

By the Committees on Criminal Justice; Banking and Insurance;
Regulated Industries; and Senator Haridopolos

591-2296-05

1 A bill to be entitled
2 An act relating to funeral and cemetery
3 industry regulation; amending s. 316.1974,
4 F.S.; providing for lighting equipment on
5 certain non-law enforcement vehicles in a
6 funeral procession; amending s. 497.005, F.S.;
7 revising definitions; amending s. 497.101,
8 F.S.; providing for eligibility for membership
9 on the Board of Funeral, Cemetery, and Consumer
10 Services; providing rulemaking authority
11 regarding application for board membership;
12 amending s. 497.103, F.S.; revising authority
13 of the Department of Financial Services to take
14 emergency action; limiting the authority of the
15 Chief Financial Officer; amending s. 497.140,
16 F.S.; revising the time period for board
17 reaction to department revenue projections;
18 providing for future termination of certain
19 assessments; providing for a late-renewal fee;
20 amending s. 497.141, F.S.; revising licensure
21 application procedures to provide for persons
22 other than natural persons; clarifying when
23 licenses may be issued to entities and to
24 natural persons; clarifying the types of
25 entities to which licenses may be issued;
26 providing signature requirements; authorizing
27 the licensing authority to adopt rules;
28 restricting assignment or transfer of license;
29 amending s. 497.142, F.S.; revising
30 fingerprinting requirements; eliminating
31 obsolete references; clarifying requirements as

1 to disclosure of previous criminal records;
2 revising which members of an entity applying
3 for licensure are required to disclose their
4 criminal records; providing for waiver of the
5 fingerprint requirements in certain
6 circumstances; amending s. 497.143, F.S.;
7 prohibiting preneed sales under a limited
8 license; amending s. 497.144, F.S.; requiring a
9 challenger to pay the costs for failure to
10 appear at a challenge hearing; amending s.
11 497.147, F.S.; removing provision granting
12 rulemaking authority to the Board of Funeral
13 and Cemetery Services relating to certain
14 written agreements being a prerequisite for
15 qualification of a provider of training or
16 continuing education regarding funeral and
17 cemetery service licensure; amending s.
18 497.149, F.S.; revising terminology; amending
19 s. 497.151, F.S.; revising applicability;
20 specifying what is deemed to be a complaint;
21 amending s. 497.152, F.S.; revising
22 disciplinary provisions; revising applicability
23 in other jurisdictions; revising certain
24 grounds for disciplinary action; specifying
25 what is deemed to be a complaint; providing
26 exceptions to remittance deficiency
27 disciplinary infractions; amending s. 497.153,
28 F.S.; providing for the use of consent orders
29 in certain circumstances; amending s. 497.158,
30 F.S.; revising fine amounts; amending s.
31 497.159, F.S.; revising criminal provisions

1 relating to prelicensure examinations, willful
2 obstruction, trust funds, and specified
3 violations; providing penalties; revising what
4 constitutes improper discrimination; amending
5 s. 497.161, F.S.; removing a provision allowing
6 board members to serve as experts in
7 investigations; specifying standing of
8 licensees to challenge rules; amending s.
9 497.165, F.S.; revising a standard for
10 determining liability for a trust fund
11 deficiency; amending s. 497.166, F.S.;
12 specifying who may act as a preneed sales
13 agent; providing responsibility of certain
14 licensees; amending s. 497.169, F.S.; revising
15 a provision for award of attorney's fees and
16 costs in certain actions; creating s. 497.171,
17 F.S.; providing requirements for the
18 identification of human remains; amending s.
19 497.260, F.S.; revising what constitutes
20 improper discrimination by cemeteries; amending
21 s. 497.263, F.S.; revising the applicability of
22 certain application procedures for licensure of
23 cemetery companies; amending s. 497.264, F.S.;
24 revising requirements relating to applicants
25 seeking to acquire control of a licensed
26 cemetery; amending s. 497.281, F.S.; revising
27 requirements for licensure of burial rights
28 brokers; amending s. 497.365, F.S.; requiring
29 that certain fees be paid before an inactive
30 license is renewed; amending s. 497.368, F.S.;
31 revising grounds for issuance of licensure as

1 an embalmer by examination; amending s.
2 497.369, F.S.; revising grounds for issuance of
3 licensure as an embalmer by endorsement;
4 amending s. 497.373, F.S.; revising grounds for
5 issuance of licensure as a funeral director by
6 examination; amending s. 497.374, F.S.;
7 revising grounds for issuance of licensure as a
8 funeral director by endorsement; amending s.
9 497.376, F.S.; revising authority to issue a
10 combination license as a funeral director and
11 embalmer; authorizes the licensing authority to
12 establish certain rules; amending s. 497.378,
13 F.S.; revising a license renewal fee; amending
14 s. 497.380, F.S.; revising certain requirements
15 for funeral establishments; providing
16 requirements for reporting a change in location
17 of the establishment; revising a license
18 renewal fee; amending s. 497.385, F.S.;
19 revising application requirements for licensure
20 of a removal service or a refrigeration
21 service; providing requirements for change in
22 location of removal services and refrigeration
23 services; authorizing the licensing authority
24 to adopt certain rules for centralized
25 embalming facility operations; revising
26 application requirements for licensure of a
27 centralized embalming facility; providing for
28 inspection of centralized embalming facilities;
29 providing for change in ownership and change in
30 location of centralized embalming facilities;
31 amending s. 497.453, F.S.; revising net worth

1 requirements for preneed licensure; specifying
2 authority to accept alternative evidence of
3 financial responsibility in lieu of net worth
4 regarding preneed licensure applicants;
5 providing preneed license renewal fees for
6 monument establishments; increasing the renewal
7 fee for a branch license which is set by the
8 Board of Funeral, Cemetery, and Consumer
9 Services; revising grounds for issuance of a
10 preneed branch license; amending s. 497.456,
11 F.S.; revising use of the Preneed Funeral
12 Contract Consumer Protection Trust Fund by the
13 licensing authority; amending s. 497.458, F.S.;
14 revising requirements to loan or invest trust
15 funds; amending s. 497.466, F.S., relating to
16 preneed sales agents; substantially revising
17 provisions relating to licensure requirements;
18 revising application procedures, fees, the
19 issuance of a temporary preneed sales agent
20 license, the conversion of such a license to a
21 permanent preneed sales agent license,
22 restrictions upon an applicant who has a
23 criminal or disciplinary record, termination of
24 a permanent license due to lack of
25 appointments, procedures for appointing preneed
26 sales agents and for renewing such an
27 appointment, termination of appointments, fees,
28 and administrative matters; providing
29 responsibilities of preneed licensees for
30 preneed sales agents; creating s. 497.468,
31 F.S.; providing for disclosure of information

1 to the public; amending s. 497.550, F.S.;
2 revising application requirements and
3 procedures for licensure as a monument
4 establishment; requiring that a monument
5 establishment be licensed as a monument builder
6 or as a monument dealer; exempting a monument
7 dealer from a requirement to maintain certain
8 facilities and from certain inspection
9 requirements; requiring that a monument
10 establishment obtain licensure as a monument
11 builder in order to be eligible for a preneed
12 sales license; amending s. 497.551, F.S.;
13 revising requirements for renewal of monument
14 establishment licensure; amending s. 497.552,
15 F.S.; revising facility requirements for
16 monument establishments; amending s. 497.553,
17 F.S.; providing requirements for change of
18 ownership and location of monument
19 establishments; providing for an annual
20 inspection fee; amending s. 497.554, F.S.;
21 revising application procedure and renewal
22 requirements for monument establishment sales
23 representatives; deferring application of
24 section; amending s. 497.555, F.S.; revising
25 requirements for rules establishing minimum
26 standards for access to cemeteries; amending s.
27 497.602, F.S.; revising application procedures
28 for direct disposer licensure; amending s.
29 497.603, F.S.; revising the license renewal fee
30 for a direct disposer; amending s. 497.604,
31 F.S.; revising provisions concerning direct

1 disposal establishment licensure and
2 application for licensure and regulation of
3 direct disposal establishments; amending s.
4 497.606, F.S.; revising provisions concerning
5 cinerator facility licensure and application
6 for licensure and regulation of cinerator
7 facilities; amending s. 497.607, F.S.;
8 providing for publication of rules regarding
9 cremation by chemical means; authorizing the
10 anatomical board of this state to provide for
11 the final disposition of human remains
12 delivered to the board as the board determines
13 to be adequate and proper; amending s. 152, ch.
14 2004-301, Laws of Florida; specifying
15 applicability of rules; amending s. 626.785,
16 F.S.; revising a policy coverage limit;
17 repealing s. 497.275, F.S., relating to
18 identification of human remains in licensed
19 cemeteries; repealing s. 497.388, F.S.,
20 relating to identification of human remains;
21 repealing s. 497.556, F.S., relating to
22 requirements relating to monument
23 establishments; providing an effective date.
24

25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (a) of subsection (2) of section
28 316.1974, Florida Statutes, is amended to read:

29 316.1974 Funeral procession right-of-way and
30 liability.--

31 (2) EQUIPMENT.--

1 (a) All non-law enforcement funeral escort vehicles
2 and funeral lead vehicles shall be equipped with at least one
3 lighted circulation lamp exhibiting an amber or purple light
4 or lens visible under normal atmospheric conditions for a
5 distance of 500 feet from the front of the vehicle. Flashing
6 amber or purple lights may be used only when such vehicles are
7 used in a funeral procession.

8 Section 2. Section 497.005, as amended by chapter
9 2004-301, Laws of Florida, is amended to read:

10 497.005 Definitions.--As used in this chapter, the
11 term:

12 (1) "Alternative container" means an unfinished wood
13 box or other nonmetal receptacle or enclosure, without
14 ornamentation or a fixed interior lining, which is designed
15 for the encasement of human remains and which is made of
16 fiberboard, pressed wood, composition materials (with or
17 without an outside covering), or like materials ~~a nonmetal~~
18 ~~receptacle or enclosure which is less expensive than a casket~~
19 ~~and of sufficient strength to be used to hold and transport a~~
20 ~~dead human body.~~

21 (2) "At-need solicitation" means any uninvited contact
22 by a licensee or her or his agent for the purpose of the sale
23 of burial services or merchandise to the family or next of kin
24 of a person after her or his death has occurred.

25 (3) "Bank of belowground crypts" means any
26 construction unit of belowground crypts which is acceptable to
27 the department and which a cemetery uses to initiate its
28 belowground crypt program or to add to existing belowground
29 crypt structures.

30 (4) "Belowground crypts" consist of interment space in
31 preplaced chambers, either side by side or multiple depth,

1 covered by earth and sod and known also as "lawn crypts,"
2 "westminsters," or "turf-top crypts."

3 (5) "Board" means the Board of Funeral, Cemetery, and
4 Consumer Services.

5 ~~(6) "Body parts" means:~~

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

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

12 ~~(6)(7)~~ "Burial merchandise," "funeral merchandise," or
13 "merchandise" means any personal property offered or sold by
14 any person for use in connection with the final disposition,
15 memorialization, interment, entombment, or inurnment of human
16 remains or cremated remains, including, but not limited to,
17 caskets, outer burial containers, alternative containers,
18 cremation containers, cremation interment containers, urns,
19 monuments, private mausoleums, flowers, benches, vases,
20 acknowledgment cards, register books, memory folders, prayer
21 cards, and clothing .

22 ~~(7)(8)~~ "Burial right" means the right to use a grave
23 space, mausoleum, columbarium, ossuary, or scattering garden
24 for the interment, entombment, inurnment, or other disposition
25 of human or cremated remains.

26 ~~(8)(9)~~ "Burial service," ~~"funeral service,"~~ or
27 "service" means any service offered or provided ~~by any person~~
28 in connection with the final disposition, memorialization,
29 interment, entombment, or inurnment of human or cremated
30 remains.

31

1 ~~(9)(10)~~ "Care and maintenance" means the perpetual
2 process of keeping a cemetery and its lots, graves, grounds,
3 landscaping, roads, paths, parking lots, fences, mausoleums,
4 columbaria, vaults, crypts, utilities, and other improvements,
5 structures, and embellishments in a well-cared-for and
6 dignified condition, so that the cemetery does not become a
7 nuisance or place of reproach and desolation in the community.
8 As specified in the rules of the licensing authority, "care
9 and maintenance" may include, but is not limited to, any or
10 all of the following activities: mowing the grass at
11 reasonable intervals; raking and cleaning the grave spaces and
12 adjacent areas; pruning of shrubs and trees; suppression of
13 weeds and exotic flora; and maintenance, upkeep, and repair of
14 drains, water lines, roads, buildings, and other improvements.
15 "Care and maintenance" may include, but is not limited to,
16 reasonable overhead expenses necessary for such purposes,
17 including maintenance of machinery, tools, and equipment used
18 for such purposes. "Care and maintenance" may also include
19 repair or restoration of improvements necessary or desirable
20 as a result of wear, deterioration, accident, damage, or
21 destruction. "Care and maintenance" does not include expenses
22 for the construction and development of new grave spaces or
23 interment structures to be sold to the public.

24 ~~(10)(11)~~ "Casket" means a rigid container which is
25 designed for the encasement of human remains and which is
26 usually constructed of wood or metal, ornamented, and lined
27 with fabric.

28 ~~(11)(12)~~ "Cemetery" means a place dedicated to and
29 used or intended to be used for the permanent interment of
30 human or cremated remains. A cemetery may contain land or
31 earth interment; mausoleum, vault, or crypt interment; a

1 columbarium, ossuary, scattering garden, or other structure or
2 place used or intended to be used for the interment or
3 disposition of cremated remains; or any combination of one or
4 more of such structures or places.

5 ~~(12)(13)~~ "Cemetery company" means any legal entity
6 that owns or controls cemetery lands or property.

7 ~~(13)(14)~~ "Centralized embalming facility" means a
8 facility, ~~not physically connected with a funeral~~
9 ~~establishment,~~ in which embalming takes place which operates
10 independently of a funeral establishment licensee and which
11 offers embalming services to funeral directors for a fee.

12 ~~(14)(15)~~ "Cinerator" means a facility where dead human
13 bodies are subjected to cremation. ~~reduced to a residue,~~
14 ~~including bone fragments, by direct flame, also known as~~
15 ~~"cremation," or by intense heat, also known as "calcination."~~

16 ~~(15)(16)~~ "Closed container" means any container in
17 which cremated remains can be placed and closed in a manner so
18 as to prevent leakage or spillage of the remains.

19 ~~(16)(17)~~ "Columbarium" means a structure or building
20 which is substantially exposed above the ground and which is
21 intended to be used for the inurnment of cremated remains.

22 ~~(17)(18)~~ "Common business enterprise" means a group of
23 two or more business entities that share common ownership in
24 excess of 50 percent.

25 ~~(18)(19)~~ "Control" means the possession, directly or
26 indirectly, through the ownership of voting shares, by
27 contract, arrangement, understanding, relationship, or
28 otherwise, of the power to direct or cause the direction of
29 the management and policies of a person or entity. However, a
30 person or entity shall not be deemed to have control if the
31 person or entity holds voting shares, in good faith and not

1 for the purpose of circumventing this definition, as an agent,
2 bank, broker, nominee, custodian, or trustee for one or more
3 beneficial owners who do not individually or as a group have
4 control.

5 ~~(19)(20)~~ "Cremated remains" means all the remains of
6 the human body recovered after the completion of the cremation
7 process, including processing or pulverization which leaves
8 only bone fragments reduced to unidentifiable dimensions and
9 may include the residue of any foreign matter, including
10 casket material, bridgework, or eyeglasses that were cremated
11 with the human remains.

12 ~~(20)(21)~~ "Cremation" means any mechanical or thermal
13 process whereby a dead human body is reduced to ashes and bone
14 fragments. Cremation also includes any other mechanical or
15 thermal process whereby human remains are pulverized, burned,
16 recremated, or otherwise further reduced in size or quantity
17 ~~the technical process, using direct flame and heat or chemical~~
18 ~~means, which reduces human remains to bone fragments through~~
19 ~~heat and evaporation. Cremation includes the processing and~~
20 ~~usually includes the pulverization of the bone fragments.~~

21 ~~(21)(22)~~ "Cremation chamber" means the enclosed space
22 within which the cremation process takes place. Cremation
23 chambers covered by these procedures must be used exclusively
24 for the cremation of human remains.

25 ~~(22)(23)~~ "Cremation container" means the casket or
26 alternative container in which the human remains are
27 transported to and placed in the cremation chamber for a
28 cremation. A cremation container should meet substantially all
29 of the following standards:

30 (a) Be composed of readily combustible materials
31 suitable for cremation.

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

3 (c) Be resistant to leakage or spillage.

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

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

7 ~~(23)~~~~(24)~~ "Cremation interment container" means a rigid
8 outer container that, subject to a cemetery's rules and
9 regulations, is composed of concrete, steel, fiberglass, or
10 some similar material in which an urn is placed prior to being
11 interred in the ground and that is designed to support the
12 earth above the urn.

13 ~~(24)~~~~(25)~~ "Department" means the Department of
14 Financial Services.

