

1 A bill to be entitled
2 An act relating to funeral directing,
3 embalming, direct disposition, and cemetery
4 services; amending s. 20.121, F.S.;
5 establishing the Division of Funeral, Cemetery,
6 and Consumer Services and the Board of Funeral,
7 Cemetery, and Consumer Services within the
8 Department of Financial Services; amending s.
9 20.165, F.S.; abolishing the Board of Funeral
10 Directors and Embalmers within the Department
11 of Business and Professional Regulation;
12 amending ss. 497.005 and 470.002, F.S.;
13 providing definitions; amending s. 497.101,
14 F.S.; creating the Board of Funeral, Cemetery,
15 and Consumer Services; providing for the
16 appointment of board members; providing terms
17 of office; providing immunity from liability
18 for members acting in an official capacity;
19 specifying the headquarters for the board;
20 providing for compensation and reimbursement
21 for per diem expenses; creating s. 497.102,
22 F.S.; providing for the authority of the board;
23 creating s. 497.1021, F.S.; providing duties of
24 the Division of Funeral, Cemetery, and Consumer
25 Services; providing powers of enforcement;
26 creating s. 497.1022, F.S.; establishing the
27 office of the director of the division;
28 providing duties to the Chief Financial Officer
29 under chapters 470 and 497, F.S.; providing for
30 type two transfer of the Board of Funeral
31 Directors and Embalmers to the Department of

1 Financial Services; providing for validity of
2 judicial and administrative actions; providing
3 for validity of licenses; providing for
4 continuity of rules; abolishing the Board of
5 Funeral and Cemetery Services and the Board of
6 Funeral Directors and Embalmers; providing for
7 deposit of fees; providing for conforming of
8 statutes; amending s. 470.002, F.S.; revising
9 and providing definitions; amending s.
10 470.0085, F.S.; extending the embalmer
11 apprentice period; amending s. 470.018, F.S.;
12 increasing continuing education requirement;
13 amending s. 470.021, F.S.; providing additional
14 requirements to be a direct disposal
15 establishment; providing inspection
16 requirements and criteria; amending s. 470.024,
17 F.S.; revising requirements to be a funeral
18 establishment; amending s. 470.025, F.S.;
19 revising cremation requirements for cinerator
20 facilities relating to simultaneous cremations,
21 body parts, cremation containers, and the
22 cremation chamber; providing exemption from
23 liability for unintentional or incidental
24 commingling of remains under certain
25 conditions; amending s. 470.0255, F.S.;
26 providing for cremation of parts of human
27 bodies incidental to final disposition;
28 amending s. 470.028, F.S.; providing for
29 control and supervision of preneed agents;
30 amending s. 470.029, F.S.; extending the filing
31 time for reports of bodies embalmed or handled;

1 amending s. 470.031, F. S.; prohibiting any
2 guarantee on the future price of any goods or
3 services; providing penalties; amending s.
4 470.0355, F.S.; revising requirements for
5 identification of human remains prior to final
6 disposition; providing requirements for
7 identification of human remains in licensed and
8 unlicensed cemeteries and by direct disposal
9 establishments; reenacting s. 470.036, F.S.,
10 relating to disciplinary proceedings, to
11 incorporate the amendment to s. 470.031, F.S.,
12 in a reference thereto; amending s. 497.005,
13 F.S.; revising and providing definitions;
14 amending s. 497.305, F.S.; requiring that a
15 cemetery company comply with its adopted
16 bylaws; creating s. 497.306, F.S.; providing
17 dimension and spacing standards for grave
18 spaces; requiring a map of reference markers
19 and a land survey for areas proposed to be
20 developed by a licensed cemetery company,
21 exempting adult grave spaces previously
22 established; creating s. 497.307, F.S.;
23 providing requirements for identification of
24 human remains in licensed cemeteries; amending
25 s. 497.325, F.S.; providing for procedures
26 established by other entities operating a
27 cemetery; amending s. 497.333, F.S.; providing
28 for disclosure of certain information to
29 customers; amending s. 497.361, F.S.; providing
30 remedies for certain breaches of contract;
31 providing for approval of contracts; creating

1 s. 497.365, F.S.; providing for regulation of
2 monument establishments by the Department of
3 Financial Services; providing for inspections;
4 providing for rules; providing that the
5 department may not unreasonably restrict
6 commerce; creating s. 497.371, F.S.; providing
7 for specifications for business locations;
8 creating s. 497.379, F.S.; providing for
9 licensure of monument establishments to sell
10 preneed contracts; creating s. 497.385, F.S.;
11 providing for registration of monument sales
12 representatives; creating s. 497.391, F.S.;
13 providing for approval of preneed contracts by
14 the board; creating s. 497.395, F.S.; providing
15 financial requirements for monument
16 establishments; providing requirements for
17 minimum net worth; providing for submission of
18 financial statements; providing for minimum
19 sales volume with respect to preneed contracts;
20 providing for guarantee agreements; providing
21 for additional oversight in lieu of financial
22 requirements; amending s. 497.405, F.S.;
23 prohibiting any person from advertising for
24 sale or making any arrangement for a preneed
25 contract without having a valid certificate of
26 authority; expanding the exemption from the
27 required certificate of authority for certain
28 religious-institution-owned cemeteries to
29 include the sale and opening or closing of
30 cremation interment containers to members and
31 family members of the religious institution;

1 amending s. 497.419, F.S.; requiring preneed
2 contracts to include in the refund notice the
3 exclusion for amounts allocable to burial
4 rights, merchandise, and services used by the
5 purchaser; providing condition for breach of
6 contract by certificateholder and for rights of
7 purchaser; amending s. 497.436, F.S.;
8 authorizing the Board of Funeral and Cemetery
9 Services to review the trust funds, trust
10 agreements, and outstanding preneed contracts
11 of, and perform other procedures at its
12 discretion with respect to, a certificateholder
13 filing notice to become inactive; creating s.
14 497.310, F.S.; providing for the optional
15 recordation of burial rights; permitting the
16 clerk of the court to assess service charge
17 fees; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Effective January 1, 2004, paragraph (n) is
22 added to subsection (2) of section 20.121, Florida Statutes,
23 and subsection (4) is added to that section, to read:

24 20.121 Department of Financial Services.--There is
25 created a Department of Financial Services.

26 (2) DIVISIONS.--The Department of Financial Services
27 shall consist of the following divisions:

28 (n) Division of Funeral, Cemetery, and Consumer
29 Services.

30 (4) BOARD OF FUNERAL, CEMETERY, AND CONSUMER
31 SERVICES.--There is created within the Department of Financial

1 Services, the Board of Funeral, Cemetery, and Consumer
2 Services.

3 Section 2. Effective January 1, 2004, paragraph (a) of
4 subsection (4) of section 20.165, Florida Statutes, is amended
5 to read:

6 20.165 Department of Business and Professional
7 Regulation.--There is created a Department of Business and
8 Professional Regulation.

9 (4)(a) The following boards are established within the
10 Division of Professions:

11 1. Board of Architecture and Interior Design, created
12 under part I of chapter 481.

13 2. Florida Board of Auctioneers, created under part VI
14 of chapter 468.

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

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

18 5. Construction Industry Licensing Board, created
19 under part I of chapter 489.

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

21 7. Electrical Contractors' Licensing Board, created
22 under part II of chapter 489.

23 8. Board of Employee Leasing Companies, created under
24 part XI of chapter 468.

25 ~~9. Board of Funeral Directors and Embalmers, created~~
26 ~~under chapter 470.~~

27 9.10. Board of Landscape Architecture, created under
28 part II of chapter 481.

29 10.11. Board of Pilot Commissioners, created under
30 chapter 310.

31

1 ~~11.12.~~ Board of Professional Engineers, created under
2 chapter 471.

3 ~~12.13.~~ Board of Professional Geologists, created under
4 chapter 492.

5 ~~13.14.~~ Board of Professional Surveyors and Mappers,
6 created under chapter 472.

7 ~~14.15.~~ Board of Veterinary Medicine, created under
8 chapter 474.

