

By the Committee on Regulated Industries; and Senators Pruitt,  
Haridopolos and Posey

315-2213-04

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 s. 455.2226, F.S.; conforming a  
13          reference; amending ss. 470.002 and 497.005,  
14          F.S.; conforming definitions; amending s.  
15          497.105, F.S.; conforming references; repealing  
16          ss. 470.003, 497.107, and 497.109, F.S.,  
17          relating to the Board of Funeral Directors and  
18          Embalmers and the Board of Funeral and Cemetery  
19          Services, to conform; amending s. 497.101,  
20          F.S.; creating the Board of Funeral, Cemetery,  
21          and Consumer Services; providing for the  
22          appointment of board members; providing terms  
23          of office; providing grounds for removal or  
24          suspension of a member; providing immunity from  
25          liability for members acting in an official  
26          capacity; specifying the headquarters for the  
27          board; providing for compensation and  
28          reimbursement for per diem expenses; creating  
29          s. 497.102, F.S.; providing for the authority  
30          of the board; creating s. 497.1021, F.S.;  
31          providing duties of the Division of Funeral,

1 Cemetery, and Consumer Services; providing  
2 powers of enforcement; creating s. 497.1022,  
3 F.S.; establishing the office of the director  
4 of the division; providing duties of the Chief  
5 Financial Officer under chapters 470 and 497,  
6 F.S.; providing for a type two transfer of the  
7 Board of Funeral Directors and Embalmers to the  
8 Department of Financial Services; providing for  
9 validity of judicial and administrative  
10 actions; providing for validity of licenses;  
11 providing for continuity of rules; abolishing  
12 the Board of Funeral and Cemetery Services and  
13 the Board of Funeral Directors and Embalmers;  
14 providing for deposit of fees; directing the  
15 Division of Statutory Revision to conform the  
16 statutes; amending s. 470.002, F.S.; revising  
17 and providing definitions; amending s.  
18 470.0085, F.S.; extending the embalmer  
19 apprentice period; amending s. 470.018, F.S.;  
20 increasing continuing education requirements;  
21 amending s. 470.021, F.S.; providing additional  
22 requirements for a direct disposal  
23 establishment; providing inspection  
24 requirements and criteria; amending s. 470.024,  
25 F.S.; revising requirements for a funeral  
26 establishment; amending s. 470.025, F.S.;  
27 revising cremation requirements for cinerator  
28 facilities relating to simultaneous cremations,  
29 body parts, cremation containers, and the  
30 cremation chamber; providing an exemption from  
31 liability for unintentional or incidental

1 commingling of remains under certain  
2 conditions; amending s. 470.0255, F.S.;  
3 providing for cremation of parts of human  
4 bodies incidental to final disposition;  
5 amending s. 470.028, F.S.; providing for  
6 control and supervision of preneed agents;  
7 amending s. 470.029, F.S.; extending the filing  
8 time for reports of bodies embalmed or handled;  
9 amending s. 470.031, F.S.; prohibiting any  
10 guarantee on the future price of any goods or  
11 services; providing penalties; amending s.  
12 470.0355, F.S.; revising requirements for  
13 identification of human remains prior to final  
14 disposition; providing requirements for  
15 identification of human remains in licensed and  
16 unlicensed cemeteries and by direct disposal  
17 establishments; reenacting s. 470.036(1)(a),  
18 F.S., relating to disciplinary proceedings, to  
19 incorporate the amendment to s. 470.031, F.S.,  
20 in a reference thereto; amending s. 497.005,  
21 F.S.; revising and providing definitions;  
22 amending s. 497.305, F.S.; requiring that a  
23 cemetery company comply with its adopted  
24 bylaws; creating s. 497.306, F.S.; providing  
25 dimension and spacing standards for grave  
26 spaces; requiring a map of reference markers  
27 and a land survey for areas proposed to be  
28 developed by a licensed cemetery company;  
29 exempting adult grave spaces previously  
30 established; creating s. 497.307, F.S.;  
31 providing requirements for identification of

1 human remains in licensed cemeteries; amending  
2 s. 497.325, F.S.; providing for procedures  
3 established by other entities operating a  
4 cemetery; amending s. 497.333, F.S.; providing  
5 for disclosure of certain information to  
6 customers; amending s. 497.361, F.S.; providing  
7 for approval of contracts; creating s. 497.365,  
8 F.S.; providing for regulation of monument  
9 establishments by the Department of Financial  
10 Services; providing for inspections; providing  
11 for rules; providing that the department may  
12 not unreasonably restrict commerce; creating s.  
13 497.371, F.S.; providing for specifications for  
14 business locations; creating s. 497.379, F.S.;  
15 providing for the licensure of monument  
16 establishments that sell preneed contracts;  
17 creating s. 497.385, F.S.; providing for  
18 registration of monument sales representatives;  
19 creating s. 497.391, F.S.; providing for  
20 approval of preneed contracts by the board;  
21 creating s. 497.395, F.S.; providing financial  
22 requirements for monument establishments;  
23 providing requirements for minimum net worth;  
24 providing for submission of financial  
25 statements; providing for minimum sales volume  
26 with respect to preneed contracts; providing  
27 for guarantee agreements; providing for  
28 additional oversight in lieu of financial  
29 requirements; amending s. 497.405, F.S.;  
30 prohibiting any person from advertising for  
31 sale or making any arrangement for a preneed