15 ~~(25)~~~~(26)~~ "Direct disposal establishment" means a
16 facility licensed under this chapter where a direct disposer
17 practices direct disposition.

18 ~~(26)~~~~(27)~~ "Direct disposer" means any person licensed
19 under this chapter to practice direct disposition in this
20 state.

21 ~~(27)~~~~(28)~~ "Director" means the director of the Division
22 of Funeral, Cemetery, and Consumer Services.

23 ~~(28)~~~~(29)~~ "Disinterment" means removal of a dead human
24 body from earth interment or aboveground interment.

25 ~~(29)~~~~(30)~~ "Division" means the Division of Funeral,
26 Cemetery, and Consumer Services within the Department of
27 Financial Services.

28 ~~(30)~~~~(31)~~ "Embalmer" means any person licensed under
29 this chapter to practice embalming in this state.

30 ~~(31)~~~~(32)~~ "Final disposition" means the final disposal
31 of a dead human body by earth interment, aboveground

1 interment, cremation, burial at sea, or delivery to a medical
2 institution for lawful dissection if the medical institution
3 assumes responsibility for disposal. "Final disposition" does
4 not include the disposal or distribution of cremated remains
5 ~~ashes~~ and residue of cremated remains.

6 ~~(32)(33)~~ "Funeral" or "funeral service" means the
7 observances, services, or ceremonies held to commemorate the
8 life of a specific deceased human being and at which the human
9 remains are present.

10 ~~(33)(34)~~ "Funeral director" means any person licensed
11 under this chapter to practice funeral directing in this
12 state.

13 ~~(34)(35)~~ "Funeral establishment" means a facility
14 licensed under this chapter where a funeral director or
15 embalmer practices funeral directing or embalming.

16 ~~(36)~~ ~~"Funeral merchandise" or "merchandise" means any~~
17 ~~merchandise commonly sold in connection with the funeral,~~
18 ~~final disposition, or memorialization of human remains,~~
19 ~~including, but not limited to, caskets, outer burial~~
20 ~~containers, alternative containers, cremation containers,~~
21 ~~cremation interment containers, urns, monuments, private~~
22 ~~mausoleums, flowers, benches, vases, acknowledgment cards,~~
23 ~~register books, memory folders, prayer cards, and clothing.~~

24 ~~(35)(37)~~ "Grave space" means a space of ground in a
25 cemetery intended to be used for the interment in the ground
26 of human remains.

27 ~~(36)(38)~~ "Human remains" or "remains," or "dead human
28 body" or "dead human bodies," means the body of a deceased
29 human person for which a death certificate or fetal death
30 certificate is required under chapter 382 and includes the
31

1 | body in any stage of decomposition ~~and the residue of cremated~~
2 | ~~human bodies.~~

3 | (37)~~(39)~~ "Legally authorized person" means, in the
4 | priority listed, the decedent, when written inter vivos
5 | authorizations and directions are provided by the decedent;
6 | the surviving spouse, unless the spouse has been arrested for
7 | committing against the deceased an act of domestic violence as
8 | defined in s. 741.28 which resulted in or contributed to the
9 | death of the deceased; a son or daughter who is 18 years of
10 | age or older; a parent; a brother or sister who is 18 years of
11 | age or older; a grandchild who is 18 years of age or older; a
12 | grandparent; or any person in the next degree of kinship. In
13 | addition, the term may include, if no family member exists or
14 | is available, the guardian of the dead person at the time of
15 | death; the personal representative of the deceased; the
16 | attorney in fact of the dead person at the time of death; the
17 | health surrogate of the dead person at the time of death; a
18 | public health officer; the medical examiner, county
19 | commission, or administrator acting under part II of chapter
20 | 406 or other public administrator; a representative of a
21 | nursing home or other health care institution in charge of
22 | final disposition; or a friend or other person not listed in
23 | this subsection who is willing to assume the responsibility as
24 | the legally authorized person. Where there is a person in any
25 | priority class listed in this subsection, the funeral
26 | establishment shall rely upon the authorization of any one
27 | legally authorized person of that class if that individual
28 | represents that she or he is not aware of any objection to the
29 | cremation of the deceased's human remains by others in the
30 | same class of the person making the representation or of any
31 | person in a higher priority class.

1 ~~(38)~~(40) "License" includes all authorizations
2 required or issued under this chapter, except where expressly
3 indicated otherwise, and shall be understood to include
4 authorizations previously referred to as registrations or
5 certificates of authority in chapters 470 and 497 as those
6 chapters appeared in the 2004 edition of the Florida Statutes.

7 ~~(39)~~(41) "Licensee" means the person or entity holding
8 any license or other authorization issued under this chapter,
9 except where expressly indicated otherwise.

10 ~~(40)~~(42) "Mausoleum" means a structure or building
11 which is substantially exposed above the ground and which is
12 intended to be used for the entombment of human remains.

13 ~~(41)~~(43) "Mausoleum section" means any construction
14 unit of a mausoleum which is acceptable to the department and
15 which a cemetery uses to initiate its mausoleum program or to
16 add to its existing mausoleum structures.

17 ~~(42)~~(44) "Monument" means any product used for
18 identifying a grave site and cemetery memorials of all types,
19 including monuments, markers, and vases.

20 ~~(43)~~(45) "Monument establishment" means a facility
21 that operates independently of a cemetery or funeral
22 establishment and that offers to sell monuments or monument
23 services to the public for placement in a cemetery.

24 ~~(44)~~(46) "Net assets" means the amount by which the
25 total assets of a licensee, excluding goodwill, franchises,
26 customer lists, patents, trademarks, and receivables from or
27 advances to officers, directors, employees, salespersons, and
28 affiliated companies, exceed total liabilities of the
29 licensee. For purposes of this definition, the term "total
30 liabilities" does not include the capital stock, paid-in
31 capital, or retained earnings of the licensee.

1 ~~(45)(47)~~ "Net worth" means total assets minus total
2 liabilities pursuant to generally accepted accounting
3 principles.

4 ~~(46)(48)~~ "Niche" means a compartment or cubicle for
5 the memorialization or permanent placement of a container or
6 urn containing cremated remains.

7 ~~(47)(49)~~ "Ossuary" means a receptacle used for the
8 communal placement of cremated remains without benefit of an
9 urn or any other container in which cremated remains may be
10 commingled with other cremated remains and are nonrecoverable.
11 It may or may not include memorialization.

12 ~~(48)(50)~~ "Outer burial container" means an enclosure
13 into which a casket is placed and includes, but is not limited
14 to, vaults made of concrete, steel, fiberglass, or copper;
15 sectional concrete enclosures; crypts; and wooden enclosures.

16 ~~(49)(51)~~ "Person," when used without qualification
17 such as "natural" or "individual," includes both natural
18 persons and legal entities.

19 ~~(50)(52)~~ "Personal residence" means any residential
20 building in which one temporarily or permanently maintains her
21 or his abode, including, but not limited to, an apartment or a
22 hotel, motel, nursing home, convalescent home, home for the
23 aged, or a public or private institution.

24 ~~(51)(53)~~ "Practice of direct disposition" means the
25 cremation of human remains without preparation of the human
26 remains by embalming and without any attendant services or
27 rites such as funeral or graveside services or the making of
28 arrangements for such final disposition.

29 ~~(52)(54)~~ "Practice of embalming" means disinfecting or
30 preserving or attempting to disinfect or preserve dead human
31

1 bodies by replacing certain body fluids with preserving and
2 disinfecting chemicals.

3 ~~(53)~~~~(55)~~ "Practice of funeral directing" means the
4 performance by a licensed funeral director of any of those
5 functions authorized by s. 497.372.

6 ~~(54)~~~~(56)~~ "Preneed contract" means any arrangement or
7 method, of which the provider of funeral merchandise or
8 services has actual knowledge, whereby any person agrees to
9 furnish funeral merchandise or service in the future.

10 ~~(55)~~~~(57)~~ "Preneed sales agent" means any person who is
11 licensed under this chapter to sell preneed burial or funeral
12 service and merchandise contracts or direct disposition
13 contracts in this state.

14 ~~(56)~~~~(58)~~ "Principal" means and includes the sole
15 proprietor of a sole proprietorship; all partners of a
16 partnership; all members of a limited liability company;
17 regarding a corporation, all directors and officers, and all
18 stockholders controlling more than 10 percent of the voting
19 stock; and all other persons who can exercise control over the
20 person or entity.

21 ~~(57)~~~~(59)~~ "Processing" means the reduction of
22 identifiable bone fragments after the completion of the
23 cremation process to unidentifiable bone fragments by manual
24 means.

25 ~~(58)~~~~(60)~~ "Profession" and "occupation" are used
26 interchangeably in this chapter. The use of the word
27 "profession" in this chapter with respect to any activities
28 regulated under this chapter shall not be deemed to mean that
29 such activities are not occupations for other purposes in
30 state or federal law.

31

1 ~~(59)(61)~~ "Pulverization" means the reduction of
2 identifiable bone fragments after the completion of the
3 cremation and processing to granulated particles by manual or
4 mechanical means.

5 ~~(60)(62)~~ "Refrigeration facility" means a facility
6 that is operated independently of ~~not physically connected~~
7 ~~with~~ a funeral establishment, crematory, or direct disposal
8 establishment, that maintains space and equipment for the
9 storage and refrigeration of dead human bodies, and that
10 offers its service to funeral directors, ~~and~~ funeral
11 establishments, direct disposers, direct disposal
12 establishments, or crematories for a fee.

13 ~~(61)(63)~~ "Religious institution" means an organization
14 formed primarily for religious purposes which has qualified
15 for exemption from federal income tax as an exempt
16 organization under the provisions of s. 501(c)(3) of the
17 Internal Revenue Code of 1986, as amended.

18 ~~(62)(64)~~ "Removal service" means any service that
19 operates independently of a funeral establishment or a direct
20 disposal establishment, that handles the initial removal of
21 dead human bodies, and that offers its service to funeral
22 establishments and direct disposal establishments for a fee.

23 ~~(63)(65)~~ "Rules" refers to rules adopted under this
24 chapter unless expressly indicated to the contrary.

25 ~~(64)(66)~~ "Scattering garden" means a location set
26 aside, within a cemetery, which is used for the spreading or
27 broadcasting of cremated remains that have been removed from
28 their container and can be mixed with or placed on top of the
29 soil or ground cover or buried in an underground receptacle on
30 a commingled basis and that are nonrecoverable. It may or may
31 not include memorialization.

1 ~~(65)~~~~(67)~~ "Servicing agent" means any person acting as
2 an independent contractor whose fiduciary responsibility is to
3 assist both the trustee and licensee in administrating their
4 responsibilities pursuant to this chapter.

5 ~~(66)~~~~(68)~~ "Solicitation" means any communication which
6 directly or implicitly requests an immediate oral response
7 from the recipient.

8 ~~(67)~~~~(69)~~ "Statutory accounting" means generally
9 accepted accounting principles, except as modified by this
10 chapter.

11 ~~(68)~~~~(70)~~ "Temporary container" means a receptacle for
12 cremated remains usually made of cardboard, plastic, or
13 similar material designated to hold the cremated remains until
14 an urn or other permanent container is acquired.

15 ~~(69)~~~~(71)~~ "Urn" means a receptacle designed to
16 permanently encase cremated remains.

17 Section 3. Subsection (2) of section 497.101, Florida
18 Statutes, as amended by chapter 2004-301, Laws of Florida, is
19 amended, and subsection (8) is added to that section, to read:

20 497.101 Board of Funeral, Cemetery, and Consumer
21 Services; membership; appointment; terms.--

22 (2) Two members of the board must be funeral directors
23 licensed under part III of this chapter who are associated
24 with a funeral establishment. One member of the board must be
25 a funeral director licensed under part III of this chapter who
26 is associated with a funeral establishment licensed under part
27 III of this chapter which has a valid preneed license issued
28 pursuant to this chapter and who owns or operates a cinerator
29 facility approved under chapter 403 and licensed under part VI
30 of this chapter. Two members of the board must be persons
31 whose primary occupation is associated with a cemetery company

1 licensed pursuant to this chapter. Three members of the board
2 must be consumers who are residents of the state, have never
3 been licensed as funeral directors or embalmers, are not
4 connected with a cemetery or cemetery company licensed
5 pursuant to this chapter, and are not connected with the death
6 care industry or the practice of embalming, funeral directing,
7 or direct disposition. One of the consumer members must be at
8 least 60 years of age, and one must be licensed as a certified
9 public accountant under chapter 473. One member of the board
10 must be a monument establishment dealer licensed under this
11 chapter as a monument builder or, for board appointments made
12 before June 1, 2006, a licensed monument establishment
13 certified by the department to be eligible for licensure as a
14 monument builder. One member must be the State Health Officer
15 or her or his designee. There shall not be two or more board
16 members who are principals or directors, employees, partners,
17 shareholders, or members of the same company or partnership or
18 group of companies or partnerships under common control.

19 (8) The department shall adopt rules establishing
20 forms by which persons may apply for membership on the board
21 and procedures for applying for such membership. Such forms
22 must require disclosure of the existence and nature of all
23 current and past employments by or contracts with, and direct
24 or indirect affiliations with or interests in, any entity or
25 business that at any time was licensed by the board or by the
26 former Board of Funeral and Cemetery Services or the former
27 Board of Funeral Directors and Embalmers or that is or was
28 otherwise involved in the death care industry, as specified by
29 department rule.

30 Section 4. Paragraph (m) of subsection (2) of section
31 497.103, Florida Statutes, as amended by chapter 2004-301,

1 | Laws of Florida, is amended, and paragraph (e) is added to
2 | subsection (4) of that section, to read:

3 | 497.103 Rulemaking authority of board and
4 | department.--

5 | (2) DEPARTMENT AUTHORITY.--All authority provided by
6 | this chapter and not expressly vested in the board by
7 | subsection (1) is vested in the department, and the department
8 | shall be deemed to be the licensing authority as to such
9 | matters. Without limiting the generality of the foregoing
10 | vesting of authority in the department, the authority provided
11 | by this chapter which is vested solely in the department
12 | includes:

13 | (m) Authority to take emergency action against any
14 | licensee under this chapter, without prior consultation with
15 | the board, when the department determines that there is an
16 | imminent danger to the health, safety, or welfare of the
17 | residents of the state.

18 | (4) RECOMMENDATIONS BY THE CHIEF FINANCIAL OFFICER.--

19 | (e) The Chief Financial Officer shall have no
20 | authority by recommendation or otherwise to set fees, rates,
21 | or prices to be used by any licensee under this chapter, and
22 | notwithstanding this subsection, a licensee under this chapter
23 | may not be required to set fees, rates, or prices in
24 | accordance with any recommendation of the Chief Financial
25 | Officer.

26 | Section 5. Paragraphs (b) and (c) of subsection (1) of
27 | section 497.140, Florida Statutes, as renumbered and amended
28 | by section 10 of chapter 2004-301, Laws of Florida, are
29 | amended, and subsection (8) is added to that section, to read:

30 | 497.140 Fees.--

31 | (1)

1 (b) It is the legislative intent that the costs of
2 regulation under this chapter be provided for by fees
3 collected under this chapter. The board shall ensure that fees
4 are adequate to cover all anticipated costs of implementation
5 of this chapter. The department shall at least every other
6 year provide the board with estimates as to projected costs in
7 implementing this chapter and projected fee collections under
8 this chapter for the following 2 years, information as to
9 balances of regulatory trusts from fees collected, other
10 information which the department deems material to the setting
11 of fees by the board at proper levels, and a department
12 recommendation as to action, if any, regarding changing fee
13 levels. The board shall review such information provided by
14 the department and make such changes in fees, up or down, as
15 the board determines appropriate. If sufficient action is not
16 taken by the board within 6 months ~~1 year~~ after notification
17 by the department that fees are projected to be inadequate,
18 the department shall set fees on behalf of the board to cover
19 anticipated costs.

20 (c) The board may from time to time by rule assess and
21 collect a one-time fee from each active and each voluntary
22 inactive licensee under this chapter in an amount necessary to
23 correct an inadequacy of fees received to implement regulation
24 required by this chapter, provided that no such assessments
25 may be made after October 1, 2007 ~~more than one such~~
26 ~~assessment may be made in any 4 year period without specific~~
27 ~~legislative authorization.~~

28 (8) A delinquency fee shall be charged and collected
29 from a licensee for the failure to timely renew a license
30 issued under this chapter. The amount of such a delinquency
31

1 fee shall be \$50 unless a different amount is specified for a
2 particular category of licensure under this chapter.