9 Section 3. Effective January 1, 2004, subsections (4)
10 and (16) of section 497.005, Florida Statutes, are amended,
11 and subsections (36) and (37) are added to that section, to
12 read:

13 497.005 Definitions.--As used in this chapter:

14 (4) "Board" means the Board of Funeral, Cemetery, and
15 Consumer Services ~~Funeral and Cemetery Services~~.

16 (16) "Department" means the Department of Financial
17 Services ~~Banking and Finance~~.

18 (36) "Director" means the director of the Division of
19 Funeral, Cemetery, and Consumer Services.

20 (37) "Division" means the Division of Funeral,
21 Cemetery, and Consumer Services within the Department of
22 Financial Services.

23 Section 4. Effective January 1, 2004, subsections (1)
24 and (2) of section 470.002, Florida Statutes, are amended to
25 read:

26 470.002 Definitions.--As used in this chapter:

27 (1) "Department" means the Department of Financial
28 Services ~~Business and Professional Regulation~~.

29 (2) "Board" means the Board of Funeral, Cemetery, and
30 Consumer Services ~~Funeral Directors and Embalmers~~.

31

1 Section 5. Effective January 1, 2004, section 470.003,
2 Florida Statutes, is repealed.

3 Section 6. Effective January 1, 2004, section 497.101,
4 Florida Statutes, is amended to read:

5 (Substantial rewording of section. See
6 s. 497.101, F.S., for present text.)

7 497.101 Board of Funeral, Cemetery, and Consumer
8 Services; membership; appointment; terms.--

9 (1) The Board of Funeral, Cemetery, and Consumer
10 Services is created within the Department of Financial
11 Services and shall consist of 10 members, nine of whom shall
12 be appointed by the Governor from nominations made by the
13 Chief Financial Officer and confirmed by the Senate. The
14 Chief Financial Officer shall nominate three persons for each
15 of the nine vacancies on the board, and the Governor shall
16 fill each vacancy on the board by appointing one of the three
17 persons nominated by the Chief Financial Officer to fill that
18 vacancy. If the Governor objects to each of the three
19 nominations for a vacancy, she or he shall inform the Chief
20 Financial Officer in writing. Upon notification of an
21 objection by the Governor, the Chief Financial Officer shall
22 submit three additional nominations for that vacancy until the
23 vacancy is filled. One member must be the State Health
24 Officer or his or her designee.

25 (2) Two members of the board must be funeral directors
26 licensed under chapter 470 who are associated with a funeral
27 establishment. One member of the board must be a funeral
28 director licensed under chapter 470 who is associated with a
29 funeral establishment licensed pursuant to chapter 470 which
30 has a valid certificate of authority issued pursuant to this
31 chapter and who owns or operates a cinerator facility approved

1 pursuant to chapters 403 and 470. Two members of the board
2 must be persons whose primary occupation is associated with a
3 cemetery company licensed pursuant to this chapter. Three
4 members of the board must be consumers who are residents of
5 the state who have never been licensed as funeral directors or
6 embalmers and not connected with a cemetery or cemetery
7 company licensed pursuant to this chapter, the death care
8 industry, the practice of embalming, funeral directing, or
9 direct disposition. One of the consumer members must be at
10 least 60 years of age or older and one must be licensed as a
11 certified public accountant pursuant to this chapter 473. One
12 member of the board shall be a monument dealer with a
13 certificate of authority issued pursuant to this chapter. One
14 member shall be the State Health Officer or his or her
15 designee.

16 (3) Board members shall be appointed for terms of 4
17 years and the State Health Officer shall serve as long as that
18 person holds that office. The designee of the State Health
19 Officer shall serve at the pleasure of the Governor. When the
20 terms of the initial board members expire, the Chief Financial
21 Officer shall stagger the terms of the successor members as
22 follows: one funeral director, one cemetery representative,
23 the monument dealer, and one consumer member shall be
24 appointed for terms of 2 years, and the remaining members
25 shall be appointed for terms of 4 years. All subsequent terms
26 shall be for 4 years. The Governor may suspend or remove any
27 board member for malfeasance or misfeasance, neglect of duty,
28 incompetence, substantial inability to perform official
29 duties, commission of a crime, or for other substantial cause
30 as determined by the Governor to evidence a lack of fitness to
31 sit on the board. A board member shall be deemed to have

1 resigned his or her board membership, and that position shall
2 be deemed vacant, upon the failure of the member to attend
3 three consecutive meetings of the board or at least half of
4 the meetings of the board during any 12-month period, unless
5 the Chief Financial Officer determines that there was good and
6 adequate justification for the absences and that such absences
7 are not likely to continue.

8 (5) A current or former board member and a person
9 -serving on the board's probable cause panels are exempt from
10 any civil liability for any act or omission when acting in
11 good faith in his or her official capacity, and the Department
12 of Legal Affairs and the Division of Risk Management shall
13 defend such board member in any civil action against such
14 person arising from any such act or omission.

15 (6) The headquarters and records of the board shall be
16 in the Division of Funeral, Cemetery, and Consumer Services of
17 the Department of Financial Services in Tallahassee. The
18 Chief Financial Officer shall annually appoint from among the
19 board members a chairperson and vice chairperson of the board.
20 The board shall meet at least every 6 months, and more often
21 as it deems necessary. Special meetings of the board shall be
22 convened upon the direction of the Chief Financial Officer. A
23 quorum is necessary for the conduct of business by the board,
24 unless otherwise provided by law, six board members other than
25 the board's executive director shall constitute a quorum for
26 the conduct of the board's business.

27 (7) A board member shall be compensated \$50 for each
28 day the member attends an official meeting and each day the
29 member participates at the request of the board's executive
30 director in any other business involving the board. To the
31 extent authorized by the s. 112.061, a board member is

1 entitled to reimbursement for expenses incurred in connection
2 with official duties. Out-of-state travel by board members on
3 official business shall in each specific instance require the
4 advance approval of the board's executive director in order
5 for the travel to be eligible for reimbursement of expenses.

6 Section 7. Effective January 1, 2004, section 497.102,
7 Florida Statutes, is created to read:

8 497.102 Authority of the board.--

9 (1) The board shall enforce and administer the
10 provisions of chapter 470 and this chapter. Notwithstanding s.
11 455.017, the board shall administer those powers, duties, and
12 functions in chapter 455 which are necessary to enforce the
13 provisions of chapter 470.

14 (2) For purposes of enforcement of chapter 455
15 regarding chapter 470, on and after January 1, 2004,
16 references in chapter 455 to the Department of Business and
17 Professional Regulation or the secretary of that department,
18 shall be read as referring to the Department of Financial
19 Services or the Chief Financial Officer, as the context may
20 indicate to be appropriate.

21 (3) The Department of Financial Services shall not
22 adopt any rule or publish any notice of proposed rule
23 development as provided in ss. 120.536-120.551 which affects
24 the provisions of chapter 455, chapter 470 or this chapter
25 without first presenting the rule or rules proposed for
26 development to the board for its review and recommendation, if
27 any. This subsection shall not apply to emergency rulemaking
28 under s. 120.54(4).

29 Section 8. Effective January 1, 2004, section
30 497.1021, Florida Statutes, is created to read:

31

1 497.1021 Division of Funeral, Cemetery, and Consumer
2 Services.--

3 (1) There is created within the Department of
4 Financial Services the Division of Funeral, Cemetery, and
5 Consumer Services. The division shall enforce the provisions
6 of chapter 470 and this chapter and perform such other acts as
7 may be necessary to carry out the provisions thereof.

8 (2) The division shall provide all services concerning
9 chapter 470 and this chapter, including, but not limited to,
10 recordkeeping services, examination services, legal services,
11 and investigative services. Those services in chapter 455
12 necessary to perform the duties of chapter 470 shall be
13 provided by the division.

14 (3) Funds received as a result of settlements with
15 regulated entities and persons may be used by the division for
16 contracting for the training of auditors and the conduct of
17 examinations in order to enhance oversight and enforcement of
18 laws and regulations governing the activities of licensees.