1 contract without having a valid certificate of  
2 authority; expanding the exemption from the  
3 required certificate of authority for certain  
4 religious-institution-owned cemeteries to  
5 include the sale and opening or closing of  
6 cremation interment containers to members and  
7 family members of the religious institution;  
8 amending s. 497.419, F.S.; requiring preneed  
9 contracts to include in the refund notice the  
10 exclusion for amounts allocable to burial  
11 rights, merchandise, and services used by the  
12 purchaser; providing conditions for breach of  
13 contract by certificateholder and for rights of  
14 purchaser; amending s. 497.436, F.S. ;  
15 authorizing the Board of Funeral and Cemetery  
16 Services to review the trust funds, trust  
17 agreements, and outstanding preneed contracts  
18 of, and perform other procedures at its  
19 discretion with respect to, a certificateholder  
20 filing notice to become inactive; amending s.  
21 406.50, F.S.; defining the term "unclaimed";  
22 providing for the prioritizing of claims for  
23 dead bodies; amending s. 406.53, F.S. ;  
24 providing for the claiming of dead bodies by  
25 indigent relatives; defining the term  
26 "indigent"; providing effective dates.

27  
28 Be It Enacted by the Legislature of the State of Florida:

29  
30 Section 1. Effective January 1, 2005, paragraph (n) is  
31 added to subsection (2) of section 20.121, Florida Statutes,

1 and present subsection (4) of that section is redesigned as  
2 subsection (5) and a new subsection (4) is added to that  
3 section, to read:

4           20.121 Department of Financial Services.--There is  
5 created a Department of Financial Services.

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

8           (n) Division of Funeral, Cemetery, and Consumer  
9 Services.

10           (4) BOARD OF FUNERAL, CEMETERY, AND CONSUMER  
11 SERVICES.--There is created within the Department of Financial  
12 Services the Board of Funeral, Cemetery, and Consumer  
13 Services.

14           Section 2. Effective January 1, 2005, paragraph (a) of  
15 subsection (4) of section 20.165, Florida Statutes, is amended  
16 to read:

17           20.165 Department of Business and Professional  
18 Regulation.--There is created a Department of Business and  
19 Professional Regulation.

20           (4)(a) The following boards are established within the  
21 Division of Professions:

22           1. Board of Architecture and Interior Design, created  
23 under part I of chapter 481.

24           2. Florida Board of Auctioneers, created under part VI  
25 of chapter 468.

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

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

29           5. Construction Industry Licensing Board, created  
30 under part I of chapter 489.

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

1           7. Electrical Contractors' Licensing Board, created  
2 under part II of chapter 489.

3           8. Board of Employee Leasing Companies, created under  
4 part XI of chapter 468.

5           ~~9. Board of Funeral Directors and Embalmers, created~~  
6 ~~under chapter 470.~~

7           9.10. Board of Landscape Architecture, created under  
8 part II of chapter 481.

9           10.11. Board of Pilot Commissioners, created under  
10 chapter 310.

11           11.12. Board of Professional Engineers, created under  
12 chapter 471.

13           12.13. Board of Professional Geologists, created under  
14 chapter 492.

15           13.14. Board of Professional Surveyors and Mappers,  
16 created under chapter 472.

17           14.15. Board of Veterinary Medicine, created under  
18 chapter 474.

19           Section 3. Effective January 1, 2005, subsection (1)  
20 of section 455.2226, Florida Statutes, is amended to read:

21           455.2226 Funeral directors and embalmers; instruction  
22 on HIV and AIDS.--

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

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

5 Section 4. Effective January 1, 2005, subsections (3)  
6 and (14) of section 470.002, Florida Statutes, as amended by  
7 this act, are amended to read:

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

9 (3) "Board" means the Board of Funeral, Cemetery, and  
10 Consumer Services ~~Funeral Directors and Embalmers~~.

11 (14) "Department" means the Department of Financial  
12 Services ~~Business and Professional Regulation~~.

13 Section 5. Effective January 1, 2005, subsection (4)  
14 of section 497.005, Florida Statutes, as amended by this act,  
15 is amended, and subsections (36) and (37) are added to that  
16 section, to read:

17 497.005 Definitions.--As used in this chapter:

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

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

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

25 Section 6. Effective January 1, 2005, subsection (2)  
26 of section 497.105, Florida Statutes, is amended to read:

27 497.105 Department; powers and duties.--The department  
28 shall:

29 (2) Appoint the executive director of the board of  
30 ~~Funeral and Cemetery Services~~, subject to the approval of the  
31 board.



1           Section 7. Effective January 1, 2005, sections  
2 470.003, 497.107, 497.109, Florida Statutes, are repealed.

3           Section 8. Effective January 1, 2005, 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; have never been licensed as funeral directors or  
6 embalmers; are not connected with a cemetery or cemetery  
7 company licensed pursuant to this chapter; and are not  
8 connected with the death care industry or the practice of  
9 embalming, funeral directing, or direct disposition. One of  
10 the consumer members must be at least 60 years of age or older  
11 and one must be licensed as a certified public accountant  
12 pursuant to chapter 473. One member of the board must be a  
13 monument dealer licensed under this chapter. One member must  
14 be the State Health Officer or his or her designee.

15 (3) Board members shall be appointed for terms of 4  
16 years and the State Health Officer shall serve as long as that  
17 person holds that office. The designee of the State Health  
18 Officer shall serve at the pleasure of the Governor. When the  
19 terms of the initial board members expire, the Chief Financial  
20 Officer shall stagger the terms of the successor members as  
21 follows: one funeral director, one cemetery representative,  
22 the monument dealer, and one consumer member shall be  
23 appointed for terms of 2 years, and the remaining members  
24 shall be appointed for terms of 4 years. All subsequent terms  
25 shall be for 4 years.