3 Section 6. Subsection (2) of section 497.141, Florida
4 Statutes, as created by chapter 2004-301, Laws of Florida, is
5 amended, and subsection (12) is added to that section, to
6 read:

7 497.141 Licensing; general application procedures.--

8 (2) Any person desiring to be licensed shall apply to
9 the licensing authority in writing using such forms and
10 procedures as may be prescribed by rule. The application for
11 licensure shall include the applicant's social security number
12 if the applicant is a natural person; otherwise, the
13 applicant's federal tax identification number. Notwithstanding
14 any other provision of law, the department is the sole
15 authority for determining the forms and form contents to be
16 submitted for initial licensure and licensure renewal
17 application. Such forms and the information and materials
18 required by such forms may include, as appropriate,
19 demographics, education, work history, personal background,
20 criminal history, finances, business information, signature
21 notarization, performance periods, reciprocity, local
22 government approvals, supporting documentation, periodic
23 reporting requirements, fingerprint requirements, continuing
24 education requirements, business plans, character references,
25 and ongoing education monitoring. Such forms and the
26 information and materials required by such forms may also
27 include, to the extent such information or materials are not
28 already in the possession of the department or the board,
29 records or information as to complaints, inspections,
30 investigations, discipline, and bonding,~~and photographs~~. The
31 application shall be supplemented as needed to reflect any

1 material change in any circumstance or condition stated in the
2 application which takes place between the initial filing of
3 the application and the final grant or denial of the license
4 and which might affect the decision of the department or the
5 board. After an application by an individual for licensure
6 under this chapter is approved, the licensing authority may
7 require the successful applicant to provide a photograph of
8 the applicant for permanent lamination onto the license card
9 to be issued to the applicant, pursuant to rules and fees
10 adopted by the licensing authority.

11 (12)(a) The following licenses may be applied for and
12 issued only to a natural person:

- 13 1. Embalmer apprentice.
- 14 2. Embalmer intern.
- 15 3. Funeral director intern.
- 16 4. Funeral director.
- 17 5. Funeral director and embalmer.
- 18 6. Direct disposer.
- 19 7. Monument establishment sales agent.
- 20 8. Preneed sales agent.

21 (b) The following licenses may be applied for and
22 issued to a natural person, a corporation, a limited liability
23 company, or a partnership:

- 24 1. Funeral establishment.
- 25 2. Centralized embalming facility.
- 26 3. Refrigeration facility.
- 27 4. Direct disposal establishment.
- 28 5. Monument establishment.
- 29 6. Cinerator facility.
- 30 7. Removal service.
- 31 8. Preneed sales business under s. 497.453.

1 (c) A cemetery license may be applied for and issued
2 only to a corporation, partnership, or limited liability
3 company.

4 (d) A license may not be issued to any applicant that
5 is a corporation, limited liability company, or partnership
6 unless the applicant is organized and in good standing under
7 the laws of this state or another state of the United States
8 and provides written proof of same issued by the applicable
9 state office or official in the state concerned. Each
10 applicant that is a corporation, limited liability company, or
11 partnership shall file with its application a written
12 statement, signed by the same person who signs the
13 application, identifying by name and business functional title
14 the following persons, as applicable to the type of entity
15 applying: officers, managers, managing members, partners,
16 general partners, limited partners, managing partners,
17 directors, all stockholders controlling more than 10 percent
18 of the voting stock, and all other persons who can exercise
19 control over the applicant. The licensing authority may
20 require the filing of the applicant's articles of
21 incorporation or other organizational documents and a resume
22 concerning any person identified pursuant to this paragraph.

23 (e) All applications shall be signed by the applicant.
24 Signatures of the applicant shall be as follows:

25 1. If the applicant is a natural person, the
26 application shall be signed by the applicant.

27 2. If the applicant is a corporation, the application
28 shall be signed by the corporation's president.

29 3. If the applicant is a partnership, the application
30 shall be signed by a partner, who shall provide proof
31

1 satisfactory to the licensing authority of that partner's
2 authority to sign on behalf of the partnership.

3 4. If the applicant is a limited liability company,
4 the application shall be signed by a member of the company,
5 who shall provide proof satisfactory to the licensing
6 authority of that member's authority to sign on behalf of the
7 company.

8 (f) The licensing authority may adopt rules for the
9 administration of this section, including required procedures
10 and forms.

11 (g) A license regulated under this chapter is not
12 assignable or transferable except as provided in this chapter.

13 Section 7. Section 497.142, Florida Statutes, as
14 created by chapter 2004-301, Laws of Florida, is amended to
15 read:

16 497.142 Licensing; fingerprinting and criminal
17 background checks.--

18 (1) In any instance that this chapter requires
19 submission of fingerprints in connection with an application
20 for license, the provisions of this section shall apply.

21 (2) The fingerprints must be taken by a law
22 enforcement agency or other agency or entity approved by the
23 department and in such a way as to allow their use to obtain a
24 criminal history check through the Department of Law
25 Enforcement.

26 (3) The department shall submit the fingerprints to or
27 cause them to be submitted to the Department of Law
28 Enforcement for the purpose of ascertaining whether the person
29 fingerprinted has a criminal history in any state or before
30 the Federal Government and, if so, the nature of the criminal
31 history.

1 (4) The Department of Law Enforcement may accept
2 fingerprints of any applicant under this chapter, any
3 principal of any such applicant, and any other person who is
4 examined or investigated or who is subject to examination or
5 investigation under the provisions of this chapter.

6 (5) The Department of Law Enforcement may, to the
7 extent provided for by federal law, exchange state,
8 multistate, and federal criminal history records with the
9 department and the board for the purpose of the issuance,
10 denial, suspension, or revocation of any license or other
11 application under this chapter.

12 ~~(6) The Department of Law Enforcement may accept~~
13 ~~fingerprints of any other person required by statute or rule~~
14 ~~to submit fingerprints to the department or board or any~~
15 ~~applicant or licensee regulated by the department or board who~~
16 ~~is required to demonstrate that she or he has not been~~
17 ~~convicted of or pled guilty or nolo contendere to a felony or~~
18 ~~a misdemeanor.~~

19 (6)(7) The Department of Law Enforcement shall, upon
20 receipt of fingerprints from the department, submit the
21 fingerprints to the Federal Bureau of Investigation to check
22 federal criminal history records.

23 (7)(8) Statewide criminal records obtained through the
24 Department of Law Enforcement, federal criminal records
25 obtained through the Federal Bureau of Investigation, and
26 local criminal records obtained through local law enforcement
27 agencies shall be used by the department and board for the
28 purpose of issuance, denial, suspension, or revocation of
29 ~~certificates of authority, certifications, or licenses issued~~
30 to operate in this state.
31

1 ~~(8)(9)~~ For the purposes of criminal background checks,
2 applicants and principals of applicants for any approval or
3 license under this chapter may be required to disclose whether
4 they have ever had their name legally changed and any prior
5 name or names they have used.

6 ~~(9)(10)~~ If any applicant under this chapter has been,
7 within the 10 years preceding the application under this
8 chapter, convicted or found guilty of, or entered a plea of
9 nolo contendere to, regardless of adjudication, any crime in
10 any jurisdiction, the application shall not be deemed complete
11 until such time as the applicant provides such certified true
12 copies of the court records evidencing the conviction,
13 finding, or plea, as the licensing authority may by rule
14 require.

15 ~~(10)(a)~~ When applying for any license under this
16 chapter, every applicant shall be required to disclose the
17 applicant's criminal records in accordance with this
18 subsection.

19 ~~(b)~~ The criminal record required to be disclosed shall
20 be any crime listed in paragraph (c) of which the person or
21 entity required to make disclosure has been convicted or to
22 which that person or entity entered a plea in the nature of no
23 contest. Disclosure shall be required pursuant to this
24 subsection regardless of whether adjudication was entered or
25 withheld by the court in which the case was prosecuted.

26 ~~(c)~~ Crimes to be disclosed are:

27 1. Any felony or misdemeanor, no matter when
28 committed, which was directly or indirectly related to or
29 involving any aspect of the practice or business of funeral
30 directing, embalming, direct disposition, cremation, funeral
31 or cemetery preneed sales, funeral establishment operations,

1 cemetery operations, or cemetery monument or marker sales or
2 installation.

3 2. Any other felony not already disclosed under
4 subparagraph 1. which was committed within the 20 years
5 immediately preceding the application under this chapter.

6 3. Any other misdemeanor not already disclosed under
7 subparagraph 1. which was committed within the 5 years
8 immediately preceding the application under this chapter.

9 (d) Criminal records falling within paragraphs (b) and
10 (c) shall be disclosed regardless of whether the criminal
11 conduct occurred inside or outside the state and regardless of
12 whether the criminal prosecution occurred in state court or
13 the court of another state, the United States, or a foreign
14 country. As to crimes prosecuted in courts other than the
15 courts of this state, the designation of the crime as a felony
16 or misdemeanor by the law of the jurisdiction prosecuting the
17 crime shall control. If the prosecuting jurisdiction does not
18 use the term "felony" or "misdemeanor" in classifying the
19 crime, the crime shall be deemed a felony for purposes of this
20 subsection if punishable under the law of the prosecuting
21 jurisdiction by a term of imprisonment in excess of 1 year;
22 otherwise, the crime shall be classified as a misdemeanor for
23 purposes of this subsection. Excessive speed in the operation
24 of a motor vehicle and other noncriminal traffic infractions
25 are not required to be reported under this section.

26 (e) For purposes of this subsection, the persons
27 required to make disclosure of their criminal records in
28 relation to an application shall be as follows:

29 1. If the applicant is a natural person, only the
30 natural person making application has the duty to disclose.

31

1 2. If the applicant is a corporation, all officers and
2 directors of that corporation have the duty to disclose.

3 3. If the applicant is a limited liability company,
4 all managers and members of the limited liability company have
5 the duty to disclose.

6 4. If the applicant is a partnership, all partners
7 have the duty to disclose.

8 5. If the applicant is required by this chapter to
9 identify in the application the individual licensee under this
10 chapter who will be in charge of the applicant, the identified
11 individual licensee in charge must make disclosure of criminal
12 records as part of the application, in addition to the
13 applicant.

14 (f) In addition to persons identified in paragraph (e)
15 as being required to provide a criminal history in relation to
16 an application for license, the department may during its
17 prelicensing investigation of the applicant pursuant to
18 subsection (3), on a case-by-case basis, require disclosure of
19 criminal records from any other employee or principal of the
20 applicant, if the department has grounds to believe that the
21 employee or principal has committed any crime and that the
22 person's relationship to the applicant may render the
23 applicant a danger to the public if the license applied for is
24 issued.

25 (g) The licensing authority may adopt rules specifying
26 forms and procedures to be used by persons required to
27 disclose criminal records under this subsection. The licensing
28 authority may conduct investigation and further inquiry of any
29 person regarding any criminal record disclosed pursuant to
30 this section.

31

1 (11)(a) Whenever in this chapter an applicant is
2 required to submit fingerprints in applying for a license, the
3 persons whose fingerprints must be submitted shall be as
4 follows:

5 1. If the applicant is a natural person, the
6 fingerprints of the natural person making application.

7 2. If the applicant is a corporation, the fingerprints
8 of the persons serving in the following capacities: chief
9 executive officer and president, or both persons if the
10 positions are filled by different persons; chief financial
11 officer; chief of operations; general counsel if a corporation
12 employee; and members of the board.

13 3. If the applicant is a limited liability company,
14 the fingerprints of all managers and members of the limited
15 liability company.

16 4. If the applicant is a partnership, the fingerprints
17 of all partners.

18 (b) In addition to persons identified in paragraph (a)
19 as being required to provide fingerprints, the department may
20 during its prelicensing investigation of the applicant
21 pursuant to subsection (3), on a case-by-case basis, require
22 fingerprints from any other employee of the applicant, if the
23 department has grounds to believe that any such person may
24 have committed any crime and that the person's relationship to
25 the applicant may render the applicant a danger to the public
26 if the license applied for is issued.

27 (12) The licensing authority may by rule establish
28 forms, procedures, and fees for the submission and processing
29 of fingerprints required to be submitted in accordance with
30 this chapter. The licensing authority may by rule waive the
31 requirement for submission of fingerprints otherwise required

1 by this chapter if the person has within the preceding 24
2 months submitted fingerprints to the licensing authority and
3 the licensing authority has obtained a criminal history report
4 utilizing those prior fingerprints. The cost for the
5 fingerprint processing must be paid to the Department of
6 Financial Services and may be borne by the department, the
7 employer, or the person subject to the background check.

8 Section 8. Subsection (2) of section 497.143, Florida
9 Statutes, as created by chapter 2004-301, Laws of Florida, is
10 amended to read:

11 497.143 Licensing; limited licenses for retired
12 professionals.--

13 (2) Any person desiring to obtain a limited license,
14 when permitted by rule, shall submit to the department an
15 application and fee, not to exceed \$300, and an affidavit
16 stating that the applicant has been licensed to practice in
17 any jurisdiction in the United States for at least 10 years in
18 the profession for which the applicant seeks a limited
19 license. The affidavit shall also state that the applicant has
20 retired or intends to retire from the practice of that
21 profession and intends to practice only pursuant to the
22 restrictions of the limited license granted pursuant to this
23 section. If the applicant for a limited license submits a
24 notarized statement from the employer stating that the
25 applicant will not receive monetary compensation for any
26 service involving the practice of her or his profession, the
27 application and all licensure fees shall be waived. A person
28 holding a limited license under this section may not engage in
29 preneed sales under such a limited license.

1 Section 9. Subsection (13) of section 497.144, Florida
2 Statutes, as created by chapter 2004-301, Laws of Florida, is
3 amended to read:

4 497.144 Licensing; examinations, general provisions.--

5 (13) When any licensed applicant under this chapter
6 requests a hearing to challenge a decision that the
7 applicant's answer to any licensure test question was not a
8 correct answer, or to seek a determination that a challenged
9 question should be struck, unless ~~the~~ ~~an~~ applicant notifies
10 the department at least 5 days prior to the ~~an~~ examination
11 hearing of the applicant's inability to attend or unless the
12 ~~an~~ applicant can demonstrate an extreme emergency for failing
13 to attend, the department may require the ~~an~~ applicant who
14 fails to attend to pay reasonable attorney's fees, costs, and
15 court costs of the department for the examination hearing.

16 Section 10. Paragraph (b) of subsection (4) of section
17 497.147, Florida Statutes, is amended to read:

18 497.147 Continuing education; general provisions.--

19 (4)

20 (b) The rules may establish conditions and
21 requirements applicable to providers, including, but not
22 limited to:

23 1. Periodic submission by the provider to the
24 licensing authority of information and documentation as to
25 course materials, class locations and schedules, names of
26 scheduled instructors, resumes of instructors, and
27 descriptions of facilities.

28 2. Requirements for periodic reporting by the provider
29 to the licensing authority of information concerning
30 enrollment, attendance, and status of persons enrolled for
31 credit under this chapter.

1 3. Requirements for inspection by the licensing
2 authority of records of the provider related to training or
3 continuing education of applicants and licensees under this
4 chapter.

5 4. Requirements for announced or unannounced
6 attendance by department staff or board members at scheduled
7 classes or training, for the purpose of ensuring that the
8 training meets the requirements of this chapter and rules
9 adopted under this chapter.

10 ~~5. Requirements for written contracts or agreements~~
11 ~~required to be entered into by providers with the licensing~~
12 ~~authority as a prerequisite to acceptance of training or~~
13 ~~continuing education provided by such provider for credit~~
14 ~~under this chapter.~~

15 ~~5.6.~~ Requirements regarding retention of records by
16 the provider regarding training or continuing education for
17 which credit has been given to any licensee under this
18 chapter.

19 ~~6.7.~~ Procedures and criteria for terminating the
20 status of any provider as an approved source of training or
21 continuing education for credit under this chapter.

22 ~~7.8.~~ Requirements for fees to accompany applications
23 from providers for approval or renewal of approval as a
24 provider, not to exceed \$250 per year. The rules may exempt
25 nonprofit entities from such fees.

26 Section 11. Paragraph (c) of subsection (1) of section
27 497.149, Florida Statutes, as created by chapter 2004-301,
28 Laws of Florida, is amended to read:

29 497.149 Investigations, hearings, and inspections.--
30
31

1 (1) INVESTIGATIONS.--Investigations shall be conducted
2 by the department. The following provisions shall apply
3 concerning investigations:

4 (c) If the department finds any accounts or records of
5 a licensee required by this chapter to be created and
6 maintained by the licensee to be inadequate or inadequately
7 kept or posted, it may employ experts to reconstruct, rewrite,
8 post, or balance them at the expense of the person being
9 investigated, provided the person has failed to maintain,
10 complete, or correct such records or accounting after the
11 department has given the licensee ~~her or him~~ notice and a
12 reasonable opportunity to do so.

13 Section 12. Subsection (1) of section 497.151, Florida
14 Statutes, as created by chapter 2004-301, Laws of Florida, is
15 amended, and subsection (4) is added to that section, to read:

16 497.151 Complaints; logs; procedures.--

17 (1) This section shall be applicable to all licensed
18 entities under this chapter ~~licensees under this chapter~~
19 ~~except preneed sales agent licensees.~~

20 (4) For purposes of this section, the response of a
21 customer recorded by the customer on a customer satisfaction
22 questionnaire or survey form sent to the customer by the
23 licensee, and returned by the customer to the licensee, shall
24 not be deemed to be a complaint.