19 Section 9. Effective January 1, 2004, section
20 497.1022, Florida Statutes, is created to read:

21 497.1022 Director of the Division of Funeral,
22 Cemetery, and Consumer Services.--

23 (1) The office of the Director of the Division of
24 Funeral, Cemetery, and Consumer Services is created. The
25 director is the agency head of the division. The director
26 shall be appointed by the Chief Financial Officer and shall
27 serve at the pleasure of the Chief Financial Officer.

28 (2) The director shall be responsible for the
29 preparation of the board agenda, presentation of division
30 staff recommendations, and reports of the activities of the
31 division to the board and shall serve as the executive

1 director of the board and perform such other duties as may be
2 assigned by the Chief Financial Officer.

3 Section 10. Effective January 1, 2004, all duties
4 performed by the Secretary of the Department of Business and
5 Professional Regulation under chapter 470, Florida Statutes,
6 and all duties performed by the Comptroller under chapter 497,
7 Florida Statutes, shall be performed by the Chief Financial
8 Officer under the provisions of this act. The duties may be
9 delegated by the Chief Financial Officer to the Director of
10 the Division of the Funeral, Cemetery, and Consumer Services.

11 Section 11. (1) All of the statutory powers, duties
12 and functions, records, personnel, property, and unexpended
13 balances of appropriations, allocations, or other funds for
14 the administration of chapter 470, Florida Statutes, related
15 to the Board of Funeral Directors and Embalmers shall be
16 transferred by a type two transfer, as defined in section
17 20.06(2), Florida Statutes, from the Department of Business
18 and Professional Regulation to the Board of Funeral, Cemetery,
19 and Consumer Services within the Department of Financial
20 Services.

21 (2) The transfer of regulatory authority over chapter
22 470, Florida Statutes, provided by this act shall not affect
23 the validity of any judicial or administrative action
24 involving the Board of Funeral Directors and Embalmers or the
25 Department of Business and Professional Regulation pending on
26 December 31, 2003, and the Department of Financial Services or
27 the Board of Funeral, Cemetery, and Consumer Services shall be
28 substituted as a party in interest in any such action.

29 (3) Notwithstanding the transfer of regulatory
30 authority over chapter 470, Florida Statutes, provided by this
31 act, all licenses and registrations issued pursuant to chapter

1 470, Florida Statutes, that are valid on December 31, 2003,
2 shall remain in effect subject to the provisions of chapters
3 470 and 455, Florida Statutes.

4 (4) The rules of the Board of Funeral Directors and
5 Embalmers and the Department of Business and Professional
6 Regulation which were in effect on midnight, December 31,
7 2003, shall become the rules of the Department of Financial
8 Services as is appropriate to the corresponding regulatory
9 function and shall remain in effect until specifically amended
10 or repealed in the manner provided by law.

11 (5) All of the statutory powers, duties and functions,
12 records, personnel, property, and unexpended balances of
13 appropriations, allocations, or other funds for the
14 administration of chapter 497, Florida Statutes, related to
15 the Board of Funeral and Cemetery Services shall be
16 transferred by a type two transfer, as defined in section
17 20.06(2), Florida Statutes, from the Department of Banking and
18 Finance to the Board of Funeral, Cemetery, and Consumer
19 Services within the Department of Financial Services.

20 (6) The transfer of regulatory authority over chapter
21 497, Florida Statutes, provided by this act shall not affect
22 the validity of any judicial or administrative action
23 involving the Board of Funeral and Cemetery Services or the
24 Department of Banking and Finance pending on December 31,
25 2003, and the Department of Financial Services or the Board of
26 Funeral, Cemetery, and Consumer Services shall be substituted
27 as a party in interest in any such action.

28 (7) Notwithstanding the transfer of regulatory
29 authority over chapter 497, Florida Statutes, provided by this
30 act, all licenses and registrations issued pursuant to chapter
31 497, Florida Statutes, which are valid on December 31, 2003,

1 shall remain in effect subject to the provisions of chapter
2 497, Florida Statutes.

3 (8) The rules of the Board of Funeral and Cemetery
4 Services or the Department of Banking and Finance which were
5 in effect on midnight, December 31, 2003, shall become the
6 rules of the Department of Financial Services and shall remain
7 in effect until specifically amended or repealed in the manner
8 provided by law.

9 (9) This section shall take effect on January 1, 2004.

10 Section 12. Effective midnight December 31, 2003, the
11 Board of Funeral and Cemetery Services and the Board of
12 Funeral Directors and Embalmers are abolished.

13 Section 13. Effective January 1, 2004, all fees
14 collected pursuant to the provisions of chapters 470 and 497,
15 Florida Statutes, shall be deposited in the Regulatory Trust
16 Fund in the Department of Financial Services.

17 Section 14. The Legislature recognizes that there is a
18 need to conform the Florida Statutes to the policy decisions
19 reflected in the provisions of this act. The Division of
20 Statutory Revision is directed to provide the relevant
21 substantive committees of the Senate and the House of
22 Representatives with assistance, upon request, to enable such
23 committees to prepare draft legislation to conform the Florida
24 Statutes to the provisions of this act.

25 Section 15. Section 470.002, Florida Statutes, is
26 amended to read:

27 470.002 Definitions.--As used in this chapter:

28 (1)(15) "Alternative container" means a nonmetal
29 receptacle or enclosure which is less expensive than a casket
30 and of sufficient strength to be used to hold and transport a
31 dead human body.

1 ~~(2)~~~~(22)~~ "At-need solicitation" means any uninvited
2 contact by a funeral director or direct disposer for the
3 purpose of the sale of funeral services or merchandise to the
4 family or next of kin of a person after that person has died.

5 ~~(3)~~~~(2)~~ "Board" means the Board of Funeral Directors
6 and Embalmers.

7 (4) "Body parts" means:

8 (a) Limbs or other portions of the anatomy that are
9 removed from a person or human remains for medical purposes
10 during treatment, surgery, biopsy, autopsy, or medical
11 research; or

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

14 ~~(5)~~~~(16)~~ "Casket" means a rigid container which is
15 designed for the encasement of human remains for burial, ~~and~~
16 which is usually constructed of wood or metal, ornamented, and
17 lined with fabric, and which may or may not be combustible.

18 ~~(6)~~~~(27)~~ "Centralized embalming facility" means a
19 facility, not physically connected with a funeral
20 establishment, in which embalming takes place.

21 ~~(7)~~~~(14)~~ "Cinerator" means a facility where dead human
22 bodies are reduced to a residue, including bone fragments, by
23 direct flame, also known as "cremation," or by intense heat,
24 also known as "calcination."

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

28 (9) "Cremated remains" means all the remains of the
29 human body recovered after the completion of the cremation
30 process, including processing or pulverization which leaves
31 only bone fragments reduced to unidentifiable dimensions and

1 may include the residue of any foreign matter, including
2 casket material, bridgework, or eyeglasses that were cremated
3 with the human remains.

4 (10)(24) "Cremation" means the technical process,
5 using direct flame and heat or chemical means, that reduces
6 human remains to bone fragments through heat and evaporation.
7 Cremation includes the processing and usually includes the
8 pulverization of the bone fragments ~~includes any mechanical or~~
9 ~~thermal process whereby a dead human body is reduced to ashes~~
10 ~~and bone fragments. Cremation also includes any other~~
11 ~~mechanical or thermal process whereby human remains are~~
12 ~~pulverized, burned, re Cremated, or otherwise further reduced~~
13 ~~in size or quantity.~~

14 (11) "Cremation chamber" means the enclosed space
15 within which the cremation process takes place. Cremation
16 chambers covered by these procedures must be used exclusively
17 for the cremation of human remains.

18 (12) "Cremation container" means the container in
19 which the human remains are transported to and placed in the
20 cremation chamber for a cremation. A cremation container
21 should meet substantially all of the following standards:

22 (a) Be composed of readily combustible materials
23 suitable for cremation.

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

26 (c) Be resistant to leakage or spillage.

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

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

30 (13) "Cremation interment container" means a rigid
31 outer container that, subject to a cemetery's rules and

1 regulations, is composed of concrete, steel, fiberglass, or
2 some similar material in which an urn is placed prior to being
3 interred in the ground and that is designed to support the
4 earth above the urn.