26 (4) The Governor may suspend or remove any board  
27 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  
20 board. The board shall meet at least every 6 months, and more  
21 often as 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  
4 the advance approval of the board's executive director in  
5 order for the travel to be eligible for reimbursement of  
6 expenses.

7 Section 9. Effective January 1, 2005, section 497.102,  
8 Florida Statutes, is created to read:

9 497.102 Authority of the board.--

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

15 (2) For purposes of enforcement of chapter 455  
16 regarding chapter 470, on and after January 1, 2005,  
17 references in chapter 455 to the Department of Business and  
18 Professional Regulation or the secretary of that department  
19 shall instead refer to the Department of Financial Services or  
20 the Chief Financial Officer, as the context may require.

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

28 Section 10. Effective January 1, 2005, section  
29 497.1021, Florida Statutes, is created to read:

30 497.1021 Division of Funeral, Cemetery, and Consumer  
31 Services.--

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

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

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

17           Section 11. Effective January 1, 2005, section  
18 497.1022, Florida Statutes, is created to read:

19           497.1022 Director of the Division of Funeral,  
20 Cemetery, and Consumer Services.--

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

26           (2) The director shall be responsible for the  
27 preparation of the board agenda, presentation of division  
28 staff recommendations, and reports of the activities of the  
29 division to the board and shall serve as the executive  
30 director of the board and perform such other duties as may be  
31 assigned by the Chief Financial Officer.

1           Section 12. Effective January 1, 2005, all duties  
2 performed by the Secretary of the Department of Business and  
3 Professional Regulation under chapter 470, Florida Statutes,  
4 shall be performed by the Chief Financial Officer under the  
5 provisions of this act. The duties may be delegated by the  
6 Chief Financial Officer to the Director of the Division of  
7 Funeral, Cemetery, and Consumer Services.

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

18           (2) The transfer of regulatory authority over chapter  
19 470, Florida Statutes, provided by this act shall not affect  
20 the validity of any judicial or administrative action  
21 involving the Board of Funeral Directors and Embalmers or the  
22 Department of Business and Professional Regulation pending on  
23 December 31, 2004, and the Department of Financial Services or  
24 the Board of Funeral, Cemetery, and Consumer Services shall be  
25 substituted as a party in interest in any such action.

26           (3) Notwithstanding the transfer of regulatory  
27 authority over chapter 470, Florida Statutes, provided by this  
28 act, all licenses and registrations issued pursuant to chapter  
29 470, Florida Statutes, which are valid on December 31, 2004,  
30 shall remain in effect, subject to the provisions of chapters  
31 470 and 455, Florida Statutes.

1           (4) The rules of the Board of Funeral Directors and  
2 Embalmers and the Department of Business and Professional  
3 Regulation which were in effect on midnight, December 31,  
4 2004, shall become the rules of the Department of Financial  
5 Services as is appropriate to the corresponding regulatory  
6 function and shall remain in effect until specifically amended  
7 or repealed in the manner provided by law.

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

17           (6) The transfer of regulatory authority over chapter  
18 497, Florida Statutes, provided by this act shall not affect  
19 the validity of any judicial or administrative action  
20 involving the Board of Funeral and Cemetery Services pending  
21 on December 31, 2004, and the Board of Funeral, Cemetery, and  
22 Consumer Services shall be substituted as a party in interest  
23 in any such action.

24           (7) Notwithstanding the transfer of regulatory  
25 authority over chapter 497, Florida Statutes, provided by this  
26 act, all licenses and registrations issued pursuant to chapter  
27 497, Florida Statutes, which are valid on December 31, 2004,  
28 shall remain in effect subject to the provisions of chapter  
29 497, Florida Statutes.

30           (8) The rules of the Board of Funeral and Cemetery  
31 Services which were in effect on midnight, December 31, 2004,

1 shall remain in effect until specifically amended or repealed  
2 in the manner provided by law.

3 (9) This section shall take effect on January 1, 2005.

4 Section 14. Effective midnight December 31, 2004, the  
5 Board of Funeral and Cemetery Services and the Board of  
6 Funeral Directors and Embalmers are abolished.

7 Section 15. Effective January 1, 2005, all fees  
8 collected pursuant to the provisions of chapters 470 and 497,  
9 Florida Statutes, shall be deposited in the Regulatory Trust  
10 Fund in the Department of Financial Services.

11 Section 16. The Legislature recognizes that there is a  
12 need to conform the Florida Statutes to the policy decisions  
13 reflected in the provisions of this act. The Division of  
14 Statutory Revision is directed to provide the relevant  
15 substantive committees of the Senate and the House of  
16 Representatives with assistance, upon request, to enable such  
17 committees to prepare draft legislation to conform the Florida  
18 Statutes to the provisions of this act.

19 Section 17. Section 470.002, Florida Statutes, is  
20 amended to read:

21 470.002 Definitions.--As used in this chapter:

22 (1)(15) "Alternative container" means a nonmetal  
23 receptacle or enclosure which is less expensive than a casket  
24 and of sufficient strength to be used to hold and transport a  
25 dead human body.