25 Section 13. Section 497.152, Florida Statutes, as
26 created by chapter 2004-301, Laws of Florida, is amended to
27 read:

28 497.152 Disciplinary grounds.--This section sets forth
29 conduct which is prohibited and which shall constitute grounds
30 for denial of any application, imposition of discipline, or
31 ~~and~~ other enforcement action against the licensee or other

1 person committing such conduct. For purposes of this section,
2 the requirements of this chapter include the requirements of
3 rules adopted under authority of this chapter. No subsection
4 heading in this section shall be interpreted as limiting the
5 applicability of any paragraph within the subsection.

6 (1) GENERAL PROVISIONS.--The generality of the
7 provisions of this subsection shall not be deemed to be
8 limited by the provisions of any other subsection.

9 (a) Violating any provision of this chapter or any
10 lawful order of the board or department or of the statutory
11 predecessors to the board or department.

12 (b) Committing fraud, deceit, negligence,
13 incompetency, or misconduct in the practice of any of the
14 activities regulated under this chapter.

15 (c) Failing while holding a license under this chapter
16 to maintain one or more of the qualifications for such
17 license.

18 (d) Refusing to sell or issue a contract or provide
19 services to any person because of the person's race, color,
20 creed, marital status, sex, or national origin.

21 (2) CRIMINAL ACTIVITY.--Being convicted or found
22 guilty of, or entering a plea of nolo contendere to,
23 regardless of adjudication, a crime in any jurisdiction which
24 relates to the practice of, or the ability to practice, a
25 licensee's profession or occupation under this chapter.

26 (3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.--Having
27 a license or the authority to practice a profession or
28 occupation revoked, suspended, fined, denied, or otherwise
29 acted against or disciplined by the licensing authority of
30 another ~~any~~ jurisdiction, including its agencies or
31 subdivisions, for conduct that would constitute a violation of

1 | this chapter if committed in this state or upon grounds which
2 | directly relate to the ability to practice under this chapter.
3 | The licensing authority's acceptance of a relinquishment of
4 | licensure, stipulation, consent order, or other settlement
5 | offered in response to or in anticipation of the filing of
6 | charges against the license shall be construed as action
7 | against the license.

8 | (4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT
9 | AGENCIES.--

10 | (a) Improperly interfering with an investigation or
11 | inspection authorized by statute or with any disciplinary
12 | proceeding.

13 | (b) Failure to comply with a lawfully issued subpoena
14 | of the department.

15 | (c) Refusal to produce records to the department or
16 | board in connection with any activity regulated pursuant to
17 | this chapter.

18 | (d) Failing to report to the department any violation
19 | of this chapter by another person or entity which violation is
20 | known to the licensee to have created or be creating a serious
21 | and immediate danger to the public health, safety, or welfare
22 | ~~person who the licensee knows is in violation of this chapter.~~

23 | (e) Knowingly concealing information relative to
24 | violations of this chapter.

25 | (f) Attempting to obtain, obtaining, or renewing a
26 | license under this chapter by bribery, false or forged
27 | evidence, or misrepresentation, or through an error of the
28 | department or board known to the applicant.

29 | (g) Making or filing a report or statement to or with
30 | any government entity which the licensee knows or has reason
31 | to know to be false; or intentionally or negligently failing

1 | to file a report or record required to be filed with any
2 | government entity, or willfully impeding or obstructing
3 | another person to do so, or inducing another person to impede
4 | or obstruct such filing.

5 | (h) Failing to perform any statutory or legal
6 | obligation placed upon a licensee.

7 | (5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED
8 | PRACTICE.--

9 | (a) Practicing or offering to practice beyond the
10 | scope permitted by this chapter and rules adopted under this
11 | chapter for the type of licensure held or accepting and
12 | performing professional responsibilities the licensee knows,
13 | or has reason to know, the licensee is not competent to
14 | perform.

15 | (b) Practicing or attempting to practice with a
16 | revoked, suspended, inactive, or delinquent license.

17 | (c) Representing as her or his own the license of
18 | another.

19 | (d) Aiding, assisting, procuring, employing, or
20 | advising any person or entity to practice a profession or
21 | occupation regulated by this chapter without required
22 | licensure under this chapter.

23 | (e) Aiding, assisting, procuring, employing, or
24 | advising any person or entity to operate or in operating an
25 | establishment regulated by this chapter without the required
26 | licensure under this chapter.

27 | (f) Delegating to any person the performance of
28 | professional activities, or contracting with any person for
29 | the performance of professional activities by such person,
30 | when the licensee knows or has reason to know the person is
31 |

1 | not qualified by training, experience, and authorization to
2 | perform such responsibilities.

3 | (g) Using the name or title "funeral director,"
4 | "embalmer," "direct disposer," or other title suggesting
5 | licensure which the person using such name or title does not
6 | hold.

7 | (h) Engaging by a direct disposer in the practice of
8 | direct burial or offering the at-need or preneed service of
9 | direct burial.

10 | (6) EDUCATIONAL REQUIREMENTS.--

11 | (a) Failing to comply with applicable educational
12 | course requirements pursuant to this chapter or rules adopted
13 | under this chapter regarding human immunodeficiency virus and
14 | acquired immune deficiency syndrome.

15 | (b) Failing to timely comply with applicable
16 | continuing education requirements of this chapter.

17 | (7) RELATIONS WITH OTHER LICENSEES.--

18 | (a) Having been found liable in a civil proceeding for
19 | knowingly filing a false report or complaint against another
20 | licensee with the department or the board.

21 | (b) Making any misleading statements or
22 | misrepresentations as to the financial condition of any
23 | person, or which are falsely and maliciously critical of any
24 | person for the purpose of damaging that person's business
25 | regulated under this chapter.

26 | (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF
27 | HUMAN REMAINS.--

28 | (a) Violation of any state law or rule or any
29 | municipal or county ordinance or regulation affecting the
30 | handling, custody, care, or transportation of dead human
31 | bodies.

1 (b) Refusing to surrender promptly the custody of a
2 dead human body upon the express order of the person legally
3 authorized to its custody; however, this provision shall be
4 subject to any state or local laws or rules governing custody
5 or transportation of dead human bodies.

6 (c) Taking possession of a dead human body without
7 first having obtained written or oral permission from a
8 legally authorized person. If oral permission is granted, the
9 licensee must obtain written permission within a reasonable
10 time as established by rule.

11 (d) Embalming human remains without first having
12 obtained written or oral permission from a legally authorized
13 person; however, washing and other public health procedures,
14 such as closing of the orifices by placing cotton soaked in a
15 disinfectant in such orifices until authorization to embalm is
16 received, shall not be precluded. If oral permission is
17 granted, the licensee must obtain written permission within a
18 reasonable time as established by board rule.

19 (e) Failing to obtain written authorization from the
20 family or next of kin of the deceased prior to entombment,
21 interment, disinterment, disentombment, or disinurnment of the
22 remains of any human being.

23 (9) SALES PRACTICES IN GENERAL.--

24 (a) Soliciting by the licensee, or by her or his
25 agent, assistant, or employee, through the use of fraud, undue
26 influence, intimidation, overreaching, or other means which
27 takes advantage of a customer's ignorance or emotional
28 vulnerability.

29 (b) Exercising undue influence on a client for the
30 purpose of financial gain of the licensee or a third party in
31 connection with any transaction regulated by this chapter.

1 (c) Discouraging a customer's purchase of any funeral
2 merchandise or service which is advertised or offered for
3 sale, with the purpose of encouraging the purchase of
4 additional or more expensive merchandise or service, by
5 disparaging its quality or appearance, except that true
6 factual statements concerning features, design, or
7 construction do not constitute disparagement; by
8 misrepresenting its availability or any delay involved in
9 obtaining it; or by suggesting directly or by implication that
10 a customer's concern for price or expressed interest in
11 inexpensive funeral merchandise or services is improper,
12 inappropriate, or indicative of diminished respect or
13 affection for the deceased.

14 (d) Misrepresenting the benefits, advantages,
15 conditions, or terms of any contract to provide any services
16 or merchandise regulated under this chapter.

17 (e) Advertising goods and services in a manner that is
18 fraudulent, deceptive, or misleading in form or content.

19 (f) Directly or indirectly making any deceptive,
20 misleading, or untrue representations, whether oral or
21 written, or employing any trick, scheme, or artifice, in or
22 related to the practice of a profession or occupation
23 regulated under this chapter, including in the advertising or
24 sale of any merchandise or services related to the practice of
25 the profession or occupation.

26 (10) SPECIFIC MISREPRESENTATIONS.--

27 (a) Making any false or misleading statement of the
28 legal requirement as to the necessity of any particular burial
29 or funeral merchandise or services.

30 (b) Making any oral, written, or visual
31 representations, directly or indirectly, that any funeral

1 merchandise or service is offered for sale when such is not a
2 bona fide offer to sell such merchandise or service.

3 (c) Making any misrepresentation for the purpose of
4 inducing, or tending to induce, the lapse, forfeiture,
5 exchange, conversion, or surrender of any preneed contract or
6 any life insurance policy pledged or assigned to secure
7 payment for funeral or burial goods or services.

8 (d) Misrepresenting pertinent facts or prepaid
9 contract provisions relating to funeral or burial merchandise
10 or services.

11 (e) Misrepresenting the amount advanced on behalf of a
12 customer for any item of service or merchandise, including,
13 but not limited to, cemetery or crematory services,
14 pallbearers, public transportation, clergy honoraria, flowers,
15 musicians or singers, nurses, obituary notices, gratuities,
16 and death certificates, described as cash advances,
17 accommodations, or words of similar import on the contract,
18 final bill, or other written evidence of agreement or
19 obligation furnished to customers; however, nothing in this
20 paragraph shall require disclosure of a discount or rebate
21 which may accrue to a licensee subsequent to making a cash
22 advance.

23 (f) Making any false or misleading statement or claim
24 that natural decomposition or decay of human remains can be
25 prevented or substantially delayed by embalming, use of a
26 gasketed or ungasketed casket, or use of an adhesive or
27 nonadhesive closure on an outer burial container.

28 (g) Making any false or misleading statement, oral or
29 written, directly or indirectly, regarding any law or rule
30 pertaining to the preparation for disposition, transportation
31 for disposition, or disposition of dead human bodies.

1 (h) Making any false or misleading statements of the
2 legal requirement as to the conditions under which
3 preservation of a dead human body is required or as to the
4 necessity of a casket or outer burial container.

5 (11) SPECIFIC SALES PRACTICES.--

6 (a) Failing to furnish, for retention, to each
7 purchaser of burial rights, burial or funeral merchandise, or
8 burial or funeral services a written agreement, the form of
9 which has been previously approved if and as required by this
10 chapter, which lists in detail the items and services
11 purchased together with the prices for the items and services
12 purchased; the name, address, and telephone number of the
13 licensee; the signatures of the customer and the licensee or
14 her or his representative; and the date signed.

15 (b) Filling in any contract form for use with a
16 particular customer, using language that ~~Using any name or~~
17 ~~title in any contract regulated under this chapter which~~
18 misrepresents the true nature of the contract.

19 (c) Selling an irrevocable preneed contract to a
20 person who is not an applicant for or recipient of
21 Supplemental Security Income or Aid to Families with Dependent
22 Children or pursuant to s. 497.459(6)(a).

23 (d) Except as authorized in part IV of this chapter,
24 guaranteeing the price of goods and services at a future date.

25 (e) Requiring that a casket be purchased for cremation
26 or claiming directly or by implication that a casket is
27 required for cremation.

28 (f) When displaying any caskets for sale, failing to
29 display the least expensive casket offered for sale or use in
30 adult funerals in the same general manner as the funeral
31 service industry member's other caskets are displayed.

1 (g) Assessing fees and costs that have not been
2 disclosed to the customer in connection with any transaction
3 regulated by this chapter.

4 (h) Failure by a cemetery licensed under this chapter
5 to provide to any person, upon request, a copy of the cemetery
6 bylaws.

7 (i) Requirements by a cemetery licensee that lot
8 owners or current customers make unnecessary visits to the
9 cemetery company office for the purpose of solicitation.

10 (12) DISCLOSURE REQUIREMENTS.--

11 (a) Failure to disclose, when such disclosure is
12 desired, the components of the prices for alternatives offered
13 by the licensee from whom disclosure is requested, such as
14 graveside service, direct disposition, and body donation
15 without any rites or ceremonies prior to the delivery of the
16 body and prices of service if there are to be such after the
17 residue has been removed following the use thereof.

18 (b) Failing to furnish, for retention, to anyone who
19 inquires in person about burial rights, burial or funeral
20 merchandise, or burial or funeral services, before any
21 discussion of selection, a printed or typewritten list
22 specifying the range of retail prices for such rights,
23 merchandise, or services. At a minimum, the list shall itemize
24 the highest and lowest priced product and service regularly
25 offered and shall include the name, address, and telephone
26 number of the licensee and statements that the customer may
27 choose only the items the customer desires, that the customer
28 will be charged for only those items selected, and that there
29 may be other charges for other items or other services.

30 (c) Failing to reasonably provide by telephone, upon
31 request, accurate information regarding the retail prices of

1 funeral merchandise and services offered for sale by that
2 licensee.

3 (d) Failure by a funeral director to make full
4 disclosure in the case of a funeral or direct disposition with
5 regard to the use of funeral merchandise which is not to be
6 disposed of with the body or failure to obtain written
7 permission from the purchaser regarding disposition of such
8 merchandise.

9 (e) Failure by any funeral director to fully disclose
10 all of her or his available services and merchandise prior to
11 the selection of a casket offered by a licensee. The full
12 disclosure required shall identify what is included in the
13 funeral or direct disposition and the prices of all services
14 and merchandise provided by the licensee or registrant.

15 (f) Failing to have the price of any casket offered
16 for sale clearly marked on or in the casket, whether the
17 casket is displayed at a funeral establishment or at any other
18 location, regardless of whether the licensee is in control of
19 such location. If a licensee uses books, catalogs, brochures,
20 or other printed display aids, the price of each casket shall
21 be clearly marked.

22 (g) Failing to disclose all fees and costs the
23 customer may incur to use the burial rights or merchandise
24 purchased.

25 (13) CONTRACT OBLIGATIONS.--

26 (a) Failing without reasonable justification to timely
27 honor contracts entered into by the licensee or under the
28 licensee's license for funeral or burial merchandise or
29 services.

30 (b) Failure to honor preneed contract cancellation
31 requests and make refunds as required by the chapter.

1 (14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY
2 CUSTOMERS.--

3 (a) Failing to adopt and implement standards for the
4 proper investigation and resolution of claims and complaints
5 received by a licensee relating to the licensee's activities
6 regulated by this chapter.

7 (b) Committing or performing with such frequency as to
8 indicate a general business practice any of the following:

9 1. Failing to acknowledge and act promptly upon
10 communications from a licensee's customers and their
11 representatives with respect to claims or complaints relating
12 to the licensee's activities regulated by this chapter.

13 2. Denying claims or rejecting complaints received by
14 a licensee from a customer or customer's representative,
15 relating to the licensee's activities regulated by this
16 chapter, without first conducting reasonable investigation
17 based upon available information.

18 3. Attempting to settle a claim or complaint on the
19 basis of a material document which was altered without notice
20 to, or without the knowledge or consent of, the contract
21 purchaser or her or his representative or legal guardian.

22 4. Failing within a reasonable time to affirm or deny
23 coverage of specified services or merchandise under a contract
24 entered into by a licensee upon written request of the
25 contract purchaser or her or his representative or legal
26 guardian.

27 5. Failing to promptly provide, in relation to a
28 contract for funeral or burial merchandise or services entered
29 into by the licensee or under the licensee's license, a
30 reasonable explanation to the contract purchaser or her or his
31 representative or legal guardian of the licensee's basis for

1 denying or rejecting all or any part of a claim or complaint
2 submitted.

3 (c) Making a material misrepresentation to a contract
4 purchaser or her or his representative or legal guardian for
5 the purpose and with the intent of effecting settlement of a
6 claim or complaint or loss under a prepaid contract on less
7 favorable terms than those provided in, and contemplated by,
8 the prepaid contract.

9 (d) Failing to maintain a complete copy of every
10 complaint received by the licensee since the date of the last
11 examination of the licensee by the department. For purposes of
12 this subsection, the term "complaint" means any written
13 communication primarily expressing a grievance and which
14 communication is from:

15 1. A representative or family member of a deceased
16 person interred at the licensee's facilities or using the
17 licensee's services, or which deceased's remains were the
18 subject of any service provided by the licensee or licensee's
19 business; or

20 2. A person, or such person's family member or
21 representative, who inquired of the licensee or licensee's
22 business concerning the purchase of, or who purchased or
23 contracted to purchase, any funeral or burial merchandise or
24 services from the licensee or licensee's business.

25
26 For purposes of this subsection, the response of a customer
27 recorded by the customer on a customer satisfaction
28 questionnaire or survey form sent to the customer by the
29 licensee, and returned by the customer to the licensee, shall
30 not be deemed to be a complaint.

31 (15) MISCELLANEOUS FINANCIAL MATTERS.--

1 (a) Failing to timely pay any fee required by this
2 chapter.