5 (14)~~(1)~~ "Department" means the Department of Business
6 and Professional Regulation.

7 (15)~~(8)~~ "Direct disposal establishment" means a
8 facility registered under this chapter where a direct disposer
9 practices direct disposition.

10 (16)~~(9)~~ "Direct disposer" means any person registered
11 under this chapter to practice direct disposition in this
12 state.

13 (17)~~(28)~~ "Disinterment" means removal of a dead human
14 body from earth interment or aboveground interment.

15 (18)~~(5)~~ "Embalmer" means any person licensed under
16 this chapter to practice embalming in this state.

17 (19)~~(11)~~ "Final disposition" means the final disposal
18 of a dead human body by earth interment, aboveground
19 interment, cremation, burial at sea, or delivery to a medical
20 institution for lawful dissection if the medical institution
21 assumes responsibility for disposal. "Final disposition" does
22 not include the disposal or distribution of ashes and residue
23 of cremated human remains.

24 (20)~~(13)~~ "Funeral" or "funeral service" means the
25 observances, services, or ceremonies held to commemorate the
26 life of a specific deceased human being, and at which the
27 human remains are present.

28 (21)~~(3)~~ "Funeral director" means any person licensed
29 under this chapter to practice funeral directing in this
30 state.

31

1 ~~(22)(7)~~ "Funeral establishment" means a facility
2 licensed under this chapter where a funeral director or
3 embalmer practices funeral directing or embalming.

4 ~~(23)(12)~~ "Funeral merchandise" or "merchandise" means
5 any merchandise commonly sold in connection with the funeral,
6 final disposition, or memorialization of human remains,
7 including, but not limited to, caskets, outer burial
8 containers, alternative containers, cremation containers,
9 cremation interment containers, urns, monuments, private
10 mausoleums, flowers, shrubs, benches, vases, acknowledgment
11 cards, register books, memory folders, prayer cards, and
12 clothing.

13 ~~(24)(23)~~ "Human remains" or "remains," "dead human
14 body" or "dead human bodies," means the body of a deceased
15 human person for which a death certificate or fetal death
16 certificate is required under chapter 382 and includes the
17 body in any stage of decomposition and the residue of cremated
18 human bodies.

19 ~~(25)(18)~~ "Legally authorized person" means, in the
20 priority listed, the decedent, when written inter vivos
21 authorizations and directions are provided by the decedent,
22 the surviving spouse, unless the spouse has been arrested for
23 committing against the deceased an act of domestic violence as
24 defined in s. 741.28 that resulted in or contributed to the
25 death of the deceased, a son or daughter who is 18 years of
26 age or older, a parent, a brother or sister 18 years of age or
27 over, a grandchild who is 18 years of age or older, or a
28 grandparent; or any person in the next degree of kinship. In
29 addition, the term may include, if no family exists or is
30 available, the following: the guardian of the dead person at
31 the time of death; the personal representative of the

1 deceased; the attorney in fact of the dead person at the time
2 of death; the health surrogate of the dead person at the time
3 of death; a public health officer; the medical examiner,
4 county commission or administrator acting under chapter 245,
5 or other public administrator; a representative of a nursing
6 home or other health care institution in charge of final
7 disposition; or a friend or other person not listed in this
8 subsection who is willing to assume the responsibility as
9 authorized person. Where there is a person in any priority
10 class listed in this subsection, the funeral establishment
11 shall rely upon the authorization of any one legally
12 authorized person of that class if that individual represents
13 that he or she is not aware of any objection to the cremation
14 of the deceased's human remains by others in the same class of
15 the person making the representation or of any person in a
16 higher priority class.

17 (26) "Niche" means a compartment or cubicle for the
18 memorialization or permanent placement of a container or urn
19 containing cremated remains.

20 (27)~~(19)~~ "Outer burial container" means an enclosure
21 into which a casket is placed, including, but not limited to,
22 a vault made of concrete, steel, fiberglass, or copper, a
23 sectional concrete enclosure, a crypt, or a wooden enclosure.

24 (28)~~(20)~~ "Personal residence" means any residential
25 building in which one temporarily or permanently maintains his
26 or her abode, including, but not limited to, an apartment or a
27 hotel, motel, nursing home, convalescent home, home for the
28 aged, or a public or private institution.

29 (29)~~(10)~~ "Practice of direct disposition" means the
30 cremation of human remains without preparation of the human
31 remains by embalming and without any attendant services or

1 rites such as funeral or graveside services or the making of
2 arrangements for such final disposition.

3 (30)~~(6)~~ "Practice of embalming" means disinfecting or
4 preserving or attempting to disinfect or preserve dead human
5 bodies by replacing certain body fluids with preserving and
6 disinfecting chemicals.

7 (31)~~(4)~~ "Practice of funeral directing" means the
8 performance by a licensed funeral director of any of those
9 functions authorized by s. 470.0087.

10 (32)~~(21)~~ "Prened sales agent" means any person who is
11 registered under chapter 497 to sell preneed burial or funeral
12 service and merchandise contracts or direct disposition
13 contracts in this state.

14 (33) "Processing" means the reduction of identifiable
15 bone fragments after the completion of the cremation process
16 to unidentifiable bone fragments by manual means.

17 (34) "Pulverization" means the reduction of
18 identifiable bone fragments after the completion of the
19 cremation and processing to granulated particles by manual or
20 mechanical means.

21 (35)~~(25)~~ "Refrigeration facility" means a facility
22 that is not physically connected with a funeral establishment,
23 crematory or direct disposal establishment, that maintains
24 space and equipment for the storage and refrigeration of dead
25 human bodies, and that offers its service to funeral directors
26 and funeral establishments for a fee.

27 (36)~~(26)~~ "Removal service" means any service that
28 operates independently of a funeral establishment, that
29 handles the initial removal of dead human bodies, and that
30 offers its service to funeral establishments and direct
31 disposal establishments for a fee.

1 ~~(37)(17)~~ "Solicitation" means any communication which
2 directly or implicitly requests an immediate oral response
3 from the recipient.

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

8 (39) "Urn" means a receptacle designed to permanently
9 encase cremated remains.

10 Section 16. Section 470.0085, Florida Statutes, is
11 amended to read:

12 470.0085 Establishment of embalmer apprentice
13 program.--The board may adopt rules establishing an embalmer
14 apprentice program. An embalmer apprentice may perform only
15 those tasks, functions, and duties relating to embalming which
16 are performed under the direct supervision of a licensed
17 embalmer. An embalmer apprentice shall be eligible to serve in
18 an apprentice capacity for a period not to exceed 3 years ±
19 ~~year~~ as may be determined by board rule or for a period not to
20 exceed 5 ~~3~~ years if the apprentice is enrolled in and
21 attending a course in mortuary science or funeral service
22 education at any mortuary college or funeral service education
23 college or school. An embalmer apprentice shall be registered
24 with the board upon payment of a registration fee not to
25 exceed \$50.

26 Section 17. Subsection (2) of section 470.018, Florida
27 Statutes, is amended to read:

28 470.018 Renewal of registration of direct disposer.--

29 (1) The department shall renew a registration upon
30 receipt of the renewal application and fee set by the
31 department not to exceed \$250.

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

10 Section 18. Subsections (2) and (5) of section
11 470.021, Florida Statutes, are amended to read:

12 470.021 Direct disposal establishment; standards and
13 location; registration.--

14 (2) The practice of direct disposition must be engaged
15 in at a fixed location of at least 625 interior contiguous
16 square feet and must maintain or make arrangements for
17 suitable capacity for the refrigeration and storage of dead
18 human bodies handled and stored by the establishment. No
19 person may open or maintain an establishment at which to
20 engage in or hold himself or herself out as engaging in the
21 practice of direct disposition unless such establishment is
22 registered with the board. Any change in location of such
23 establishment shall be reported promptly to the board as
24 prescribed by rule of the board.