26 (2)(22) "At-need solicitation" means any uninvited  
27 contact by a funeral director or direct disposer for the  
28 purpose of the sale of funeral services or merchandise to the  
29 family or next of kin of a person after that person has died.

30 (3)(2) "Board" means the Board of Funeral Directors  
31 and Embalmers.



1           (4) "Body parts" means:

2           (a) Limbs or other portions of the anatomy which are  
3 removed from a person or human remains for medical purposes  
4 during treatment, surgery, biopsy, autopsy, or medical  
5 research; or

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

8           ~~(5)(16)~~ "Casket" means a rigid container ~~which is~~  
9 designed for the encasement of human remains for burial, ~~and~~  
10 which is usually constructed of wood or metal, ornamented, and  
11 lined with fabric, ~~and which may or may not be combustible.~~

12           ~~(6)(27)~~ "Centralized embalming facility" means a  
13 facility, not physically connected with a funeral  
14 establishment, in which embalming takes place.

15           ~~(7)(14)~~ "Cinerator" means a facility where dead human  
16 bodies are reduced to a residue, including bone fragments, by  
17 direct flame, also known as "cremation," or by intense heat,  
18 also known as "calcination."

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

22           (9) "Cremated remains" means all the remains of the  
23 human body recovered after the completion of the cremation  
24 process, including processing or pulverization which leaves  
25 only bone fragments reduced to unidentifiable dimensions and  
26 may include the residue of any foreign matter, including  
27 casket material, bridgework, or eyeglasses that were cremated  
28 with the human remains.

29           ~~(10)(24)~~ "Cremation" means the technical process,  
30 using direct flame and heat or chemical means, which reduces  
31 human remains to bone fragments through heat and evaporation.

1 Cremation includes the processing and usually includes the  
2 pulverization of the bone fragments ~~includes any mechanical or~~  
3 ~~thermal process whereby a dead human body is reduced to ashes~~  
4 ~~and bone fragments. Cremation also includes any other~~  
5 ~~mechanical or thermal process whereby human remains are~~  
6 ~~pulverized, burned, recreated, or otherwise further reduced~~  
7 ~~in size or quantity.~~

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

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

16 (a) Be composed of readily combustible materials  
17 suitable for cremation.

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

20 (c) Be resistant to leakage or spillage.

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

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

24 (13) "Cremation interment container" means a rigid  
25 outer container that, subject to a cemetery's rules and  
26 regulations, is composed of concrete, steel, fiberglass, or  
27 some similar material in which an urn is placed prior to being  
28 interred in the ground and that is designed to support the  
29 earth above the urn.

30 (14)(1) "Department" means the Department of Business  
31 and Professional Regulation.

1           (15)~~(8)~~ "Direct disposal establishment" means a  
2 facility registered under this chapter where a direct disposer  
3 practices direct disposition.

4           (16)~~(9)~~ "Direct disposer" means any person registered  
5 under this chapter to practice direct disposition in this  
6 state.

7           (17)~~(28)~~ "Disinterment" means removal of a dead human  
8 body from earth interment or aboveground interment.

9           (18)~~(5)~~ "Embalmer" means any person licensed under  
10 this chapter to practice embalming in this state.

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

18           (20)~~(13)~~ "Funeral" or "funeral service" means the  
19 observances, services, or ceremonies held to commemorate the  
20 life of a specific deceased human being, and at which the  
21 human remains are present.

22           (21)~~(3)~~ "Funeral director" means any person licensed  
23 under this chapter to practice funeral directing in this  
24 state.

25           (22)~~(7)~~ "Funeral establishment" means a facility  
26 licensed under this chapter where a funeral director or  
27 embalmer practices funeral directing or embalming.

28           (23)~~(12)~~ "Funeral merchandise" or "merchandise" means  
29 any merchandise commonly sold in connection with the funeral,  
30 final disposition, or memorialization of human remains,  
31 including, but not limited to, caskets, outer burial

1 containers, alternative containers, cremation containers,  
2 cremation interment containers, urns, monuments, private  
3 mausoleums, flowers, shrubs, benches, vases, acknowledgment  
4 cards, register books, memory folders, prayer cards, and  
5 clothing.

6 (24)~~(23)~~ "Human remains" or "remains," "dead human  
7 body" or "dead human bodies," means the body of a deceased  
8 human person for which a death certificate or fetal death  
9 certificate is required under chapter 382 and includes the  
10 body in any stage of decomposition and the residue of cremated  
11 human bodies.

12 (25)~~(18)~~ "Legally authorized person" means, in the  
13 priority listed, the decedent, when written inter vivos  
14 authorizations and directions are provided by the decedent,  
15 the surviving spouse, unless the spouse has been arrested for  
16 committing against the deceased an act of domestic violence as  
17 defined in s. 741.28 which resulted in or contributed to the  
18 death of the deceased, a son or daughter who is 18 years of  
19 age or older, a parent, a brother or sister 18 years of age or  
20 over, a grandchild who is 18 years of age or older, or a  
21 grandparent; or any person in the next degree of kinship. In  
22 addition, the term may include, if no family exists or is  
23 available, the following: the guardian of the dead person at  
24 the time of death; the personal representative of the  
25 deceased; the attorney in fact of the dead person at the time  
26 of death; the health surrogate of the dead person at the time  
27 of death; a public health officer; the medical examiner,  
28 county commission or administrator acting under part II of  
29 chapter 406, or other public administrator; a representative  
30 of a nursing home or other health care institution in charge  
31 of final disposition; or a friend or other person not listed

1 in this subsection who is willing to assume the responsibility  
2 as authorized person. Where there is a person in any priority  
3 class listed in this subsection, the funeral establishment  
4 shall rely upon the authorization of any one legally  
5 authorized person of that class if that individual represents  
6 that he or she is not aware of any objection to the cremation  
7 of the deceased's human remains by others in the same class of  
8 the person making the representation or of any person in a  
9 higher priority class.

