (2)(a) Effective October 1, 2003, and prior to the sale of
 721 grave spaces in any undeveloped areas of a licensed cemetery,
 722 the cemetery company shall prepare a map documenting the
 723 establishment of recoverable internal survey reference markers
 724 installed by the cemetery company no more than 100 feet apart in
 725 the areas planned for development. The internal reference
 726 markers shall be established with reference to survey markers
 727 that are no more than 200 feet apart which have been set by a
 728 surveyor and mapper licensed under chapter 472 and documented in
 729 a certified land survey. Both the map and the certified land
 730 survey shall be maintained by the cemetery company and shall be
 731 made available upon request to the department or members of the
 732 public.

733 (b) The map of the area proposed to be developed shall
 734 show:

- 735 1. The number of grave spaces available for sale.
- 736 2. The location of each grave space.
- 737 3. The number designation assigned to each grave space.
- 738 4. The dimensions of a standard adult grave space.

739 (3) Adult grave spaces established prior to October 1,
 740 2003, are not required to meet the standards established under
 741 this section for the dimensions or separation of grave spaces.

742 Section 14. Section 497.307, Florida Statutes, is created
 743 to read:

744 497.307 Identification of human remains in licensed
 745 cemeteries.--On and after October 1, 2003, human remains



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746 interred, entombed, scattered, or otherwise placed for final
747 rest at licensed cemeteries shall be identified as follows:

748 (1) Each licensed cemetery shall place on the outer burial
749 container, cremation interment container, or other container, or
750 on the inside of a crypt or niche, a tag or a permanent
751 identifying marker containing the name of the decedent and the
752 date of death, if available. The materials and location of the
753 tag or marker shall be more specifically described by rule of
754 the board.

755 (2) Each licensed cemetery may rely entirely on the
756 identity stated on the burial transit permit or on the
757 identification supplied by a person licensed under chapter 470
758 to establish the identity of the dead human remains delivered by
759 such person for burial and shall not be liable for any
760 differences between the identity shown on the burial transit
761 permit or other identification and the actual identity of the
762 dead human remains delivered by such person and buried in the
763 cemetery.

764 Section 15. Subsections (1) and (4) of section 497.405,
765 Florida Statutes, are amended to read:

766 497.405 Certificate of authority required.--

767 (1)(a) No person, including any cemetery exempt under s.
768 497.003, may sell, advertise to sell, or make an arrangement for
769 a preneed contract without first having a valid certificate of
770 authority.

771 (b) No person, including any cemetery exempt under s.
772 497.003, may sell, advertise to sell, or make an arrangement for
773 services, merchandise, or burial rights on a preneed basis



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774 unless such person is authorized pursuant to this chapter to
775 provide such services, merchandise, or burial rights on an at-
776 need basis.

777 (4) The provisions of this section do not apply to
778 religious-institution-owned cemeteries exempt under s.
779 497.003(1)(d), in counties with a population of at least 960,000
780 persons on July 1, 1996, with respect to the sale to the
781 religious institution's members and their families of interment
782 rights, mausoleums, crypts, cremation niches and cremation
783 interment containers, vaults, liners, urns, memorials, vases,
784 foundations, memorial bases, floral arrangements, monuments,
785 markers, engraving, and the opening and closing of interment
786 rights, mausoleums, crypts, and cremation niches and cremation
787 interment containers, if such cemeteries have engaged in the
788 sale of preneed contracts prior to October 1, 1993, and maintain
789 a positive net worth at the end of each fiscal year of the
790 cemetery.

791 Section 16. Subsection (4) of section 497.419, Florida
792 Statutes, is amended to read:

793 497.419 Cancellation of, or default on, preneed
794 contracts.--

795 (4) Each certificateholder shall provide in conspicuous
796 type in its contract that the contract purchaser may cancel the
797 contract and receive a full refund within 30 days after ~~of~~ the
798 date of execution of the contract, except for those amounts
799 allocable to any burial rights, merchandise, or services that
800 have been used by the purchaser. The failure to make such



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801 | provision shall not impair the contract purchaser's right to
802 | cancellation and refund as provided in this section.

803 | Section 17. Subsection (4) of section 497.436, Florida
804 | Statutes, is amended to read:

805 | 497.436 Inactive and revoked certificateholders.--

806 | (4) Upon receipt of the notice, in order to protect the
807 | contract purchaser, the board may:

808 | (a) ~~shall~~ Review the certificateholder's:

809 | 1.~~(a)~~ Trust funds.

810 | 2.~~(b)~~ Trust agreements.

811 | 3.~~(c)~~ Evidence of all outstanding preneed contracts.

812 | (b) Perform other procedures the board deems necessary.

813 | Section 18. This act shall take effect October 1, 2003.