25 (5)(a) Each direct disposal establishment shall at all
26 times be subject to the inspection of all its buildings,
27 grounds, and vehicles used in the conduct of its business, by
28 the department, the Department of Health, and local government
29 inspectors and by their agents. The board shall adopt rules
30 which establish such inspection requirements.

31

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

4 (c) Each cinerator facility shall be inspected prior
5 to the issuance and renewal of its license and shall:

6 1. Maintain one or more retorts for the reduction of
7 dead human bodies.

8 2. Maintain refrigeration which satisfies the
9 standards set by the Department of Health and which contains a
10 sufficient number of shelves for the average daily number of
11 bodies stored, if unembalmed bodies are kept at the site.

12 3. Maintain sufficient pollution control equipment to
13 comply with requirements of the Department of Environmental
14 Protection in order to secure annual approved certification.

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

19 5. Maintain the premises in a clean and sanitary
20 condition.

21 6. Have appropriate Department of Environmental
22 Protection permits.

23 7. Retain all signed contracts for a period of at
24 least 2 years.

25 Section 19. Subsection (1) of section 470.024, Florida
26 Statutes, is amended to read:

27 470.024 Funeral establishment; licensure.--

28 (1) A funeral establishment shall be a place at a
29 specific street address or location consisting of at least
30 1,250 contiguous interior square feet and must maintain or
31 make arrangements for ~~either~~ suitable capacity for the

1 refrigeration and storage of dead human bodies handled and
2 stored by the establishment and ~~or~~ a preparation room equipped
3 with necessary ventilation and drainage and containing
4 necessary instruments for embalming dead human bodies or must
5 make arrangements for a preparation room as established by
6 board rule.

7 Section 20. Subsections (6), (13), (14), and (15) of
8 section 470.025, Florida Statutes, are amended, and subsection
9 (16) is added to that section, to read:

10 470.025 Cinerator facility; licensure.--

11 (6) No more than one dead human body may be placed in
12 a retort at one time, unless written permission has been
13 received from a legally authorized person for each body. The
14 operator of a cinerator facility shall be entitled to rely on
15 the permission of a legally authorized person to cremate more
16 than one human body.

17 (13) A cinerator facility shall not place human
18 remains or body parts in a retort or cremation chamber unless
19 the human remains are in an alternative container, cremation
20 container, or casket. Human remains may be transported in a
21 cremation container or stored if they are completely covered,
22 and at all times treated with dignity and respect. Cremation
23 may include the processing and pulverization of bone
24 fragments. Cremated remains may be placed in a temporary
25 container following cremation.None of the provisions
26 contained in this subsection require the purchase of a casket
27 for cremation. This subsection applies to at-need contracts
28 and preneed contracts entered into pursuant to chapter 497
29 after June 1, 1996.

30 (14) Each cinerator facility shall ensure that all
31 alternative containers, cremation containers, or caskets used

1 for cremation contain no amount of chlorinated plastics not
2 authorized by the Department of Environmental Protection, that
3 they also are composed of readily combustible materials
4 suitable for cremation, able to be closed to provide a
5 complete covering for the human remains, resistant to leakage
6 or spillage, rigid enough for handling with ease, and able to
7 provide for the health, safety, and personal integrity of the
8 public and crematory personnel.

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

11 (16) The operator of a cinerator facility shall
12 establish written procedures for the removal of remains and
13 bone fragments, to the extent possible, resulting from the
14 cremation of a human body and the postcremation processing,
15 shipping, packing, or identifying of those remains. If an
16 operator follows these procedures, the operator is not liable
17 for the unintentional or incidental commingling of human
18 remains and bone fragments resulting from more than one
19 cremation cycle or from postcremation processing, shipping,
20 packing, or identifying of those remains. A copy of the
21 procedures shall be available, upon request, to the department
22 and legally authorized persons.

23 Section 21. Section 470.0255, Florida Statutes, is
24 amended to read:

25 470.0255 Cremation; procedure required.--

26 (1) At the time of the arrangement for a cremation
27 performed by any person licensed pursuant to this chapter, the
28 person contracting for cremation services shall be required to
29 designate his or her intentions with respect to the
30 disposition of the cremated remains of the deceased in a
31 signed declaration of intent which shall be provided by and

1 retained by the funeral or direct disposal establishment. A
2 cremation may not be performed until a legally authorized
3 person gives written authorization for such cremation. The
4 cremation must be performed within 48 hours after a specified
5 time which has been agreed to in writing by the person
6 authorizing the cremation.

7 (2) With respect to any person who intends to provide
8 for the cremation of the deceased, if, after a period of 120
9 days from the time of cremation the cremated remains have not
10 been claimed, the funeral or direct disposal establishment may
11 dispose of the cremated remains. Such disposal shall include
12 scattering them at sea or placing them in a licensed cemetery
13 scatter garden or pond or in a church columbarium or otherwise
14 disposing of the remains as provided by rule of the department
15 or board.

16 (3) Pursuant to the request of a legally authorized
17 person and incidental to final disposition, cremation may be
18 performed on parts of human remains. This subsection does not
19 authorize the cremation of body parts as defined in s.
20 470.002.

21 Section 22. Section 470.028, Florida Statutes, is
22 amended to read:

23 470.028 Preneed sales; registration of agents; control
24 and supervision of agents.--

25 (1) All sales of preneed funeral service contracts or
26 direct disposition contracts shall be made pursuant to chapter
27 497.

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

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

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

8 (b) The direct disposer in charge or a funeral
9 director acting as a direct disposer in charge of a direct
10 disposal establishment shall be responsible for the control
11 and activities of the establishment's preneed agents.

12 Section 23. Subsection (1) of section 470.029, Florida
13 Statutes, is amended to read:

14 470.029 Reports of cases embalmed and bodies
15 handled.--

16 (1) Each funeral establishment, direct disposal
17 establishment, cinerator facility, and centralized embalming
18 facility shall report on a form prescribed and furnished by
19 the department the name of the deceased and such other
20 information as may be required with respect to each dead human
21 body embalmed or otherwise handled by the establishment or
22 facility. Such forms shall be signed by the embalmer who
23 performs the embalming, if the body is embalmed, and the
24 funeral director in charge of the establishment or facility or
25 by the direct disposer who disposes of the body. The board
26 shall prescribe by rule the procedures in submitting such
27 documentation. Reports required by this subsection shall be
28 filed by the 20th ~~10th~~ day of each month for final
29 dispositions handled the preceding month.

30 Section 24. Section 470.031, Florida Statutes, is
31 amended to read:

1 470.031 Prohibitions; penalties.--

2 (1) No person may:

3 (a) Practice funeral directing, embalming, or direct
4 disposition unless the person holds an active license or
5 registration under this chapter.

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

9 (c) Represent as his or her own the license or
10 registration of another.

11 (d) Give false or forged evidence to the board, a
12 member thereof, or the department for the purpose of obtaining
13 a license or registration.

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

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

18 (g) Knowingly conceal information relative to
19 violations of this chapter.

20 (h) Operate an unlicensed cinerator facility.

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

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

26 Section 25. Section 470.0355, Florida Statutes, is
27 amended to read:

28 470.0355 Identification of human remains.--

29 (1) PRIOR TO FINAL DISPOSITION.--

30 (a)~~(1)~~ The licensee or registrant in charge of the
31 final disposition of dead human remains shall, prior to final

1 disposition of such dead human remains, affix on the ankle or
2 wrist of the deceased, and ~~or~~ in the casket or alternative
3 container or cremation container, proper identification of the
4 dead human remains. The identification or tag shall be encased
5 in or consist of durable and long-lasting material containing
6 the name, date of birth, and date of death, ~~and social~~
7 ~~security number~~ of the deceased, if available. If the dead
8 human remains are cremated, proper identification shall be
9 placed in the container or urn containing the remains.

10 ~~(b)(2)~~ Any licensee or registrant responsible for
11 removal of dead human remains to any establishment, facility,
12 or location shall ensure that the remains are identified by a
13 tag or other means of identification that is affixed to the
14 ankle or wrist of the deceased at the time the remains are
15 removed from the place of death or other location.