3 (b) Failing to timely remit as required by this
4 chapter the required amounts to any trust fund required by
5 this chapter. The board may, by rule, provide criteria for
6 identifying minor, nonwillful trust remittance deficiencies;
7 remittance deficiencies falling within such criteria, if fully
8 corrected within 30 days after notice to the licensee by the
9 department, do not constitute a disciplinary violation.

10 (c) Paying to or receiving from any organization,
11 agency, or person, either directly or indirectly, any
12 commission, bonus, kickback, or rebate in any form whatsoever
13 for any business regulated under this chapter, whether such
14 payments are made or received by the licensee, or her or his
15 agent, assistant, or employee; however, this provision shall
16 not prohibit the payment of commissions by a funeral director,
17 funeral establishment, cemetery, or monument establishment to
18 its preneed agents licensed pursuant to this chapter or to
19 licensees under this chapter.

20 Section 14. Subsection (1), paragraph (b) of
21 subsection (2), and paragraph (c) of subsection (4) of section
22 497.153, Florida Statutes, as created by chapter 2004-301,
23 Laws of Florida, are amended to read:

24 497.153 Disciplinary procedures and penalties.--

25 (1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE
26 AND PROSECUTE.--The expiration, nonrenewal, or surrender of
27 licensure under this chapter shall not eliminate jurisdiction
28 in the licensing authority to investigate and prosecute for
29 violations committed by a licensee while licensed under this
30 chapter. The prosecution of any matter may be initiated or
31 continued notwithstanding the withdrawal of any complaint.

1 (2) DETERMINATION OF PROBABLE CAUSE.--

2 (b) Prior to submitting a matter to the probable cause
3 panel, the licensee who is the subject of the matter shall be
4 provided by the department with a copy of any written
5 complaint received by the department in the matter and shall
6 be advised that the licensee ~~she or he~~ may, within 20 days
7 after receipt of a copy of such complaint from the department,
8 submit to the department a written response. Any response
9 timely received by the department shall be provided by the
10 department to the probable cause panel. Licensees may not
11 appear in person or through a representative at any probable
12 cause panel proceeding. This paragraph shall not apply to
13 emergency action.

14 (4) ACTION AFTER PROBABLE CAUSE FOUND.--

15 (c) The department may at any time present to the
16 board a proposed settlement by consent order or otherwise of
17 any matter as to which probable cause has been found. If the
18 board accepts the proposed settlement, it may execute and file
19 the consent order as its final order in the matter or may
20 otherwise issue its final order in the matter ~~shall issue its~~
21 ~~final order adopting the settlement~~. If the board does not
22 accept such settlement, the prosecution of the matter shall be
23 resumed. No settlement of any disciplinary matter as to which
24 probable cause has been found may be entered into by the board
25 prior to receipt of a recommended order of an administrative
26 law judge without the department's concurrence.

27 Section 15. Subsection (1) of section 497.158, Florida
28 Statutes, as renumbered and amended by section 28 of chapter
29 2004-301, Laws of Florida, is amended to read:

30 497.158 Court enforcement actions; powers; abatement
31 of nuisances.--

1 (1) In addition to or in lieu of other actions
2 authorized by this chapter, the department may petition the
3 courts of this state for injunctive or other relief against
4 any licensed or unlicensed person for the enforcement of this
5 chapter and orders issued under this chapter. The court shall
6 be authorized to impose a fine of up to \$5,000 per violation
7 on any licensee under this chapter and up to \$10,000 on any
8 person not licensed under this chapter, payable to the
9 department, upon any person determined by the court to have
10 violated this chapter, and may order payment to the department
11 of the department's attorney's fees and litigation costs, by
12 any person found to have violated this chapter.

13 Section 16. Subsections (1), (3), and (4) and
14 paragraph (a) of subsection (5) of section 497.159, Florida
15 Statutes, as created by chapter 2004-301, Laws of Florida, are
16 amended to read:

17 497.159 Crimes.--

18 (1) The theft ~~of an examination~~ in whole or in part or
19 the act of unauthorized reproducing, circulating, or copying
20 of any questions or answers on, from, or for any prelicensure
21 examination administered by the department or the board,
22 whether such examination is reproduced or copied in part or in
23 whole and by any means, constitutes a felony of the third
24 degree, punishable as provided in s. 775.082, s. 775.083, or
25 s. 775.084.

26 (3) Any individual who willfully obstructs the
27 department or its examiner in any examination or investigation
28 authorized by this chapter is guilty of a misdemeanor of the
29 second degree and is, in addition to any disciplinary action
30 under this chapter, punishable as provided in s. 775.082 or s.
31 775.083. The initiation of action in any court by or on behalf

1 of any licensee to terminate or limit any examination or
2 investigation under this chapter shall not constitute a
3 violation under this subsection.

4 (4) Any officer or director, or person occupying
5 similar status or performing similar functions, of a preneed
6 licensee who fails ~~licensee under this chapter who knowingly~~
7 ~~directs or causes the failure~~ to make required deposits to any
8 trust fund required by this chapter; any director, officer,
9 agent, or employee of a preneed licensee who makes any
10 unlawful withdrawal of funds from any such account or who
11 knowingly discloses to the department or an employee thereof
12 any false report made pursuant to this chapter; or any person
13 who willfully violates any of the provisions of part II, part
14 IV or part V, ~~or with knowledge that such required deposits~~
15 ~~are not being made as required by law fails to report such~~
16 ~~failure to the department, or who knowingly directs or causes~~
17 ~~the unlawful withdrawal of funds from any trust fund required~~
18 ~~by this chapter,~~ commits a felony of the third degree,
19 punishable as provided in s. 775.082, s. 775.083, or s.
20 775.084.

21 (5)(a) ~~A No~~ cemetery company or other legal entity
22 conducting or maintaining any public or private cemetery may
23 not deny burial space to any person because of race, creed,
24 marital status, sex, national origin, or color. A cemetery
25 company or other entity operating any cemetery may designate
26 parts of cemeteries or burial grounds for the specific use of
27 persons whose religious code requires isolation. Religious
28 institution cemeteries may limit burials to members of the
29 religious institution and their families.

30 Section 17. Paragraphs (g) and (h) of subsection (1)
31 and subsection (3) of section 497.161, Florida Statutes, as

1 created by chapter 2004-301, Laws of Florida, are amended to
2 read:

3 497.161 Other rulemaking provisions.--

4 (1) In addition to such other rules as are authorized
5 or required under this chapter, the following additional
6 rules, not inconsistent with this chapter, shall be authorized
7 by the licensing authority.

8 ~~(g) Rules establishing procedures by which the~~
9 ~~department may use the expert or technical advice of the board~~
10 ~~or members of the board for the purposes of any investigation,~~
11 ~~inspection, or financial examination, without thereby~~
12 ~~disqualifying the board member from voting on final action in~~
13 ~~the matter.~~

14 ~~(g)(h)~~ In connection with the statutory revisions by
15 the 2004 ~~2005~~ Regular Session of the Legislature merging
16 chapters 470 and 497 as those chapters appeared in the 2003
17 ~~2004~~ edition of the Florida Statutes and the elimination of
18 the former boards under those chapters and the movement of
19 regulation out of the Department of Business and Professional
20 Regulation, the licensing authority shall through July 1,
21 2006, be deemed to have extraordinary rulemaking authority to
22 adopt any and all rules jointly agreed by the board and the
23 department to be necessary for the protection of the public
24 concerning the regulation of the professions and occupations
25 regulated under this chapter, or for the relief of licensees
26 regulated under this chapter concerning any impacts which the
27 department and the board jointly agree were unintended or not
28 contemplated in the enactment of the 2004 ~~2005~~ legislative
29 changes. The authority under this paragraph and any rules
30 adopted under authority of this paragraph shall expire July 1,
31 2006.

1 (3) The department and the board shall each have
2 standing under chapter 120 for the purposes of challenging
3 rules or proposed rules under this chapter. This subsection
4 shall not be interpreted to deny standing to a licensee to
5 challenge any rule under this chapter if the licensee would
6 otherwise have standing.

7 Section 18. Section 497.165, Florida Statutes, as
8 renumbered and amended by chapter 2004-30, Florida Statutes,
9 is amended to read:

10 497.165 Liability of owners, directors, and officers
11 regarding trust funds.--The owners, officers, and directors of
12 any licensee under this chapter may be held jointly and
13 severally liable for any deficiency in any trust fund required
14 by this chapter, to the extent the deficiency arose during the
15 period they were owners, officers or directors of the
16 licensee, if they intentionally or through gross their
17 ~~conduct, or their~~ negligence in the performance of their
18 duties, caused the deficiency or substantially contributed to
19 conditions that allowed the deficiency to arise or increase.

20 Section 19. Subsections (1) and (3) of section
21 497.166, Florida Statutes, as created by chapter 2004-301,
22 Laws of Florida, are amended to read:

23 497.166 Preneed sales.--

24 (1) Regulation of preneed sales shall be as set forth
25 in part IV of this chapter. ~~A No~~ person may not act as an
26 agent for a preneed licensee funeral establishment or direct
27 ~~disposal establishment~~ with respect to preneed contracts
28 unless the such person is licensed as a preneed sales agent
29 pursuant to part IV of this chapter or is a licensed funeral
30 director acting as a preneed sales agent.

1 (3)(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 sales 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 sales agents.

8 (c) The responsibility imposed by this subsection on
9 the funeral director and direct disposer in charge is a duty
10 of reasonable supervision and not absolute liability. The
11 responsibility of the funeral director or direct disposer in
12 charge shall be in addition to the responsibility of the
13 preneed licensee for the conduct of the preneed sales agents
14 it employs.

15 Section 20. Subsection (2) of section 497.169, Florida
16 Statutes, as renumbered and amended by section 39 of chapter
17 2004-301, Laws of Florida, is amended to read:

18 497.169 Private actions; actions on behalf of
19 consumers; attorney's fee.--

20 (2) In any civil litigation resulting from a
21 transaction involving a violation of this chapter by a
22 cemetery company or burial rights broker licensed under part
23 II, a monument establishment licensed under part V, or a
24 preneed entity or preneed sales agent licensed under part IV,
25 the court may award to the prevailing party and against the
26 cemetery company, burial rights broker, monument
27 establishment, or preneed entity or sales agent, after
28 judgment in the trial court and exhaustion of any appeal,
29 reasonable attorney's fees and costs from the nonprevailing
30 party in an amount to be determined by the trial court. Any
31 award of attorney's fees or costs shall become a part of the

1 judgment and shall be subject to execution as the law allows.

2 This subsection does not apply to licensees licensed under
3 part III or part VI.

4 Section 21. Section 497.171, Florida Statutes, is
5 created to read:

6 497.171 Identification of human remains.--

7 (1) PRIOR TO FINAL DISPOSITION.--

8 (a) This subsection applies to licensees under parts
9 III and VI.

10 (b) The licensee in charge of the final disposition of
11 dead human remains shall, prior to final disposition of such
12 dead human remains, affix on the ankle or wrist of the
13 deceased, and on the casket or alternative container or
14 cremation container, proper identification of the dead human
15 remains. The identification or tag shall be encased in or
16 consist of durable and long-lasting material containing the
17 name, date of birth, and date of death of the deceased, if
18 available. The board may adopt rules specifying acceptable
19 materials for such identification tags, acceptable locations
20 for the tags on the casket or alternative container or
21 cremation container, and acceptable methods of affixing the
22 tags.

23 (c) If the dead human remains are cremated, proper
24 identification shall be placed in the container or urn
25 containing the remains.

26 (d) Any licensee responsible for removal of dead human
27 remains to any establishment, facility, or location shall
28 ensure that the remains are identified by a tag or other means
29 of identification that is affixed to the ankle or wrist of the
30 deceased at the time the remains are removed from the place of
31 death or other location.

1 (2) INTERMENT IN UNLICENSED CEMETERIES.--The
2 identification of human remains interred in an unlicensed
3 cemetery shall be the responsibility of the licensed funeral
4 establishment in charge of the funeral arrangements for the
5 deceased person. The licensed funeral establishment in charge
6 of the funeral arrangements for the interment in an unlicensed
7 cemetery of human remains shall place on the outer burial
8 container, cremation interment container, or other container
9 or on the inside of a crypt or niche a tag or permanent
10 identifying mark containing the name of the decedent and the
11 date of death, if available. The materials and locations of
12 the tag or mark shall be more specifically described by rule
13 of the licensing authority.

14 (3) INTERMENT IN LICENSED CEMETERIES.--

15 (a) This subsection applies to cemetery licensees
16 under part II.

17 (b) As to interments in a licensed cemetery, each
18 licensed cemetery shall place on the outer burial container,
19 cremation interment container, or other container or on the
20 inside of a crypt or niche a tag or permanent identifying
21 marker containing the name of the decedent and the date of
22 death, if available. The materials and the location of the tag
23 or marker shall be more specifically described by rule of the
24 licensing authority.

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

1 the dead human remains delivered by such person and buried in
2 the cemetery.

3 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
4 establishments shall establish a system of identification of
5 human remains received which shall be designed to track the
6 identity of the remains from the time of receipt until
7 delivery of the remains to the authorized persons. This is in
8 addition to the requirements for identification of human
9 remains set forth in subsection (1). A copy of the
10 identification procedures shall be available, upon request, to
11 the department and legally authorized persons.

12 (5) RELIANCE ON LEGALLY AUTHORIZED PERSON.--Any
13 licensee charged with responsibility under this section may
14 rely on the representation of a legally authorized person to
15 establish the identity of dead human remains.

16 Section 22. Paragraph (b) of subsection (6) of section
17 497.260, Florida Statutes, as renumbered and amended by
18 section 42 of chapter 2004-301, Laws of Florida, is amended to
19 read:

20 497.260 Cemeteries; exemption; investigation and
21 mediation.--

22 (6)(b) A ~~NO~~ cemetery company or other legal entity
23 conducting or maintaining any public or private cemetery may
24 not deny burial space to any person because of race, creed,
25 marital status, sex, national origin, or color. A cemetery
26 company or other entity operating any cemetery may designate
27 parts of cemeteries or burial grounds for the specific use of
28 persons whose religious code requires isolation. Religious
29 institution cemeteries may limit burials to members of the
30 religious institution and their families.

31

1 Section 23. Paragraphs (b), (m), (o), and (q) of
2 subsection (2) of section 497.263, Florida Statutes, as
3 renumbered and amended by section 45 of chapter 2004-301, Laws
4 of Florida, are amended to read:

5 497.263 Cemetery companies; license required;
6 licensure requirements and procedures.--

7 (2) APPLICATION PROCEDURES.--

8 (b) The applicant shall be a corporation, ~~or a~~
9 partnership, or a limited liability company ~~formed prior to~~
10 ~~January 1, 2005, which limited liability company already holds~~
11 ~~a license under this chapter.~~

12 (m) The applicant shall be required to make disclosure
13 of the applicant's criminal records, if any, as required by s.
14 497.142. ~~The application shall require the applicant to~~
15 ~~disclose whether the applicant or any principal of the~~
16 ~~applicant has ever been convicted or found guilty of, or~~
17 ~~entered a plea of no contest to, regardless of adjudication,~~
18 ~~any crime in any jurisdiction. The licensing authority may~~
19 ~~require by rule additional information to be provided~~
20 ~~concerning any affirmative answers.~~

21 (o) The applicant shall submit fingerprints in
22 accordance with s. 497.142. ~~The application shall require the~~
23 ~~applicant and applicant's principals to provide fingerprints~~
24 ~~in accordance with part I of this chapter.~~

25 (q) The application shall be signed in accordance with
26 s. 497.141(12) ~~by the president of the applicant.~~

27 Section 24. Paragraphs (h), (j), and (l) of subsection
28 (2) of section 497.264, Florida Statutes, as renumbered and
29 amended by chapter 2004-301, Laws of Florida, are amended to
30 read:

31 497.264 License not assignable or transferable.--

1 (2) Any person or entity that seeks to purchase or
2 otherwise acquire control of any cemetery licensed under this
3 chapter shall first apply to the licensing authority and
4 obtain approval of such purchase or change in control.

5 (h) The applicant shall be required to make disclosure
6 of applicant's criminal records, if any, as required by s.
7 497.142. ~~The application shall require the applicant to~~
8 ~~disclose whether the applicant or any principal of the~~
9 ~~applicant has ever been convicted or found guilty of, or~~
10 ~~entered a plea of no contest to, regardless of adjudication,~~
11 ~~any crime in any jurisdiction. The licensing authority may~~
12 ~~require by rule additional information to be provided~~
13 ~~concerning any affirmative answers.~~

14 (j) The applicant shall submit fingerprints in
15 accordance with s. 497.142. ~~The application shall require the~~
16 ~~applicant and the applicant's principals to provide~~
17 ~~fingerprints in accordance with part I of this chapter.~~

18 (1) The application shall be signed in accordance with
19 s. 497.141(12) ~~by the applicant if a natural person, otherwise~~
20 ~~by the president of the applicant.~~

21 Section 25. Section 497.281, Florida Statutes, as
22 renumbered and amended by section 62 of chapter 2004-301, Laws
23 of Florida, is amended to read:

24 497.281 Licensure of brokers of burial rights.--

25 (1) No person shall receive compensation to act as a
26 third party to the sale or transfer of three or more burial
27 rights in a 12-month period unless the person pays a license
28 fee as determined by licensing authority rule but not to
29 exceed \$250 and is licensed with the department as a burial
30 rights broker in accordance with this section.