10 (26) "Niche" means a compartment or cubicle for the  
11 memorialization or permanent placement of a container or urn  
12 containing cremated remains.

13 (27)~~(19)~~ "Outer burial container" means an enclosure  
14 into which a casket is placed, including, but not limited to,  
15 a vault made of concrete, steel, fiberglass, or copper, a  
16 sectional concrete enclosure, a crypt, or a wooden enclosure.

17 (28)~~(20)~~ "Personal residence" means any residential  
18 building in which one temporarily or permanently maintains his  
19 or her abode, including, but not limited to, an apartment or a  
20 hotel, motel, nursing home, convalescent home, home for the  
21 aged, or a public or private institution.

22 (29)~~(10)~~ "Practice of direct disposition" means the  
23 cremation of human remains without preparation of the human  
24 remains by embalming and without any attendant services or  
25 rites such as funeral or graveside services or the making of  
26 arrangements for such final disposition.

27 (30)~~(6)~~ "Practice of embalming" means disinfecting or  
28 preserving or attempting to disinfect or preserve dead human  
29 bodies by replacing certain body fluids with preserving and  
30 disinfecting chemicals.

31

1           ~~(31)(4)~~ "Practice of funeral directing" means the  
2 performance by a licensed funeral director of any of those  
3 functions authorized by s. 470.0087.

4           ~~(32)(21)~~ "Preneed sales agent" means any person who is  
5 registered under chapter 497 to sell preneed burial or funeral  
6 service and merchandise contracts or direct disposition  
7 contracts in this state.

8           (33) "Processing" means the reduction of identifiable  
9 bone fragments after the completion of the cremation process  
10 to unidentifiable bone fragments by manual means.

11           (34) "Pulverization" means the reduction of  
12 identifiable bone fragments after the completion of the  
13 cremation and processing to granulated particles by manual or  
14 mechanical means.

15           ~~(35)(25)~~ "Refrigeration facility" means a facility  
16 that is not physically connected with a funeral establishment,  
17 crematory or direct disposal establishment, that maintains  
18 space and equipment for the storage and refrigeration of dead  
19 human bodies, and that offers its service to funeral directors  
20 and funeral establishments for a fee.

21           ~~(36)(26)~~ "Removal service" means any service that  
22 operates independently of a funeral establishment, that  
23 handles the initial removal of dead human bodies, and that  
24 offers its service to funeral establishments and direct  
25 disposal establishments for a fee.

26           ~~(37)(17)~~ "Solicitation" means any communication which  
27 directly or implicitly requests an immediate oral response  
28 from the recipient.

29           (38) "Temporary container" means a receptacle for  
30 cremated remains usually made of cardboard, plastic, or  
31

1 similar material designated to hold the cremated remains until  
2 an urn or other permanent container is acquired.

3 (39) "Urn" means a receptacle designed to permanently  
4 encase cremated remains.

5 Section 18. Section 470.0085, Florida Statutes, is  
6 amended to read:

7 470.0085 Establishment of embalmer apprentice  
8 program.--The board may adopt rules establishing an embalmer  
9 apprentice program. An embalmer apprentice may perform only  
10 those tasks, functions, and duties relating to embalming which  
11 are performed under the direct supervision of a licensed  
12 embalmer. An embalmer apprentice shall be eligible to serve in  
13 an apprentice capacity for a period not to exceed 3 years ~~±~~  
14 ~~year~~ as may be determined by board rule or for a period not to  
15 exceed 5 ~~±~~ years if the apprentice is enrolled in and  
16 attending a course in mortuary science or funeral service  
17 education at any mortuary college or funeral service education  
18 college or school. An embalmer apprentice shall be registered  
19 with the board upon payment of a registration fee not to  
20 exceed \$50.

21 Section 19. Subsection (2) of section 470.018, Florida  
22 Statutes, is amended to read:

23 470.018 Renewal of registration of direct disposer.--

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

27 (2) The department shall adopt rules establishing a  
28 procedure for the biennial renewal of registrations. The board  
29 shall prescribe by rule continuing education requirements of  
30 up to 6 ~~±~~ classroom hours and may by rule establish criteria  
31 for accepting alternative nonclassroom continuing education on

1 an hour-for-hour basis, in addition to a board-approved course  
2 on communicable diseases that includes the course on human  
3 immunodeficiency virus and acquired immune deficiency syndrome  
4 required by s. 455.2226, for the renewal of a registration.

5 Section 20. Subsections (2) and (5) of section  
6 470.021, Florida Statutes, are amended to read:

7 470.021 Direct disposal establishment; standards and  
8 location; registration.--

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

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

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

29 (c) Each cinerator facility must be inspected prior to  
30 the issuance and renewal of its license and shall:

31



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

3           2. Maintain refrigeration that satisfies the standards  
4 set by the Department of Health and contains a sufficient  
5 number of shelves for the average daily number of bodies  
6 stored, if unembalmed bodies are kept at the site.

7           3. Maintain sufficient pollution control equipment to  
8 comply with requirements of the Department of Environmental  
9 Protection in order to secure annual approved certification.