16 ~~(c)(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 (2) IN UNLICENSED CEMETERIES.--Effective October 1,
20 2003, the identification of human remains interred in an
21 unlicensed cemetery shall be the responsibility of the
22 licensed funeral establishment in charge of the funeral
23 arrangements for the deceased person. The licensed funeral
24 establishment in charge of the funeral arrangements for the
25 interment in an unlicensed cemetery of human remains shall
26 place on the outer burial container, cremation interment
27 container, or other container or on the inside of a crypt or
28 niche a tag or permanent identifying mark containing the name
29 of the decedent and the date of death, if available. The
30 materials and locations of the tag or mark shall be more
31 specifically described by the rule of the board.

1 (3) IN LICENSED CEMETERIES.--Effective October 1,
2 2003, human remains at licensed cemeteries shall be identified
3 as follows:

4 (a) Each licensed cemetery shall place on the outer
5 burial container, cremation interment container, or other
6 container or on the inside of a crypt or niche a tag or
7 permanent identifying marker containing the name of the
8 decedent and the date of death, if available. The materials
9 and the location of the tag or marker shall be more
10 specifically described by rule of the board.

11 (b) Each licensed cemetery may rely entirely on the
12 identity stated on the burial transit permit or on the
13 identification supplied by a person licensed under chapter 470
14 to establish the identity of the dead human remains delivered
15 by such person for burial and shall not be liable for any
16 differences between the identity shown on the burial transit
17 permit or identification and the actual identity of the dead
18 human remains delivered by such person and buried in the
19 cemetery.

20 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
21 establishments shall establish a system of identification of
22 human remains received which shall be designed to track the
23 identity of the remains from the time of receipt until
24 delivery of the remains to the authorized persons. This is in
25 addition to the requirements for identification of human
26 remains set forth in subsection (1). A copy of the
27 identification procedures shall be available, upon request, to
28 the department and legally authorized persons.

29 Section 26. For the purpose of incorporating the
30 amendment to section 470.031, Florida Statutes, in a reference
31

1 thereto, paragraph (a) of subsection (1) of section 470.036,
2 Florida Statutes, is reenacted to read:

3 470.036 Disciplinary proceedings.--

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

6 (a) Violation of any provision of s. 455.227(1) or s.
7 470.031.

8 Section 27. Section 497.005, Florida Statutes, is
9 amended to read:

10 497.005 Definitions.--As used in this chapter:

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

15 (2) "Bank of belowground crypts" means any
16 construction unit of belowground crypts which is acceptable to
17 the department and which a cemetery uses to initiate its
18 belowground crypt program or to add to existing belowground
19 crypt structures.

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

24 (4) "Board" means the Board of Funeral and Cemetery
25 Services.

26 (5) "Burial merchandise," "funeral merchandise," or
27 "merchandise" means any personal property offered or sold by
28 any person for use in connection with the final disposition,
29 memorialization, interment, entombment, or inurnment of human
30 remains.

31

1 (6) "Burial right" means the right to use a grave
2 space, mausoleum, columbarium, ossuary, or scattering garden
3 for the interment, entombment, inurnment, or other disposition
4 of human remains.

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

9 (8) "Care and maintenance" means the perpetual process
10 of keeping a cemetery and its lots, graves, grounds,
11 landscaping, roads, paths, parking lots, fences, mausoleums,
12 columbaria, vaults, crypts, utilities, and other improvements,
13 structures, and embellishments in a well-cared-for and
14 dignified condition, so that the cemetery does not become a
15 nuisance or place of reproach and desolation in the community.
16 As specified in the rules of the board, "care and maintenance"
17 may include, but is not limited to, any or all of the
18 following activities: mowing the grass at reasonable
19 intervals; raking and cleaning the grave spaces and adjacent
20 areas; pruning of shrubs and trees; suppression of weeds and
21 exotic flora; and maintenance, upkeep, and repair of drains,
22 water lines, roads, buildings, and other improvements. "Care
23 and maintenance" may include, but is not limited to,
24 reasonable overhead expenses necessary for such purposes,
25 including maintenance of machinery, tools, and equipment used
26 for such purposes. "Care and maintenance" may also include
27 repair or restoration of improvements necessary or desirable
28 as a result of wear, deterioration, accident, damage, or
29 destruction. "Care and maintenance" does not include expenses
30 for the construction and development of new grave spaces or
31 interment structures to be sold to the public.

1 (9) "Casket" means a rigid container which is designed
2 for the encasement of human remains, ~~and~~ which is usually
3 constructed of wood or metal, ornamented, and lined with
4 fabric, and which may or may not be combustible.

5 (10) "Cemetery" means a place dedicated to and used or
6 intended to be used for the permanent interment of human
7 remains. A cemetery may contain land or earth interment;
8 mausoleum, vault, or crypt interment; a columbarium, ossuary,
9 scattering garden, or other structure or place used or
10 intended to be used for the interment or disposition of
11 cremated human remains; or any combination of one or more of
12 such structures or places.

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

15 (12) "Certificateholder" or "licensee" means the
16 person or entity that is authorized under this chapter to sell
17 preneed funeral or burial services, preneed funeral or burial
18 merchandise, or burial rights. Each term shall include the
19 other, as applicable, as the context requires. For the
20 purposes of chapter 120, all certificateholders, licensees,
21 and registrants shall be considered licensees.

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

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

29 (15) "Cremation" includes any mechanical or thermal
30 process whereby a dead human body is reduced to ashes.
31 Cremation also includes any other mechanical or thermal

1 process whereby human remains are pulverized, burned,
2 recremented, or otherwise further reduced in size or quantity.

3 (16) "Department" means the Department of Banking and
4 Finance.

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

8 (18) "Final disposition" means the final disposal of a
9 dead human body whether by interment, entombment, burial at
10 sea, cremation, or any other means and includes, but is not
11 limited to, any other disposition of remains for which a
12 segregated charge is imposed.

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

16 (20) "Grave space" means a space of ground in a
17 cemetery intended to be used for the interment in the ground
18 of human remains.

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

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

25 (23) "Mausoleum section" means any construction unit
26 of a mausoleum which is acceptable to the department and which
27 a cemetery uses to initiate its mausoleum program or to add to
28 its existing mausoleum structures.

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

1 (25) "Monument establishment" means a facility that
2 operates independently of a cemetery or funeral establishment
3 and that offers to sell monuments or monument services to the
4 public for placement in a cemetery.

5 (26) "Net assets" means the amount by which the total
6 assets of a certificateholder, excluding goodwill, franchises,
7 customer lists, patents, trademarks, and receivables from or
8 advances to officers, directors, employees, salespersons, and
9 affiliated companies, exceed total liabilities of the
10 certificateholder. For purposes of this definition, the term
11 "total liabilities" does not include the capital stock,
12 paid-in capital, or retained earnings of the
13 certificateholder.

14 (27) "Net worth" means total assets minus total
15 liabilities pursuant to generally accepted accounting
16 principles.

17 (28) "Niche" means a compartment or cubicle for the
18 memorialization or permanent placement of an urn containing
19 cremated remains.

20 (29)~~(28)~~ "Ossuary" means a receptacle used for the
21 communal placement of cremated human remains without benefit
22 of an urn or any other container in which remains will be
23 commingled with other cremated human remains and are
24 nonrecoverable. It may or may not include memorialization.

25 (30)~~(29)~~ "Outer burial container" means an enclosure
26 into which a casket is placed and includes, but is not limited
27 to, vaults made of concrete, steel, fiberglass, or copper;
28 sectional concrete enclosures; crypts; and wooden enclosures.

29 (31)~~(30)~~ "Preneed contract" means any arrangement or
30 method, of which the provider of funeral merchandise or
31

1 services has actual knowledge, whereby any person agrees to
2 furnish funeral merchandise or service in the future.

3 (32)~~(31)~~ "Religious institution" means an organization
4 formed primarily for religious purposes which has qualified
5 for exemption from federal income tax as an exempt
6 organization under the provisions of s. 501(c)(3) of the
7 Internal Revenue Code of 1986, as amended.