31

1 (2)(a) The applicant shall be required to make
2 disclosure of the applicant's criminal records, if any, as
3 required by s. 497.142.

4 (b) The application must require the applicant to
5 disclose whether the applicant or any principal of the
6 applicant has ever had a license or the authority to practice
7 a profession or occupation refused, suspended, fined, denied,
8 or otherwise acted against or disciplined by the licensing
9 authority of any jurisdiction. The licensing authority may
10 require, by rule, additional information to be provided
11 concerning any affirmative answers. A licensing authority's
12 acceptance of a relinquishment of licensure, stipulation,
13 consent order, or other settlement, offered in response to or
14 in anticipation of the filing of charges against the license,
15 shall be construed as action against the license. The
16 licensing authority may require, by rule, additional
17 information to be provided concerning any affirmative answers.

18 (c) The applicant shall submit fingerprints in
19 accordance with s. 497.142. The application shall be signed in
20 accordance with s. 497.141(12).

21 (d) The applicant shall demonstrate by clear and
22 convincing evidence that the applicant has the ability,
23 experience, and integrity to act as a burial broker and, if
24 the applicant is an entity, that the applicant's principals
25 are of good character.

26 (3) The licensing authority shall by rule establish
27 requirements for minimum records to be maintained by licensees
28 under this section, for the purpose of preventing confusion
29 and error by the licensee or by the cemeteries in which the
30 burial rights are located as to the status as sold or unsold,
31

1 and the identity of the owner, of the burial rights and
2 related interment spaces in the cemetery.

3 (4) The licensing authority may, by rule, require
4 inspections of the records of licensees under this section.

5 ~~(5)(2)~~ The department, by rule, shall provide for the
6 biennial renewal of licenses under this section and a renewal
7 fee as determined by licensing authority rule but not to
8 exceed \$250.

9 ~~(6)(3)~~ The licensure requirements of this section do
10 ~~shall~~ not apply to persons otherwise licensed pursuant to this
11 chapter, but such persons, if they engage in activity as a
12 burial rights broker, are subject to rules relating to
13 required records and inspections.

14 ~~(4) The licensing authority may by rule specify~~
15 ~~records of brokerage transactions which shall be required to~~
16 ~~be maintained by burial rights brokers licensed under this~~
17 ~~subsection, and which shall be subject to inspection by the~~
18 ~~department.~~

19 Section 26. Subsection (12) is added to section
20 497.365, Florida Statutes, to read:

21 497.365 Licensure; inactive and delinquent status.--

22 (12) The board shall prescribe, by rule, an
23 application fee for inactive status, a renewal fee for
24 inactive status, a delinquency fee, and a fee for reactivation
25 of a license. The amount of any such fee may not exceed the
26 amount of the biennial renewal fee established by the board
27 for an active license. The department may not reactivate a
28 license unless the inactive or delinquent licensee has paid
29 any applicable biennial renewal or delinquency fee, or both,
30 and a reactivation fee.

31

1 Section 27. Paragraph (c) of subsection (1) of section
2 497.368, Florida Statutes, as renumbered and amended by
3 section 73 of chapter 2004-301, Laws of Florida, is amended to
4 read:

5 497.368 Embalmers; licensure as an embalmer by
6 examination; provisional license.--

7 (1) Any person desiring to be licensed as an embalmer
8 shall apply to the licensing authority to take the licensure
9 examination. The licensing authority shall examine each
10 applicant who has remitted an examination fee set by rule of
11 the licensing authority not to exceed \$200 plus the actual per
12 applicant cost to the licensing authority for portions of the
13 examination and who has:

14 (c) Made disclosure of applicant's criminal records,
15 if any, as required by s. 497.142. The applicant shall submit
16 fingerprints in accordance with s. 497.142. The applicant may
17 not be licensed under this section unless the licensing
18 authority determines that the applicant is of good character
19 and has no demonstrated history of lack of trustworthiness or
20 integrity in business or professional matters. ~~Had no~~
21 conviction or finding of guilt, regardless of adjudication,
22 for a crime which directly relates to the ability to practice
23 embalming or the practice of embalming.

24 Section 28. Paragraph (d) is added to subsection (1)
25 of section 497.369, Florida Statutes, as renumbered and
26 amended by section 74 of chapter 2004-301, Laws of Florida, to
27 read:

28 497.369 Embalmers; licensure as an embalmer by
29 endorsement; licensure of a temporary embalmer.--

30 (1) The licensing authority shall issue a license by
31 endorsement to practice embalming to an applicant who has

1 remitted an examination fee set by rule of the licensing
2 authority not to exceed \$200 and who the licensing authority
3 certifies:

4 (d) Has made disclosure of the applicant's criminal
5 records, if any, as required by s. 497.142. The applicant
6 shall submit fingerprints in accordance with s. 497.142. The
7 applicant may not be licensed under this section unless the
8 licensing authority determines that the applicant is of good
9 character and has no demonstrated history of lack of
10 trustworthiness or integrity in business or professional
11 matters.

12 Section 29. Paragraph (c) of subsection (1) of section
13 497.373, Florida Statutes, as renumbered and amended by
14 section 78 of chapter 2004-301, Laws of Florida, is amended to
15 read:

16 497.373 Funeral directing; licensure as a funeral
17 director by examination; provisional license.--

18 (1) Any person desiring to be licensed as a funeral
19 director shall apply to the licensing authority to take the
20 licensure examination. The licensing authority shall examine
21 each applicant who has remitted an examination fee set by rule
22 of the licensing authority not to exceed \$200 plus the actual
23 per applicant cost to the licensing authority for portions of
24 the examination and who the licensing authority certifies has:

25 (c) Made disclosure of the applicant's criminal
26 records, if any, as required by s. 497.142. The applicant
27 shall submit fingerprints in accordance with s. 497.142. The
28 applicant may not be licensed under this section unless the
29 licensing authority determines that the applicant is of good
30 character and has no demonstrated history of lack of
31 trustworthiness or integrity in business or professional

1 ~~matters. Had no conviction or finding of guilt, regardless of~~
2 ~~adjudication, for a crime which directly relates to the~~
3 ~~ability to practice funeral directing or the practice of~~
4 ~~funeral directing.~~

5 Section 30. Paragraph (d) is added to subsection (1)
6 of section 497.374, Florida Statutes, as renumbered and
7 amended by section 79 of chapter 2004-301, Laws of Florida, to
8 read:

9 497.374 Funeral directing; licensure as a funeral
10 director by endorsement; licensure of a temporary funeral
11 director.--

12 (1) The licensing authority shall issue a license by
13 endorsement to practice funeral directing to an applicant who
14 has remitted a fee set by rule of the licensing authority not
15 to exceed \$200 and who:

16 (d) Has made disclosure of the applicant's criminal
17 records, if any, as required by s. 497.142. The applicant
18 shall submit fingerprints in accordance with s. 497.142. The
19 applicant may not be licensed under this section unless the
20 licensing authority determines that the applicant is of good
21 character and has no demonstrated history of lack of
22 trustworthiness or integrity in business or professional
23 matters.

24 Section 31. Subsection (1) of section 497.376, Florida
25 Statutes, as renumbered and amended by section 81 of chapter
26 2004-301, Laws of Florida, is amended to read:

27 497.376 License as funeral director and embalmer
28 permitted; display of license.--

29 (1) Nothing in this chapter may be construed to
30 prohibit a person from holding a license as an embalmer and a
31 license as a funeral director at the same time. There may be

1 issued and renewed by the licensing authority a combination
2 license as both funeral director and embalmer to persons
3 meeting the separate requirements for both licenses as set
4 forth in this chapter. The licensing authority may adopt rules
5 providing procedures for applying for and renewing such a
6 combination license. The licensing authority may, by rule,
7 establish application, renewal, and other fees for such a
8 combination license, which fees may not exceed the sum of the
9 maximum fees for the separate funeral director and embalmer
10 license categories as provided in this chapter. A person who
11 holds a combination license as a funeral director and embalmer
12 is subject to regulation under this chapter both as a funeral
13 director and an embalmer.

14 Section 32. Subsection (1) of section 497.378, Florida
15 Statutes, as renumbered and amended by chapter 2004-301, Laws
16 of Florida, is amended to read:

17 497.378 Renewal of funeral director and embalmer
18 licenses.--

19 (1) There shall be renewed a funeral director or
20 embalmer license upon receipt of the renewal application and
21 fee set by the licensing authority not to exceed ~~\$500~~\$250.
22 The licensing authority may prescribe by rule continuing
23 education requirements of up to 12 classroom hours and may by
24 rule establish criteria for accepting alternative nonclassroom
25 continuing education on an hour-for-hour basis, in addition to
26 a licensing authority-approved course on communicable diseases
27 that includes the course on human immunodeficiency virus and
28 acquired immune deficiency syndrome required by s. 497.367,
29 for the renewal of a funeral director or embalmer license. The
30 rule may provide for the waiver of continuing education
31 requirements in circumstances that would justify the waiver,

1 such as hardship, disability, or illness. The continuing
2 education requirement is not required after July 1, 1996, for
3 a licensee who is over the age of 75 years if the licensee
4 does not qualify as the sole person in charge of an
5 establishment or facility.

6 Section 33. Subsections (1), (4), (5), and (12) of
7 section 497.380, Florida Statutes, as renumbered and amended
8 by section 85 of chapter 2004-301, Laws of Florida, are
9 amended to read:

10 497.380 Funeral establishment; licensure.--

11 (1) A funeral establishment shall be a place at a
12 specific street address or location consisting of at least
13 1,250 contiguous interior square feet and must maintain or
14 make arrangements for ~~either~~ capacity for the refrigeration
15 and storage of dead human bodies handled and stored by the
16 establishment and a preparation room equipped with necessary
17 ventilation and drainage and containing necessary instruments
18 for embalming dead human bodies or must make arrangements for
19 a preparation room as established by rule.

20 (4) Application for a funeral establishment license
21 shall be made on forms and pursuant to procedures specified by
22 rule, shall be accompanied by a nonrefundable fee not to
23 exceed \$300 as set by licensing authority rule, and shall
24 include the name of the licensed funeral director who is in
25 charge of that establishment. The applicant shall be required
26 to make disclosure of the applicant's criminal records, if
27 any, as required by s. 497.142. The applicant shall submit
28 fingerprints in accordance with s. 497.142. A duly completed
29 application accompanied by the required fees shall be approved
30 and the license issued if the proposed funeral establishment
31 has passed an inspection pursuant to rule of the licensing

1 authority, the licensing authority determines the applicant is
2 of good character and has no demonstrated history of lack of
3 trustworthiness or integrity in business or professional
4 matters, and the applicant otherwise is in compliance with all
5 applicable requirements of this chapter.

6 (5) A funeral establishment license shall be renewable
7 biennially pursuant to procedures, and upon payment of a
8 nonrefundable fee not to exceed ~~\$500~~~~\$300~~, as set by licensing
9 authority rule. The licensing authority may also establish by
10 rule a delinquency fee not to exceed \$50 per day.

11 (12)(a) A change in ownership of a funeral
12 establishment shall be promptly reported pursuant to
13 procedures established by rule and shall require the
14 relicensure of the funeral establishment, including
15 reinspection and payment of applicable fees.

16 (b) A change in location of a funeral establishment
17 shall be promptly reported to the licensing authority pursuant
18 to procedures established by rule. Operations by the licensee
19 at a new location may not commence until an inspection by the
20 licensing authority of the facilities, pursuant to rules of
21 the licensing authority, has been conducted and passed at the
22 new location.

23 Section 34. Paragraphs (a) and (g) of subsection (1)
24 and paragraphs (a), (f), and (g) of subsection (2) of section
25 497.385, Florida Statutes, as renumbered and amended by
26 section 90 of chapter 2004-301, Laws of Florida, are amended,
27 and paragraph (i) is added to subsection (2) of that section,
28 to read:

29 497.385 Removal services; refrigeration facilities;
30 centralized embalming facilities.--In order to ensure that the
31 removal, refrigeration, and embalming of all dead human bodies

1 is conducted in a manner that properly protects the public's
2 health and safety, the licensing authority shall adopt rules
3 to provide for the licensure of removal services,
4 refrigeration facilities, and centralized embalming facilities
5 operated independently of funeral establishments, direct
6 disposal establishments, and cinerator facilities.

7 (1) REMOVAL SERVICES AND REFRIGERATION SERVICES.--

8 (a) Application for licensure of a removal service or
9 a refrigeration service shall be made using forms and
10 procedures as specified by rule, shall be accompanied by a
11 nonrefundable fee not to exceed \$300 as set by licensing
12 authority rule, and shall include the name of the business
13 owner, manager in charge, business address, and copies of
14 occupational and other local permits. The applicant shall be
15 required to make disclosure of the applicant's criminal
16 records, if any, as required by s. 497.142. The applicant
17 shall submit fingerprints in accordance with s. 497.142. A
18 duly completed application accompanied by the required fees
19 shall be approved and the license issued if the applicant has
20 passed an inspection pursuant to rule of the licensing
21 authority, the licensing authority determines that the
22 applicant is of good character and has no demonstrated history
23 of lack of trustworthiness or integrity in business or
24 professional matters, and the applicant otherwise is in
25 compliance with all applicable requirements of this chapter.

26 (g)1. A change in ownership shall be promptly reported
27 using forms and procedures specified by rule and may require
28 the relicensure of the licensee, including reinspection and
29 payment of applicable fees, as required by rule.

30 2. A change in location shall be promptly reported to
31 the licensing authority pursuant to procedures established by

1 rule. Operations by the licensee at a new location may not
2 commence until an inspection by the licensing authority of the
3 facilities, pursuant to rules of the licensing authority, has
4 been conducted and passed at the new location.

5 (2) CENTRALIZED EMBALMING FACILITIES.--In order to
6 ensure that all funeral establishments have access to
7 embalming facilities that comply with all applicable health
8 and safety requirements, the licensing authority shall adopt
9 rules to provide for the licensure and operation of
10 centralized embalming facilities and shall require, at a
11 minimum, the following:

12 (a) All centralized embalming facilities shall contain
13 all of the equipment and meet all of the requirements that a
14 preparation room located in a funeral establishment is
15 required to meet, ~~but such facilities shall not be required to~~
16 ~~comply with any of the other requirements for funeral~~
17 ~~establishments, as set forth in s. 497.380. The licensing~~
18 authority may adopt rules establishing the equipment and other
19 requirements for operation of a centralized embalming facility
20 consistent with this paragraph.

21 (f) Application for licensure of a centralized
22 embalming facility shall be made utilizing forms and
23 procedures prescribed by rule and shall be accompanied by a
24 nonrefundable fee not to exceed \$300 as set by licensing
25 authority rule, and licensure shall be renewed biennially
26 pursuant to procedures and upon payment of a nonrefundable fee
27 not to exceed \$300 as set by licensing authority rule. The
28 licensing authority may also establish by rule a late fee not
29 to exceed \$50 per day. Any licensure not renewed within 30
30 days after the renewal date shall expire without further
31 action by the department. The applicant shall be required to

1 make disclosure of the applicant's criminal records, if any,
2 as required by s. 497.142. The applicant shall submit
3 fingerprints in accordance with s. 497.142. A duly completed
4 application accompanied by the required fees shall be approved
5 and the license issued if the applicant has passed an
6 inspection pursuant to rule of the licensing authority, the
7 licensing authority determines that the applicant is of good
8 character and has no demonstrated history of lack of
9 trustworthiness or integrity in business or professional
10 matters, and the applicant otherwise is in compliance with all
11 applicable requirements of this chapter.

12 (g) The licensing authority shall set by rule an
13 annual inspection fee not to exceed \$300, payable upon
14 application for licensure and upon renewal of such licensure.
15 Centralized embalming facilities shall be subject to
16 inspection before issuance of a license and annually
17 thereafter.

18 (i)1. A change in ownership shall be promptly reported
19 using forms and procedures specified by rule and may require
20 the relicensure of the licensee, including reinspection and
21 payment of applicable fees, as required by rule.

22 2. A change in location shall be promptly reported to
23 the licensing authority pursuant to procedures established by
24 rule. Operations by the licensee at a new location may not
25 commence until an inspection by the licensing authority of the
26 facilities, pursuant to rules of the licensing authority, has
27 been conducted and passed at the new location.

28 Section 35. Section 497.453, Florida Statutes, as
29 renumbered and amended by section 102 of chapter 2004-301,
30 Laws of Florida, is amended to read:

31

1 497.453 Application for preneed license, procedures
2 and criteria; renewal; reports.--

3 (1) PRENEED LICENSE APPLICATION PROCEDURES.--

4 (a) A person seeking a license to enter into preneed
5 contracts shall apply for such licensure using forms
6 prescribed by rule.