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

14           5. Maintain the premises in a clean and sanitary  
15 condition.

16           6. Have appropriate Department of Environmental  
17 Protection permits.

18           7. Retain all signed contracts for a period of at  
19 least 2 years.

20           Section 21. Subsection (1) of section 470.024, Florida  
21 Statutes, is amended to read:

22           470.024 Funeral establishment; licensure.--

23           (1) A funeral establishment shall be a place at a  
24 specific street address or location consisting of at least  
25 1,250 contiguous interior square feet and must maintain or  
26 make arrangements for ~~either~~ suitable capacity for the  
27 refrigeration and storage of dead human bodies handled and  
28 stored by the establishment and ~~or~~ a preparation room equipped  
29 with necessary ventilation and drainage and containing  
30 necessary instruments for embalming dead human bodies or must  
31

1 make arrangements for a preparation room as established by  
2 board rule.

3 Section 22. Subsections (6), (13), (14), and (15) of  
4 section 470.025, Florida Statutes, are amended, and subsection  
5 (16) is added to that section, to read:

6 470.025 Cinerator facility; licensure.--

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

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

26 (14) Each cinerator facility shall ensure that all  
27 alternative containers, cremation containers,or caskets used  
28 for cremation contain no amount of chlorinated plastics not  
29 authorized by the Department of Environmental Protection, that  
30 they also are composed of readily combustible materials  
31 suitable for cremation, able to be closed to provide a

1 complete covering for the human remains, resistant to leakage  
2 or spillage, rigid enough for handling with ease, and able to  
3 provide for the health, safety, and personal integrity of the  
4 public and crematory personnel.

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

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

19 Section 23. Section 470.0255, Florida Statutes, is  
20 amended to read:

21 470.0255 Cremation; procedure required.--

22 (1) At the time of the arrangement for a cremation  
23 performed by any person licensed pursuant to this chapter, the  
24 person contracting for cremation services shall be required to  
25 designate his or her intentions with respect to the  
26 disposition of the cremated remains of the deceased in a  
27 signed declaration of intent which shall be provided by and  
28 retained by the funeral or direct disposal establishment. A  
29 cremation may not be performed until a legally authorized  
30 person gives written authorization for such cremation. The  
31 cremation must be performed within 48 hours after a specified

1 time which has been agreed to in writing by the person  
2 authorizing the cremation.

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

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

17 Section 24. Section 470.028, Florida Statutes, is  
18 amended to read:

19 470.028 Preneed sales; registration of agents; control  
20 and supervision of agents.--

21 (1) All sales of preneed funeral service contracts or  
22 direct disposition contracts shall be made pursuant to chapter  
23 497.

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

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

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

4           (b) The direct disposer in charge or a funeral  
5 director acting as a direct disposer in charge of a direct  
6 disposal establishment shall be responsible for the control  
7 and activities of the establishment's preneed agents.

8           Section 25. Subsection (1) of section 470.029, Florida  
9 Statutes, is amended to read:

10           470.029 Reports of cases embalmed and bodies  
11 handled.--

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

26           Section 26. Section 470.031, Florida Statutes, is  
27 amended to read:

28           470.031 Prohibitions; penalties.--

29           (1) No person may:  
30  
31

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

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

7 (c) Represent as his or her own the license or  
8 registration of another.

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

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

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

16 (g) Knowingly conceal information relative to  
17 violations of this chapter.

18 (h) Operate an unlicensed cinerator facility.

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

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

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

26 470.0355 Identification of human remains.--

27 (1) PRIOR TO FINAL DISPOSITION.--

28 (a)~~(1)~~ The licensee or registrant in charge of the  
29 final disposition of dead human remains shall, prior to final  
30 disposition of such dead human remains, affix on the ankle or  
31 wrist of the deceased, and ~~or~~ in the casket or alternative

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

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

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

17 (2) IN UNLICENSED CEMETERIES.--Effective October 1,  
18 2004, the identification of human remains interred in an  
19 unlicensed cemetery shall be the responsibility of the  
20 licensed funeral establishment in charge of the funeral  
21 arrangements for the deceased person. The licensed funeral  
22 establishment in charge of the funeral arrangements for the  
23 interment in an unlicensed cemetery of human remains shall  
24 place on the outer burial container, cremation internment  
25 container, or other container or on the inside of a crypt or  
26 niche a tag or permanent identifying mark containing the name  
27 of the decedent and the date of death, if available. The  
28 materials and locations of the tag or mark shall be more  
29 specifically described by rule of the board.

1           (3) IN LICENSED CEMETERIES.--Effective October 1,  
2 2004, 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 this  
14 chapter to establish the identity of the dead human remains  
15 delivered by such person for burial and shall not be liable  
16 for any differences between the identity shown on the burial  
17 transit permit or identification and the actual identity of  
18 the dead human remains delivered by such person and buried in  
19 the 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 28. 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 29. 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 reinterred, or otherwise further reduced in size or quantity.

3 (16) "Department" means the Department of Financial  
4 Services.