8 (33)~~(32)~~ "Scattering garden" means a location set
9 aside, within a cemetery, which is used for the spreading or
10 broadcasting of cremated remains that have been removed from
11 their container and can be mixed with or placed on top of the
12 soil or ground cover or buried in an underground receptacle on
13 a commingled basis and that are nonrecoverable. It may or may
14 not include memorialization.

15 (34)~~(33)~~ "Servicing agent" means any person acting as
16 an independent contractor whose fiduciary responsibility is to
17 assist both the trustee and certificateholder hereunder in
18 administering their responsibilities pursuant to this
19 chapter.

20 (35)~~(34)~~ "Solicitation" means any communication that
21 ~~which~~ directly or implicitly requests an immediate oral
22 response from the recipient.

23 (36)~~(35)~~ "Statutory accounting" means generally
24 accepted accounting principles, except as modified by this
25 chapter.

26 (37) "Urn" means a receptacle designed to permanently
27 encase cremated remains.

28 Section 28. Subsection (3) of section 497.305, Florida
29 Statutes, is amended to read:

30 497.305 Cemetery companies; authorized functions.--
31

1 (3) A cemetery company may adopt bylaws establishing
2 minimum standards for burial merchandise or the installation
3 thereof. Such bylaws shall include minimum standards for
4 access to install burial merchandise. A cemetery company must
5 comply with its adopted bylaws.

6 Section 29. Section 497.306, Florida Statutes, is
7 created to read:

8 497.306 Standards for grave spaces.--

9 (1) A standard adult grave space shall measure at
10 least 42 inches in width and 96 inches in length, except for
11 preinstalled vaults in designated areas. For interments,
12 except cremated remains, the covering soil shall measure no
13 less than 12 inches from the top of the outer burial
14 container, unless such level of soil is not physically
15 possible. In any interment, the family or next of kin may
16 waive the 12-inch coverage minimum.

17 (2)(a) Effective October 1, 2003, and prior to the
18 sale of grave spaces in any undeveloped areas of a licensed
19 cemetery, the cemetery company shall prepare a map documenting
20 the establishment of recoverable internal survey reference
21 markers installed by the cemetery company no more than 100
22 feet apart in the areas planned for development. The internal
23 reference markers shall be established with reference to
24 survey markers that are no more than 200 feet apart which have
25 been set by a surveyor and mapper licensed under chapter 472
26 and documented in a certified land survey. Both the map and
27 the certified land survey shall be maintained by the cemetery
28 company and shall be made available upon request to the
29 department or members of the public.

30 (b) The map of the area proposed to be developed shall
31 show:

- 1 1. The number of grave spaces available for sale.
2 2. The location of each grave space.
3 3. The number designation assigned to each grave
4 space.

- 5 4. The dimensions of a standard adult grave space.
6 (3) Adult grave spaces established prior to October 1,
7 2003, are not required to meet the standards established under
8 this section for the dimensions or separation of grave spaces.

9 Section 30. Section 497.307, Florida Statutes, is
10 created to read:

11 497.307 Identification of human remains in licensed
12 cemeteries.--On and after October 1, 2003, human remains
13 interred, entombed, scattered, or otherwise placed for final
14 rest at licensed cemeteries shall be identified as follows:

15 (1) Each licensed cemetery shall place on the outer
16 burial container, cremation interment container, or other
17 container, or on the inside of a crypt or niche, a tag or a
18 permanent identifying marker containing the name of the
19 decedent and the date of death, if available. The materials
20 and location of the tag or marker shall be more specifically
21 described by rule of the board.

22 (2) Each licensed cemetery may rely entirely on the
23 identity stated on the burial transit permit or on the
24 identification supplied by a person licensed under chapter 470
25 to establish the identity of the dead human remains delivered
26 by such person for burial and shall not be liable for any
27 differences between the identity shown on the burial transit
28 permit or other identification and the actual identity of the
29 dead human remains delivered by such person and buried in the
30 cemetery.

31

1 Section 31. Subsection (2) of section 497.325, Florida
2 Statutes, is amended to read:

3 497.325 Illegal tying arrangements.--

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

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

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

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

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

25
26 where the monument or installation service is not purchased
27 from the person authorized to sell grave space or the cemetery
28 company or other legal entity providing grave space or from or
29 through any other person or corporation designated by the
30 person authorized to sell grave space or the cemetery company
31 or other legal entity providing grave space. A ~~No~~ cemetery

1 company or other entity owning and operating a cemetery may
2 not be held liable for the improper installation of a monument
3 where the monument is not installed by the cemetery company or
4 its agents or by such other entity or its agents.

5 Section 32. Subsection (9) is added to section
6 497.333, Florida Statutes, to read:

7 497.333 Disclosure of information to public.--A
8 licensee offering to provide burial rights, merchandise, or
9 services to the public shall:

10 (9) Provide to each customer a complete description of
11 any monument, marker, or memorialization to be placed at the
12 gravesite.

13 Section 33. Subsection (5) of section 497.361, Florida
14 Statutes, is amended, and subsections (6) and (7) are added to
15 that section, to read:

16 497.361 Registration of monument establishments.--

17 (5) Monuments not ~~shall be~~ delivered within a
18 specified timeframe shall be considered a breach of contract
19 unless the monument establishment has a written agreement to
20 extend the delivery date. The purchaser shall be entitled to
21 a refund of all money paid for the merchandise. Such refund
22 shall be made within 30 days after receipt by the monument
23 establishment of the purchaser's written request for a refund.
24 This subsection does not preclude the purchase and
25 installation of a new monument from any other registered
26 monument establishment or certificateholder ~~as established by~~
27 ~~this chapter and installed no later than 120 days after the~~
28 ~~date of sale. The establishment may request two 30-day~~
29 ~~extensions. Extensions may be granted by the executive~~
30 ~~director.~~

31

1 (6) All contracts with the public must be approved by
2 the Department of Financial Services and must provide a
3 complete description of any monument, marker, or related
4 product to be delivered.

5 (7) A registration may not be transferred or assigned.

6 Section 34. Section 497.365, Florida Statutes, is
7 created to read:

8 497.365 Regulation of monument establishments.--

9 (1) The Department of Financial Services shall
10 establish an inspection program for all monument
11 establishments in accordance with the requirements of this
12 act.

13 (2) The Department of Financial Services shall adopt
14 rules that shall include requirements for the approval of
15 contracts for memorials and related products, written
16 complaint procedures and mandatory response to consumer
17 complaints, disclosure to the public as to the form of
18 ownership, the fingerprinting of owners, and appropriate
19 recordkeeping.

20 (3) Nothing in the department's authority or any other
21 provisions of this act shall unreasonably restrict competition
22 or permit the restraint of trade and commerce.

23 Section 35. Section 497.371, Florida Statutes, is
24 created to read:

25 497.371 Monument establishment business location.--

26 (1) A monument establishment shall be a place at a
27 specific street address or location consisting of at least
28 1,500 square feet of office and manufacturing space, including
29 a display area for monuments, markers, and related products.
30 The place where the establishment is located must comply with
31

1 the local government zoning regulations and may not be located
2 on tax-exempt property.

3 (2) The monument establishment must be a full-service
4 monument location open to the public during normal business
5 hours, with facilities to design, inscribe, and install
6 monuments and related products.

7 (3) A person may not operate a monument company or
8 install monuments, markers, and related products in this state
9 unless he or she is licensed by the Department of Financial
10 Services.

11 Section 36. Section 497.379, Florida Statutes, is
12 created to read:

13 497.379 Licensure of monument establishments to sell
14 preneed contracts.--A monument establishment, including an
15 existing registered or unregistered monument establishment,
16 may not sell a preneed contract without first having obtained
17 a valid certificate of authority from the Department of
18 Financial Services. A person may not be issued a certificate
19 of authority as a monument establishment to sell preneed
20 contracts unless such person has at least 3 years' experience
21 in the operation and management of an establishment selling
22 monuments, markers, and related products.