7 (b) The application shall require the name, business
8 address, residence address, date and place of birth or
9 incorporation, and business phone number of the applicant and
10 all principals of the applicant. The application shall require
11 the applicant's social security number, or, if the applicant
12 is an entity, its federal tax identification number.

13 (c) The application may require information as to the
14 applicant's financial resources.

15 (d) The application may require information as to the
16 educational and employment history of an individual applicant;
17 and as to applicants that are not natural persons, the
18 business and employment history of the applicant and
19 principals of the applicant.

20 (e) The applicant shall be required to make disclosure
21 of the applicant's criminal records, if any, as required by s.
22 497.142. ~~The application shall require the applicant to~~
23 ~~disclose whether the applicant or any of the applicant's~~
24 ~~principals have ever been convicted or found guilty of, or~~
25 ~~entered a plea of no contest to, regardless of adjudication,~~
26 ~~any crime in any jurisdiction.~~

27 (f) The application shall require the applicant to
28 disclose whether the applicant or any of the applicant's
29 principals have ever had a license or the authority to
30 practice a profession or occupation refused, suspended, fined,
31 denied, or otherwise acted against or disciplined by the

1 | licensing authority of any jurisdiction. A licensing
2 | authority's acceptance of a relinquishment of licensure,
3 | stipulation, consent order, or other settlement, offered in
4 | response to or in anticipation of the filing of charges
5 | against the license, shall be construed as action against the
6 | license.

7 | (g) The applicant shall submit fingerprints in
8 | accordance with s. 497.142. ~~The application shall require the~~
9 | ~~applicant and its principals to provide fingerprints in~~
10 | ~~accordance with part I of this chapter.~~

11 | (h) The application shall state the name and license
12 | number of the funeral establishment, cemetery company, direct
13 | disposal establishment, or monument establishment, under whose
14 | license the preneed application is made.

15 | (i) The application shall state the types of preneed
16 | contracts proposed to be written.

17 | (j) The application shall disclose the existence of
18 | all preneed contracts for service or merchandise entered into
19 | by the applicant, or by any other entity under common control
20 | with the applicant, without or prior to authorization under
21 | this section or predecessors to this section. As to each such
22 | contract, the applicant shall disclose the name and address of
23 | the contract purchaser, the status of the contract, and what
24 | steps or measures the applicant has taken to ensure
25 | performance of unfulfilled contracts, setting forth the
26 | treatment and status of funds received from the customer in
27 | regard to the contract, and stating the name and address of
28 | any institution where such funds are deposited and the number
29 | used by the institution to identify the account. With respect
30 | to contracts entered into before January 1, 1983, an
31 | application to issue or renew a preneed license may not be

1 denied solely on the basis of such disclosure. The purchaser
2 of any such contract may not be required to liquidate the
3 account if such account was established before July 1, 1965.
4 Information disclosed may be used by the licensing authority
5 to notify the contract purchaser and the institution in which
6 such funds are deposited should the holder of a preneed
7 license be unable to fulfill the requirements of the contract.

8 (k) The application shall require the applicant to
9 demonstrate that the applicant complies and will comply with
10 all requirements for preneed contract licensure under this
11 chapter.

12 (l) The application may require any other information
13 considered necessary by the department or board to meet its
14 responsibilities under this chapter.

15 (m) The application shall be sworn to and signed in
16 accordance with s. 497.141(12) ~~by the applicant if a natural~~
17 ~~person, or by the president of an applicant that is not a~~
18 ~~natural person.~~

19 (n) The application shall be accompanied by a
20 nonrefundable fee as determined by licensing authority rule
21 but not to exceed \$500.

22 (2) ACTION CONCERNING APPLICATIONS.--A duly completed
23 application for licensure under this section, accompanied by
24 the required fees, shall be approved and a license issued, if
25 the licensing authority determines that the following
26 conditions are met:

27 (a) The application is made by a funeral
28 establishment, cemetery company, direct disposal
29 establishment, or monument establishment, or on behalf of one
30 of the preceding licensees by its agent in the case of a
31

1 corporate entity, licensed and in good standing under this
2 chapter.

3 (b) The applicant meets net worth requirements
4 specified by rule of the licensing authority.

5 1. The net worth required by rule to obtain or renew a
6 preneed license and write and carry up to \$100,000 in total
7 retail value of outstanding preneed contracts shall not exceed
8 \$20,000. The board may specify higher net worth requirements
9 by increments, for total retail value of outstanding preneed
10 contracts carried in excess of \$100,000, as the board
11 determines necessary for the protection of the public.

12 2. An applicant to obtain or renew a preneed licensee
13 that cannot demonstrate the required initial minimum net worth
14 may voluntarily submit to the licensing authority and request
15 acceptance of alternative evidence of financial stability and
16 resources or agree to additional oversight in lieu of the
17 required net worth. Such additional evidence or oversight may
18 include, as appropriate, one or more of the following:

19 a. An agreement to submit monthly financial statements
20 of the entity.

21 b. An agreement to submit quarterly financial
22 statements of the entity.

23 c. An appraisal of the entity's property or broker's
24 opinion of the entity's assets.

25 d. A credit report of the entity or its principals.

26 e. A subordination-of-debt agreement from the entity's
27 principals.

28 f. An indemnification or subrogation agreement binding
29 the entity and its principals.

30 g. A guarantee agreement for the entity from its
31 principals.

1 h. A written explanation of past financial activity.
2 i. Submission of a 12-month projected business plan
3 that includes:
4 (I) A statement of cash flows.
5 (II) Pro forma income statements, with sources of
6 revenues identified.
7 (III) Marketing initiatives.
8 j. Submission of previous department examination
9 reports.
10 k. An agreement of 100 percent voluntary trust by the
11 entity.
12 3. The licensing authority may accept such alternative
13 evidence or arrangements in lieu of the required net worth
14 only if the licensing authority determines that such
15 alternative evidence or arrangements are an adequate
16 substitute for required net worth and that acceptance would
17 not substantially increase the risk to existing or future
18 customers of nonperformance by the applicant or licensee on
19 its retail sales agreements.
20 (c) The applicant has and will have the ability to
21 discharge her or his liabilities as they become due in the
22 normal course of business, and has and will have sufficient
23 funds available during the calendar year to perform her or his
24 obligations under her or his contracts.
25 (d) If the applicant or any entity under common
26 control with the applicant has entered into preneed contracts
27 prior to being authorized to do so under the laws of this
28 state:
29 1. The licensing authority determines that adequate
30 provision has been made to ensure the performance of such
31 contracts.

1 2. The licensing authority determines that the
2 improper sale of such preneed contracts prior to authorization
3 under this chapter does not indicate, under the facts of the
4 particular application in issue, that the applicant has a
5 disregard of the laws of this state such as would expose the
6 public to unreasonable risk if the applicant were issued a
7 preneed license.

8 3. Nothing in this section shall imply any
9 authorization to enter into preneed contracts without
10 authorization under this chapter.

11 (e) Neither the applicant nor the applicant's
12 principals have a demonstrated history of conducting their
13 business affairs to the detriment of the public.

14 (f) The applicant and the applicant's principals are
15 of good character and have no demonstrated history of lack of
16 trustworthiness or integrity in business or professional
17 matters.

18 (g) The applicant does and will comply with all other
19 requirements of this chapter relating to preneed licensure.

20 (3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.--It
21 is the policy of this state to encourage competition for the
22 public benefit in the preneed contract business by, among
23 other means, the entry of new licensees into that business. To
24 facilitate issuance of licenses concerning applications judged
25 by the licensing authority to be borderline as to
26 qualification for licensure, the licensing authority may issue
27 a new license under this section on a probationary basis,
28 subject to conditions specified by the licensing authority on
29 a case-by-case basis, which conditions may impose special
30 monitoring, reporting, and restrictions on operations for up
31 to the first 12 months of licensure, to ensure the licensee's

1 | responsibleness, competency, financial stability, and
2 | compliance with this chapter. Provided, no such probationary
3 | license shall be issued unless the licensing authority
4 | determines that issuance would not pose an unreasonable risk
5 | to the public, and the licensing authority must within 12
6 | months after issuance of the license either remove the
7 | probationary status or determine that the licensee is not
8 | qualified for licensure under this chapter and institute
9 | proceedings for revocation of licensure.

10 | (4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.--

11 | (a) Each licensee under this section must provide
12 | notice as required by rule prior to any change in control of
13 | the licensee. Any such change is subject to disapproval or to
14 | reasonable conditions imposed by the licensing authority, for
15 | the protection of the public to ensure compliance with this
16 | chapter, based upon criteria established by rule, which
17 | criteria shall promote the purposes of this part in protecting
18 | the consumer.

19 | (b) The licensing authority may authorize the transfer
20 | of a preneed license and establish by rule a fee for the
21 | transfer in an amount not to exceed \$500. Upon receipt of an
22 | application for transfer, the executive director may grant a
23 | temporary preneed license to the proposed transferee, based
24 | upon criteria established by the licensing authority by rule,
25 | which criteria shall promote the purposes of this chapter in
26 | protecting the consumer. Such a temporary preneed license
27 | shall expire at the conclusion of the next regular meeting of
28 | the board unless renewed by the board. The licensing authority
29 | may by rule establish forms and procedures for the
30 | implementation of this paragraph.

31 | (5) RENEWAL OF LICENSES.--

1 (a) A preneed license shall expire annually on June 1,
2 unless renewed, or at such other time or times as may be
3 provided by rule. The application for renewal of the license
4 shall be on forms prescribed by rule and shall be accompanied
5 by a renewal fee as specified in paragraph (c).

6 (b) Within 3 months after the end of its fiscal
7 period, or within an extension of time therefor, as the
8 department for good cause may grant, the licensee shall file
9 with the department a full and true statement of her or his
10 financial condition, transactions, and affairs, prepared on a
11 basis as adopted by rule, as of the end of the preceding
12 fiscal period or at such other time or times as may be
13 required by rule, together with such other information and
14 data which may be required by rule. To facilitate uniformity
15 in financial statements and to facilitate department analysis,
16 there may be adopted by rule a form for financial statements.
17 The rules regarding net worth, authorized by paragraph (2)(b),
18 shall be applicable to the renewal of preneed licenses.

19 (c)1. Each annual application for renewal of a preneed
20 license that is not held by a monument establishment shall be
21 accompanied by the appropriate fee as follows:

22 a.1- For a preneed licensee with no preneed contract
23 sales during the immediately preceding year.....\$300.

24 b.2- For a preneed licensee with at least 1 but fewer
25 than 50 preneed contract sales during the immediately
26 preceding year.....\$400.

27 c.3- For a preneed licensee with at least 50 but fewer
28 than 250 preneed contract sales during the immediately
29 preceding year.....\$500.

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1 ~~d.4.~~ For a preneed licensee with at least 250 but
2 fewer than 1,000 preneed contract sales during the immediately
3 preceding year.....\$850.
4 ~~e.5.~~ For a preneed licensee with at least 1,000 but
5 fewer than 2,500 preneed contract sales during the immediately
6 preceding year.....\$1,500.
7 ~~f.6.~~ For a preneed licensee with at least 2,500 but
8 fewer than 5,000 preneed contract sales during the immediately
9 preceding year.....\$2,500.
10 ~~g.7.~~ For a preneed licensee with at least 5,000 but
11 fewer than 15,000 preneed contract sales during the
12 immediately preceding year.....\$6,000.
13 ~~h.8.~~ For a preneed licensee with at least 15,000 but
14 fewer than 30,000 preneed contract sales during the
15 immediately preceding year.....\$12,500.
16 ~~i.9.~~ For a preneed licensee with 30,000 preneed
17 contract sales or more during the immediately preceding year
18\$18,500.
19 2. Each annual application for renewal of a preneed
20 license that is held by a monument establishment shall be
21 accompanied by the appropriate fee determined by its total
22 gross aggregate at-need and preneed retail sales for the
23 12-month period ending 2 full calendar months prior to the
24 month in which the renewal is required, as follows:
25 a. Total sales of \$1 to \$50,000, renewal fee \$1,000.
26 b. Total sales of \$50,001 to \$250,000, renewal fee
27 \$1,500.
28 c. Total sales of \$250,001 to \$500,000, renewal fee
29 \$2,000.
30 d. Total sales over \$500,000, renewal fee \$2,500.
31

1 (d) An application for renewal shall disclose the
2 existence of all preneed contracts for service or merchandise
3 funded by any method other than a method permitted by this
4 chapter, which contracts are known to the applicant and were
5 entered into by the applicant, or any other entity under
6 common control with the applicant, during the annual license
7 period then ending. Such disclosure shall include the name and
8 address of the contract purchaser, the name and address of the
9 institution where such funds are deposited, and the number
10 used by the institution to identify the account.

11 (e) In addition to any other penalty that may be
12 provided for under this chapter, there may be levied a late
13 fee as determined by licensing authority rule but not to
14 exceed \$50 a day for each day the preneed licensee fails to
15 file its annual statement, and there may be levied a late fee
16 as determined by licensing authority rule but not to exceed
17 \$50 a day for each day the preneed licensee fails to file the
18 statement of activities of the trust. Upon notice to the
19 preneed licensee by the department that the preneed licensee
20 has failed to file the annual statement or the statement of
21 activities of the trust, the preneed licensee's authority to
22 sell preneed contracts shall cease while such default
23 continues.

24 (6) QUARTERLY PAYMENTS.--In addition to other amounts
25 required to be paid by this section, each preneed licensee
26 shall pay to the Regulatory Trust Fund an amount established
27 by rule not to exceed \$10 for each preneed contract entered
28 into. This amount must be paid within 60 days after the end of
29 each quarter. These funds must be used to defray the cost of
30 administering the provisions of this chapter ~~part~~.

31 (7) BRANCH OPERATIONS AND LICENSURE.--

1 (a) Any person or entity that is part of a common
2 business enterprise that has a preneed license issued pursuant
3 to this section and desires to operate under a name other than
4 that of the common business enterprise, may submit an
5 application on a form adopted by rule to become a branch
6 licensee. The application shall be accompanied by an
7 application fee as determined by licensing authority rule but
8 not to exceed \$300.

9 (b) Upon a determination that such branch applicant
10 qualifies to sell preneed contracts under this part except for
11 the requirements of paragraph (2)(c), and if the sponsoring
12 preneed licensee under whose preneed license the branch
13 applicant seeks branch status meets the requirements of such
14 paragraph and is in compliance with all requirements of this
15 part regarding its preneed license and operations thereunder,
16 a branch license shall be issued.

17 (c) Branch licenses shall be renewed annually by
18 payment of a renewal fee set by licensing authority rule and
19 not to exceed ~~\$500~~\$300. Branch licenses may be renewed only
20 so long as the preneed license of the sponsoring preneed
21 licensee remains in good standing.

22 ~~(d) Violations of this part by the branch shall be~~
23 ~~deemed to be violations of this part by its sponsoring preneed~~
24 ~~licensee, unless the licensing authority determines that~~
25 ~~extenuating circumstances indicate that it would be unjust to~~
26 ~~attribute the branch's misconduct to the sponsoring preneed~~
27 ~~licensee.~~ Preneed sales of the branch shall be deemed to be
28 sales of the sponsoring licensee for purposes of renewal fees
29 and trust requirements under this chapter.

30 (e) The sponsoring preneed licensee shall be
31 responsible for performance of preneed contracts entered into

1 | by its branch if the branch does not timely fulfill any such
2 | contract.

3 | (8) ANNUAL TRUST REPORTS.--On or before April 1 of
4 | each year, the preneed licensee shall file in the form
5 | prescribed by rule a full and true statement as to the
6 | activities of any trust established by it pursuant to this
7 | part for the preceding calendar year.

8 | (9) DEPOSIT OF FUNDS.--All sums collected under this
9 | section shall be deposited to the credit of the Regulatory
10 | Trust Fund.

11 | Section 36. Subsection (6) of section 497.456, Florida
12 | Statutes, as renumbered and amended by section 105 of chapter
13 | 2004-301, Laws of Florida, is amended to read:

14 | 497.456 Preneed Funeral Contract Consumer Protection
15 | Trust Fund.--

16 | (6) Upon the commencement of a delinquency proceeding
17 | pursuant to this chapter against a preneed licensee, the
18 | licensing authority may use up to 50 percent of the balance of
19 | the trust fund not already committed to a prior delinquency
20 | proceeding ~~solely~~ for the purpose of establishing a
21 | receivership and providing restitution to preneed contract
22 | purchasers and their estates due to a preneed licensee's
23 | failure to provide the benefits of a preneed contract or
24 | failure to refund the appropriate principal amount by reason
25 | of cancellation thereof. The balance of the trust fund shall
26 | be determined as of the date of the delinquency proceeding.