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 administrating 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 30. 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 31. 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, 2004, 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 2004, are not required to meet the standards established under  
8 this section for the dimensions or separation of grave spaces.  
9           Section 32. 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, 2004, 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 33. 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 where the monument or installation service is not purchased  
26 from the person authorized to sell grave space or the cemetery  
27 company or other legal entity providing grave space or from or  
28 through any other person or corporation designated by the  
29 person authorized to sell grave space or the cemetery company  
30 or other legal entity providing grave space. A ~~No~~ cemetery  
31 company or other entity owning and operating a cemetery may

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

4 Section 34. Subsection (9) is added to section  
5 497.333, Florida Statutes, to read:

6 497.333 Disclosure of information to public.--A  
7 licensee offering to provide burial rights, merchandise, or  
8 services to the public shall:

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

12 Section 35. Subsection (5) of section 497.361, Florida  
13 Statutes, is amended and subsections (6) and (7) are added to  
14 said section to read:

15 497.361 Registration of monument establishments.--

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

30 (6) All contracts with the public must be approved by  
31 the Department of Financial Services and must provide a

1 complete description of any monument, marker, or related  
2 product to be delivered.

3 (7) A certificate of authority may not be transferred  
4 or assigned.

5 Section 36. Section 497.365, Florida Statutes, is  
6 created to read:

7 497.365 Regulation of monument establishments.--

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

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

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

22 Section 37. Section 497.371, Florida Statutes, is  
23 created to read:

24 497.371 Monument establishment business location.--

25 (1) A monument establishment shall be a place at a  
26 specific street address or location consisting of an office  
27 and display area for monuments, markers, and related products.  
28 The place where the establishment is located must comply with  
29 the local government zoning regulations and may not be located  
30 on tax-exempt property.

31

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

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

9           Section 38. Section 497.379, Florida Statutes, is  
10 created to read:

11           497.379 Licensure of monument establishments to sell  
12 preneed contracts.--A monument establishment, including an  
13 existing registered or unregistered monument establishment,  
14 may not sell a preneed contract without first having obtained  
15 a valid certificate of authority from the Department of  
16 Financial Services. A person may not be issued a certificate  
17 of authority as a monument establishment to sell preneed  
18 contracts unless such person has at least 3 years' experience  
19 in the operation and management of an establishment selling  
20 monuments, markers, and related products.

21           Section 39. Section 497.385, Florida Statutes, is  
22 created to read:

23           497.385 Monument establishment; sales  
24 representative.--Each person selling monuments, markers, and  
25 related products for a monument establishment must register  
26 with the board, including any person registered or licensed  
27 pursuant to chapter 470 or this chapter. A person selling  
28 monuments, markers, and related products for a monument  
29 establishment that has been issued a certificate of authority  
30 must register as a preneed agent pursuant to the requirements  
31 of this chapter.

1           Section 40. Section 497.391, Florida Statutes, is  
2 created to read:

3           497.391 Monument establishment; preneed  
4 contracts.--Effective January 1, 2005, a monument dealer or  
5 establishment may not write a preneed contract unless that  
6 contract has been approved by the board. Any monument dealer  
7 or establishment that is paid, collects, or receives funds  
8 under a preneed contract for services or merchandise shall  
9 comply with the provisions of ss. 497.417 and 497.413.

10          Section 41. Section 497.395, Florida Statutes, is  
11 created to read:

12          497.395 Licensed monument establishment; financial  
13 requirements.--

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

22          (2) All licensed monument establishments holding a  
23 certificate of authority or an applicant must submit its most  
24 recent year-end financial statements, including a balance  
25 sheet and income statement, with the certificate of authority  
26 application and annually thereafter as provided in s.  
27 497.407(1). The financial statement must be prepared in  
28 accordance with generally accepted accounting principles, as  
29 those principles have been defined by the Florida Board of  
30 Accountancy in the Florida Administrative Code. If the  
31 applicant does not have the minimum net worth as set forth in

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

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

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

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

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

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

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

27 (5) If the certificateholder or applicant does not  
28 meet the financial requirements in subsection (3), the entity  
29 may voluntarily submit to the board additional evidence or  
30 agree to additional oversight as to meeting the requirements  
31 of subsection (1) as a condition of receiving or retaining a

1 certificate of authority. Such additional evidence or  
2 oversight shall include, as appropriate:  
3 (a) An agreement to submit monthly financial  
4 statements of the entity;  
5 (b) An agreement to submit quarterly financial  
6 statements of the entity;  
7 (c) An appraisal of the entity's property or broker's  
8 opinion of the entity's assets;  
9 (d) A credit report of the entity or its principal  
10 owners;  
11 (e) Subordination-of-debt agreement from the entity's  
12 principal owners;  
13 (f) An indemnification or subrogation agreement  
14 binding the entity and principal owners;  
15 (g) A guarantee agreement for the entity from its  
16 principal owners;  
17 (h) Written explanation of past financial activity;  
18 (i) Submission of the 12-month projected business plan  
19 that includes:  
20 1. A statement of cash flows;  
21 2. Pro forma income statements, with sources of  
22 revenues identified; and  
23 3. Marketing initiatives;  
24 (j) Submission of previous department examination  
25 reports; or  
26 (k) An agreement of 100 percent voluntary trust by the  
27 entity.  
28 Section 42. Subsections (1), (3), and (4) of section  
29 497.405, Florida Statutes, are amended to read:  
30 497.405 Certificate of authority required.--  
31

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           (3) No person may obtain a certificate of authority  
12 under this chapter for the preneed sale of services unless  
13 such person or its agent, in the case of a corporate entity,  
14 holds a license as a funeral establishment or cemetery  
15 company, or registration as a direct disposal establishment  
16 under chapter 470, or certification as a monument  
17 establishment under this chapter.