23 Section 37. Section 497.385, Florida Statutes, is
24 created to read:

25 497.385 Monument establishment; sales
26 representative.--Each person selling monuments, markers, and
27 related products for a monument establishment must register
28 with the board, including any person registered or licensed
29 pursuant to chapter 470 or this chapter. A person selling
30 monuments, markers, and related products for a monument
31 establishment that has been issued a certificate of authority

1 must register as a preneed agent pursuant to the requirements
2 of this chapter.

3 Section 38. Section 497.391, Florida Statutes, is
4 created to read:

5 497.391 Monument establishment; preneed
6 contracts.--Effective January 1, 2004, a monument dealer or
7 establishment may not write a preneed contract unless that
8 contract has been approved by the board. Any monument dealer
9 or establishment that is paid, collects, or receives funds
10 under a preneed contract for services or merchandise shall
11 comply with the provisions of ss. 497.417 and 497.413.

12 Section 39. Section 497.395, Florida Statutes, is
13 created to read:

14 497.395 Licensed monument establishment; financial
15 requirements.--

16 (1) For the purposes of qualifying for a certificate
17 of authority as a licensed monument establishment must have a
18 minimum net worth of \$10,000. A licensed monument
19 establishment holding a certificate of authority or a monument
20 establishment applicant must meet and maintain the
21 requirements of this section on an annual basis in order to
22 perform its obligation for all existing preneed contracts.

23 (2) All licensed monument establishments holding a
24 Certificate of Authority or an applicant must submit its most
25 recent year-end financial statements, including a balance
26 sheet and income statement, with the certificate of authority
27 application and annually thereafter as provided in s.
28 497.407(1). The financial statement must be prepared in
29 accordance with generally accepted accounting principles, as
30 those principles have been defined by the Florida Board of
31 Accountancy in the Florida Administrative Code. If the

1 applicant does not have the minimum net worth as set forth in
2 subsection (3), lacks sufficient liquid assets to satisfy
3 current liabilities, or does not appear to have any
4 substantial long-term assets, the department shall request
5 additional financial information concerning financial
6 statements and the statement of cash flow.

7 (3) For the purposes of this section, the term "total
8 preneed contracts" means the total retail value of all
9 outstanding preneed contracts. There shall be an annual fee
10 for the renewal of the monument establishment certificate of
11 authority based on the following sales volume for total
12 preneed contracts:

13 (a) Five hundred dollars for a certificateholder that
14 has total sales of \$1 to \$50,000.

15 (b) Seven hundred and fifty dollars for a
16 certificateholder that has total sales of \$50,001 to \$250,000.

17 (c) One thousand dollars for a certificateholder that
18 has total sales of \$250,001 to \$500,000.

19 (d) Twelve hundred fifty dollars for a
20 certificateholder that has total sales in excess of \$500,001.

21 (4) In the case of a monument establishment holding a
22 certificate of authority or a licensed dealer applicant
23 offering preneed sales through a subsidiary agent as provided
24 in Rule 3F-5.0015, Florida Administrative Code, the
25 certificateholder or applicant must execute a guarantee
26 agreement with respect to any contract obligations resulting
27 from preneed sales of such a selling agent.

28 (5) If the certificateholder or applicant does not
29 meet the financial requirements in subsection (3), the entity
30 may voluntarily submit to the board additional evidence or
31 agree to additional oversight as to meeting the requirements

1 of subsection (1) as a condition of receiving or retaining a
2 certificate of authority. Such additional evidence or
3 oversight shall include, as appropriate:

4 (a) An agreement to submit monthly financial
5 statements of the entity;

6 (b) An agreement to submit quarterly financial
7 statements of the entity;

8 (c) An appraisal of the entity's property or broker's
9 opinion of the entity's assets;

10 (d) A credit report of the entity or its principal
11 owners;

12 (e) Subordination-of-debt agreement from the entity's
13 principal owners;

14 (f) An indemnification or subrogation agreement
15 binding the entity and principal owners;

16 (g) A guarantee agreement for the entity from its
17 principal owners;

18 (h) Written explanation of past financial activity;

19 (i) Submission of the 12-month projected business plan
20 that includes:

21 1. A statement of cash flows;

22 2. Proforma income statements, with sources of
23 revenues identified; and

24 3. Marketing initiatives;

25 (j) Submission of previous department examination
26 reports; or

27 (k) An agreement of 100 percent voluntary trust by the
28 entity.

29 Section 40. Subsections (1) and (4) of section
30 497.405, Florida Statutes, are amended to read:

31 497.405 Certificate of authority required.--

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

5 (b) No person, including any cemetery exempt under s.
6 497.003, may sell, advertise to sell, or make an arrangement
7 for services, merchandise, or burial rights on a preneed basis
8 unless such person is authorized pursuant to this chapter to
9 provide such services, merchandise, or burial rights on an
10 at-need basis.

11 (4) The provisions of this section do not apply to
12 religious-institution-owned cemeteries exempt under s.
13 497.003(1)(d), in counties with a population of at least
14 960,000 persons on July 1, 1996, with respect to the sale to
15 the religious institution's members and their families of
16 interment rights, mausoleums, crypts, cremation niches and
17 cremation interment containers, vaults, liners, urns,
18 memorials, vases, foundations, memorial bases, floral
19 arrangements, monuments, markers, engraving, and the opening
20 and closing of interment rights, mausoleums, crypts, and
21 cremation niches and cremation interment containers, if such
22 cemeteries have engaged in the sale of preneed contracts prior
23 to October 1, 1993, and maintain a positive net worth at the
24 end of each fiscal year of the cemetery.

25 Section 41. Subsection (4) of section 497.419, Florida
26 Statutes, is amended, and subsection (11) is added to that
27 section, to read:

28 497.419 Cancellation of, or default on, preneed
29 contracts.--

30 (4) Each certificateholder shall provide in
31 conspicuous type in its contract that the contract purchaser

1 may cancel the contract and receive a full refund within 30
2 days after ~~of~~ the date of execution of the contract, except
3 for those amounts allocable to any burial rights, merchandise,
4 or services that have been used by the purchaser. The failure
5 to make such provision shall not impair the contract
6 purchaser's right to cancellation and refund as provided in
7 this section.

8 (11) Failure to install a monument within 180 days
9 after interment shall be considered a breach of contract
10 unless the certificateholder has a written agreement to extend
11 the installation date. The purchaser shall be entitled to a
12 refund of all money paid for the merchandise. Such refund
13 shall be made within 30 days after receipt by the
14 certificateholder of the purchaser's written request for a
15 refund. Nothing in this subsection shall preclude the purchase
16 and installation of a new monument from any other registered
17 monument establishment or certificateholder.

18 Section 42. Subsection (4) of section 497.436, Florida
19 Statutes, is amended to read:

20 497.436 Inactive and revoked certificateholders.--

21 (4) Upon receipt of the notice, in order to protect
22 the contract purchaser, the board may:

23 (a) shall Review the certificateholder's:

24 1.(a) Trust funds.

25 2.(b) Trust agreements.

26 3.(c) Evidence of all outstanding preneed contracts.

27 (b) Perform other procedures the board deems
28 necessary.

29 Section 43. Section 497.310, Florida Statutes, is
30 created to read:

31 497.310 Recording purchase of burial rights.--

1 (1) Any person purchasing a burial right, belowground
2 crypt, grave space, mausoleum, columbarium, ossuary, or
3 scattering garden for the interment, entombment, inurnment, or
4 other disposition of human remains may, at the person's
5 option, permanently record the purchase of the burial right,
6 belowground crypt, grave space, mausoleum, columbarium,
7 ossuary, or scattering garden with the clerk of the court in
8 the county where the burial right, belowground crypt, grave
9 space, mausoleum, columbarium, ossuary, or scattering garden
10 is located.

11 (2) The clerk of the court shall record the evidence
12 of the purchase of a burial right, belowground crypt, grave
13 space, mausoleum, columbarium, ossuary, or scattering garden
14 presented to him or her for recording, upon payment of the
15 service charge of \$5 for the first page and \$2 for each
16 additional page or fraction thereof of the purchase documents.

17 Section 44. Except as otherwise expressly provided in
18 this act, this act shall take effect July 1, 2003.

19
20
21
22
23
24
25
26
27
28
29
30
31