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



1 Section 43. Subsection (4) of section 497.419, Florida  
2 Statutes, is amended, and subsection (11) is added to that  
3 section, to read:

4 497.419 Cancellation of, or default on, preneed  
5 contracts.--

6 (4) Each certificateholder shall provide in  
7 conspicuous type in its contract that the contract purchaser  
8 may cancel the contract and receive a full refund within 30  
9 days after of the date of execution of the contract, except  
10 for those amounts allocable to any burial rights, merchandise,  
11 or services that have been used by the purchaser. The failure  
12 to make such provision shall not impair the contract  
13 purchaser's right to cancellation and refund as provided in  
14 this section.

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

25 Section 44. Subsection (4) of section 497.436, Florida  
26 Statutes, is amended to read:

27 497.436 Inactive and revoked certificateholders.--

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

30 (a) ~~shall~~ Review the certificateholder's:

31 1.(a) Trust funds.

- 1           ~~2.(b)~~ Trust agreements.  
2           ~~3.(c)~~ Evidence of all outstanding preneed contracts.  
3           (b) Perform other procedures the board deems  
4 necessary.

5           Section 45. Section 406.50, Florida Statutes, is  
6 amended to read:

7           406.50 Unclaimed dead bodies or human remains;  
8 disposition, procedure.--All public officers, agents, or  
9 employees of every county, city, village, town, or  
10 municipality and every person in charge of any prison, morgue,  
11 hospital, funeral parlor, or mortuary and all other persons  
12 coming into possession, charge, or control of any dead human  
13 body or remains which are unclaimed or which are required to  
14 be buried or cremated at public expense are hereby required to  
15 notify, immediately, the anatomical board, whenever any such  
16 body, bodies, or remains come into its possession, charge, or  
17 control. Notification of the anatomical board is not required  
18 if the death was caused by crushing injury, the deceased had a  
19 contagious disease, an autopsy was required to determine cause  
20 of death, the body was in a state of severe decomposition, or  
21 a family member objects to use of the body for medical  
22 education and research.

23           (1) The person or entity in charge or control of the  
24 dead body or human remains shall make a reasonable effort to  
25 determine:

26           (a) The identity of the deceased person and shall  
27 further make a reasonable effort to contact any relatives of  
28 such deceased person.

29           (b) Whether or not the deceased person is entitled to  
30 burial in a national cemetery as a veteran of the armed forces  
31 and, if so, shall make arrangements for such burial services

1 in accordance with the provisions of 38 C.F.R. For purposes of  
2 this subsection, "a reasonable effort" includes contacting the  
3 county veterans service office or regional office of the  
4 United States Department of Veterans Affairs.

5 (2) Such dead human bodies as described in this  
6 chapter shall be delivered to the anatomical board as soon as  
7 possible after death.

8 (3) Nothing herein shall affect the right of a medical  
9 examiner to hold such dead body or remains for the purpose of  
10 investigating the cause of death, nor shall this chapter  
11 affect the right of any court of competent jurisdiction to  
12 enter an order affecting the disposition of such body or  
13 remains.

14 (4) In the event more than one legally authorized  
15 person claims a body for interment, the requests shall be  
16 prioritized in accordance with s. 732.103.

17  
18 For purposes of this chapter, the term "anatomical board"  
19 means the anatomical board of this state located at the  
20 University of Florida Health Science Center and the term  
21 "unclaimed" means a dead body or human remains not claimed by  
22 a legally authorized person, as defined in s. 470.002, for  
23 interment at that person's expense.

24 Section 46. Section 406.53, Florida Statutes, is  
25 amended to read:

26 406.53 Death of indigents; notice; delivery to the  
27 anatomical board when unclaimed; exceptions; assessment of  
28 fees.--

29 (1) Notice of death to the anatomical board in cases  
30 of indigent persons is not required if:

31 (a) Death was caused by crushing injury.

1 (b) The deceased had a contagious disease.  
2 (c) An autopsy was required to determine cause of  
3 death.  
4 (d) The body was in a state of severe decomposition.  
5 (e) Any relative, by blood or marriage, claims the  
6 body for burial at the expense of such relative, but the body  
7 shall be surrendered to the claimant for interment or, if such  
8 relative is indigent, in a manner consistent with the policy  
9 of the agency in possession or control of the body.  
10 (f) Any friend or any representative of a fraternal  
11 society of which the deceased was a member, or a  
12 representative of any charitable or religious organization, or  
13 a governmental agency which was providing residential care to  
14 the indigent person at the time of his or her death claims the  
15 body for burial at his or her, its, or their expense.  
16 (g) The deceased person was an honorably discharged  
17 member of the Armed Forces of the United States or the state  
18 who served during a period of wartime service as defined in s.  
19 1.01(14); but such body shall be buried in accordance with the  
20 provisions of the existing laws.  
21 (2) When the Department of Health claims the body of a  
22 client according to this section, the department shall assess  
23 fees for burial pursuant to s. 402.33.  
24  
25 For purposes of this chapter, the term "indigent" means a  
26 level of income at or below 100 percent of the federal poverty  
27 level recognized by the federal poverty guidelines produced by  
28 the United States Department of Health and Human Services.  
29 Section 47. Except as otherwise expressly provided in  
30 this act, this act shall take effect July 1, 2004.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 528

The committee substitute amends s. 406.50, F.S., to provide a procedure to resolve multiple claims for a dead body, and to define the term "unclaimed." It amends s. 406.53, F.S., to provide a procedure for claims of a dead body by indigent relatives, and to define the term "indigent."