27 | Section 37. Paragraph (h) of subsection (1) and
28 | subsection (4) of section 497.458, Florida Statutes, as
29 | renumbered and amended by section 107 of chapter 2004-301,
30 | Laws of Florida, are amended to read:

31 |

1 497.458 Disposition of proceeds received on
2 contracts.--
3 (1)
4 (h) In no event may trust funds be loaned, directly or
5 indirectly, to any of the following persons: the preneed
6 licensee; any entity under any degree of common control with
7 the preneed licensee; any employee, director, full or partial
8 owner, or principal of the preneed licensee; or any person
9 related by blood or marriage to any of those persons. In no
10 event may trust funds, directly or indirectly, be invested in
11 or with, or loaned to, any business or business venture in
12 which any of the following persons have an interest: the
13 preneed licensee, any entity under any degree of common
14 control with the preneed licensee, any employee, director,
15 full or partial owner, or principal of the preneed licensee,
16 or any person related by blood or marriage to any of those
17 persons. In no event may said funds be loaned to a preneed
18 licensee, an affiliate of a preneed licensee, or any person
19 directly or indirectly engaged in the burial, funeral home, or
20 cemetery business.
21 ~~(4)(a) Trust funds shall not be invested in or loaned~~
22 ~~to or for the benefit of any business venture in which the~~
23 ~~preneed licensee, its principals, or persons related by blood~~
24 ~~or marriage to the licensee or its principals, have a direct~~
25 ~~or indirect interest, without the prior approval of the~~
26 ~~licensing authority.~~
27 ~~(b) Trust funds shall not be loaned to or for the~~
28 ~~benefit of the preneed licensee, its principals, or persons~~
29 ~~related by blood or marriage to the licensee or its~~
30 ~~principals, without the prior approval of the licensing~~
31 ~~authority.~~

1 ~~(c) No approval of such loans or investments shall be~~
2 ~~given unless it be shown by clear and convincing evidence that~~
3 ~~such loan or investment would be in the interest of the~~
4 ~~preneed contract holders whose contracts are secured by the~~
5 ~~trust funds.~~

6 ~~(d)~~ The licensing authority may adopt rules exempting
7 from the prohibition of paragraph (1)(h) this subsection,
8 pursuant to criteria established in such rule, the investment
9 of trust funds in investments, such as widely and publicly
10 traded stocks and bonds, notwithstanding that the licensee,
11 its principals, or persons related by blood or marriage to the
12 licensee or its principals have an interest by investment in
13 the same entity, where neither the licensee, its principals,
14 or persons related by blood or marriage to the licensee or its
15 principals have the ability to control the entity invested in,
16 and it would be in the interest of the preneed contract
17 holders whose contracts are secured by the trust funds to
18 allow the investment.

19 Section 38. Section 497.466, Florida Statutes, as
20 renumbered and amended by section 115 of chapter 2004-301,
21 Florida Statutes, is amended to read:

22 (Substantial rewording of section. See
23 s. 497.466, F.S., for present text.)

24 497.466 Preneed sales agents, license required;
25 application procedures and criteria; appointment of agents;
26 responsibility of preneed licensee.--

27 (1) GENERAL PROVISIONS.--Each individual who offers
28 preneed contracts to the public, or who executes preneed
29 contracts on behalf of a preneed licensee, including any
30 individual who offers, sells, or signs contracts for the
31 preneed sale of burial rights, shall be licensed as a preneed

1 sales agent pursuant to this section; however, an individual
2 licensed in good standing under this chapter as a funeral
3 director may engage in preneed sales for the preneed licensee
4 with whom the funeral director is affiliated, without preneed
5 sales agent licensure or appointment under this section.

6 (2) PRENEED SALES AGENT LICENSE; APPLICATION
7 PROCEDURES.--

8 (a) An individual may hold only one preneed sales
9 agent license at a time.

10 (b) A preneed sales agent license may not be issued to
11 a person under the age of 18 years.

12 (c) A person desiring a preneed sales agent license
13 shall apply to the department for such a license. The
14 application must require the name, social security number,
15 residence address, residence phone number if any, and date and
16 place of birth of the applicant.

17 (d) The application must require the preneed sales
18 agent applicant to disclose any criminal record, as required
19 by s. 497.142.

20 (e) The application must require the preneed sales
21 agent applicant to disclose whether the applicant has ever had
22 a license or the authority to practice a profession or
23 occupation refused, suspended, fined, denied, or otherwise
24 acted against or disciplined by the licensing authority of any
25 jurisdiction. A licensing authority's acceptance of a
26 relinquishment of licensure, stipulation, consent order, or
27 other settlement, offered in response to or in anticipation of
28 the filing of charges against the license, constitutes action
29 against the license.

30 (f) The application must require identification by the
31 preneed sales agent applicant of the preneed licensee whom the

1 preneed sales agent applicant believes will initially appoint
2 the preneed sales agent if a preneed sales agent license is
3 issued.

4 (g) The application must be signed by the applicant.
5 The licensing authority may accept electronic signatures.

6 (h) The application must be accompanied by a
7 nonrefundable fee of \$150 if made through the department's
8 online licensing system, or \$175 if made using paper forms.
9 Payment of either fee as specified in this paragraph entitles
10 the applicant to one initial appointment without payment of
11 further fees by the preneed sales agent or the appointing
12 preneed licensee if a preneed sales agent license is issued.
13 The licensing authority may from time to time increase the
14 fees specified in this paragraph, but not to exceed \$300.

15 (3) ISSUANCE OF A TEMPORARY PRENEED SALES AGENT
16 LICENSE.--

17 (a) Upon receipt of a duly completed application and
18 the required fee, a temporary preneed sales agent license
19 shall be issued to the applicant if:

- 20 1. The applicant is at least 18 years of age;
21 2. The application indicates that the applicant has no
22 disciplinary or criminal record, and the department has no
23 record indicating that the applicant has a disciplinary or
24 criminal record; and
25 3. The applicant has never previously held a temporary
26 preneed sales agent license that lapsed for failure to submit
27 fingerprints as required by this section.

28 (b) A temporary preneed sales agent license is valid
29 for only 120 days after the date issued and may not be
30 renewed.

31

1 (c) An applicant for a preneed sales agent license who
2 has previously been issued a preneed sales agent temporary
3 license that for any reason expired without becoming permanent
4 is thereafter ineligible for another temporary preneed sales
5 agent license. Such a person may apply again for a preneed
6 sales agent license, but the license may not be issued until
7 fingerprints are provided as required by s. 497.142, a report
8 is received from the Department of Law Enforcement advising
9 that the applicant has no criminal record, and the applicant
10 is otherwise determined by the department and board to qualify
11 for preneed sales agent licensure.

12 (4) CONVERSION OF TEMPORARY PRENEED SALES AGENT
13 LICENSE TO PERMANENT PRENEED SALES AGENT LICENSE.--

14 (a) A temporary preneed sales agent licensee who
15 desires to obtain a permanent preneed sales agent license
16 shall, within 90 days after the issuance of the temporary
17 preneed sales agent license, submit his or her fingerprints to
18 the licensing authority for a criminal background check, in
19 accordance with s. 497.142. Unless the department determines
20 before the expiration of the temporary preneed sales agent
21 license that the temporary licensee has a criminal or
22 disciplinary record, the preneed sales agent temporary license
23 shall automatically be converted to a permanent preneed sales
24 agent license.

25 (b) The department shall promptly give written notice
26 to the temporary preneed sales agent licensee, and to all
27 preneed licensees who have the temporary preneed sales agent
28 under appointment, that the preneed sales agent's temporary
29 license has been converted to a permanent license, or has
30 lapsed, as the case may be.

31

1 (5) APPLICANTS HAVING A CRIMINAL OR DISCIPLINARY
2 RECORD.--

3 (a) A preneed sales agent applicant having a criminal
4 or disciplinary record is ineligible for a temporary preneed
5 sales agent license. A permanent preneed sales agent license
6 may not be issued to any person who has a criminal or
7 disciplinary record, except upon approval of the board.

8 (b) If, while a temporary preneed sales agent license
9 is in force, the department determines that the temporary
10 licensee has a criminal or disciplinary record, the temporary
11 license shall be immediately suspended and shall not
12 automatically convert to a permanent preneed sales agent
13 license. The department shall promptly give written notice of
14 the suspension to the suspended licensee and to all preneed
15 licensees who have the suspended preneed sales agent under
16 appointment. The suspended preneed sales agent licensee may
17 thereafter, within 21 days after the date of suspension,
18 petition the board under paragraph (c) for issuance of a
19 permanent preneed sales agent notwithstanding the criminal or
20 disciplinary record. If a petition for board review is not
21 timely received by the department or board, the temporary
22 preneed sales agent license shall be revoked.

23 (c) An applicant having a criminal or disciplinary
24 record who desires a permanent preneed sales agent license
25 shall petition the board for issuance of such a license, using
26 forms and procedures as specified by rule. The board shall
27 issue a permanent preneed sales agent license to an applicant
28 having a criminal or disciplinary record if the board
29 determines that:

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1 1. There was no inaccuracy in the application for
2 license which indicates that the applicant is untrustworthy;
3 and

4 2. The applicant, if issued a preneed sales agent
5 license, would not pose an unreasonable risk to members of the
6 public who deal with the applicant in preneed transactions.

7 (d) The board may issue a preneed sales agent license
8 to an applicant who has a criminal or disciplinary record, on
9 a probationary status and subject to reasonable terms of
10 probation not to exceed 24 months in duration.

11 (6) TERMINATION OF A PERMANENT PRENEED SALES AGENT
12 LICENSE DUE TO LACK OF APPOINTMENTS.--A permanent preneed
13 sales agent license shall remain in force without a
14 requirement for renewal until there have been no appointments
15 of the preneed sales agent under the license for 48
16 consecutive months, at which time the permanent preneed sales
17 agent license will terminate. The former preneed sales agent
18 licensee may thereafter apply for issuance of a new preneed
19 sales agent license under this section.

20 (7) APPOINTMENT OF PRENEED SALES AGENTS.--

21 (a) A preneed sales agent licensee may be appointed by
22 as many preneed licensees as desire to appoint the preneed
23 sales agent licensee. When a preneed sales agent licensee is
24 appointed by a preneed licensee, the department shall promptly
25 give written notice to all other preneed licensees who then
26 have that same preneed sales agent under appointment.

27 (b) A preneed licensee may appoint a preneed sales
28 agent licensee by identifying to the department the preneed
29 sales agent licensee to be appointed, requesting appointment,
30 and paying the required appointment fee. The appointment
31

1 request shall be signed by the preneed licensee. The
2 department may accept electronic signatures.

3 (c) Appointments shall be effective when made and
4 shall expire 24 months after the last day of the month in
5 which the appointment was made, unless earlier terminated by
6 the preneed licensee or the preneed sales agent. However, the
7 initial appointment of a preneed sales agent licensee may not
8 be made until 24 hours after a temporary preneed sales agent
9 license is issued to that preneed sales agent. Furthermore, an
10 appointment is effective only as long as the preneed sales
11 agent licensee's license is in good standing.

12 (d) A preneed licensee shall take reasonable steps to
13 assure that the preneed sales agent licensees whom it appoints
14 have adequate training regarding preneed sales.

15 (e) An appointment may be renewed for additional
16 24-month periods by notification by the preneed licensee to
17 the department that the preneed licensee desires to renew the
18 appointment, accompanied by payment by the preneed licensee of
19 the appointment renewal fee.

20 (f) Initial and renewal appointment fees shall be
21 nonrefundable and shall be in the amount of \$150 if made
22 through the department's online licensing system, and \$175 if
23 made using paper forms requiring manual processing by the
24 department. The board may, by rule, increase the appointment
25 fees but not to exceed \$300.

26 (g)1. An appointment may be terminated at any time by
27 the appointing preneed licensee or by the appointed preneed
28 sales agent licensee.

29 2. Termination of appointment shall be accomplished by
30 notice of termination conveyed to the department and signed by
31 the person or entity requesting the termination. The

1 department may accept electronic signatures. There shall be
2 no fee for termination of appointment accomplished through the
3 department's online licensing system. There shall be a fee of
4 \$25 for terminations made using paper forms requiring manual
5 processing by the department.

6 3. When an appointment is terminated, whether by the
7 preneed licensee or the preneed sales agent licensee, the
8 department shall promptly provide written confirmation of the
9 termination to both the preneed sales agent licensee and the
10 preneed licensee at their respective addresses of record with
11 the department.

12 4. If a preneed licensee terminates the authority of a
13 preneed sales agent license to sell for the preneed licensee,
14 the preneed licensee shall, within 30 days after the
15 termination, terminate the appointment as provided under
16 subparagraph 2.

17 5. If a preneed sales agent licensee terminates his or
18 her preneed sales relationship with a preneed licensee, the
19 preneed sales agent licensee shall, within 30 days after the
20 termination, terminate the appointment as provided under
21 subparagraph 2.

22 6. If the license of a preneed sales agent is
23 suspended or revoked pursuant to disciplinary action by the
24 licensing authority against the preneed sales agent, the
25 department shall promptly give written notice of such action
26 to all preneed licensees who then have that preneed sales
27 agent under appointment.

28 (8) ADMINISTRATIVE MATTERS.--

29 (a) The licensing authority may, by rule, prescribe
30 forms and procedures for administering this section.

31

1 (b)1. Each person who holds one or more preneed sales
2 agent licenses in good standing under s. 497.439 as of 11:59
3 p.m. on September 30, 2005, shall be deemed as of October 1,
4 2005, to hold a permanent preneed sales agent license under
5 this section, effective October 1, 2005.

6 2. Each person who holds one or more preneed sales
7 agent licenses in good standing under s. 497.439 as of 11:59
8 p.m. on September 30, 2005, shall be deemed as of October 1,
9 2005, to be appointed by each preneed licensee in regard to
10 whom he or she holds a preneed sales agent license as of 11:59
11 p.m. on September 30, 2005. Such appointments shall expire on
12 the same date as the preneed sales agent license would have
13 expired under the law in effect at 11:59 p.m. on September 30,
14 2005.

15 (c) The reference to a criminal record in this section
16 refers to and includes only crimes required to be disclosed
17 under s. 497.142.

18 (d) The reference to a disciplinary record as used in
19 this section refers to and includes any instance in which the
20 applicant has ever had a license or the authority to practice
21 a profession or occupation refused, suspended, fined, denied,
22 or otherwise acted against or disciplined by the licensing
23 authority of any jurisdiction. A licensing authority's
24 acceptance of a relinquishment of licensure, stipulation,
25 consent order, or other settlement, offered in response to or
26 in anticipation of the filing of charges against the license,
27 constitutes action against the license.

28 (e) A preneed licensee shall be responsible for the
29 activities of all preneed sales agents, and all funeral
30 directors acting as preneed sales agents, who are affiliated
31 with the preneed licensee and who perform any type of

1 preneed-related activity on behalf of the preneed licensee. In
2 addition to the preneed sales agents and funeral directors
3 acting as preneed sales agents, each preneed licensee is also
4 subject to discipline if its preneed sales agents or funeral
5 directors acting as preneed sales agents violate any provision
6 of this chapter.

7 Section 39. Section 497.468, Florida Statutes, is
8 created to read:

9 497.468 Disclosure of information to the public.--A
10 preneed licensee offering to provide burial rights,
11 merchandise, or services to the public shall:

12 (1) Provide by telephone, upon request, accurate
13 information regarding the retail prices of burial merchandise
14 and services offered for sale by the licensee.

15 (2) Fully disclose all regularly offered services and
16 merchandise prior to the selection of burial services or
17 merchandise. The full disclosure required shall identify the
18 prices of all burial rights, services, and merchandise
19 provided by the licensee.

20 (3) Not make any false or misleading statements of the
21 legal requirement as to the necessity of a casket or outer
22 burial container.

23 (4) Provide a good-faith estimate of all fees and
24 costs the customer will incur to use any burial rights,
25 merchandise, or services purchased.

26 (5) Provide to the customer, upon the purchase of any
27 burial right, merchandise, or service, a written contract, the
28 form of which has been approved by the licensing authority
29 pursuant to procedures specified by rule.

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1 (a) The written contract shall be completed as to all
2 essential provisions prior to the signing of the contract by
3 the customer.

4 (b) The written contract shall provide an itemization
5 of the amounts charged for all services, merchandise, and
6 fees, which itemization shall be clearly and conspicuously
7 segregated from everything else on the written contract.

8 (c) A description of the merchandise covered by the
9 contract to include, when applicable, model, manufacturer, and
10 other relevant specifications.

11 (6) Provide the licensee's policy on cancellation and
12 refunds to each customer.

13 (7) In a manner established by rule of the licensing
14 authority, provide on the signature page, clearly and
15 conspicuously in boldfaced 10-point type or larger, the
16 following:

17 (a) The words "purchase price."

18 (b) The amount to be trusted.

19 (c) The amount to be refunded upon contract
20 cancellation.

21 (d) The amounts allocated to merchandise, services,
22 and cash advances.

23 (e) The toll-free number of the department which is
24 available for questions or complaints.

25 (f) A statement that the purchaser shall have 30 days
26 from the date of execution of contract to cancel the contract
27 and receive a total refund of all moneys paid for items not
28 used.

29 (8) Effective October 1, 2006, display in its offices
30 for free distribution to all potential customers, and provide
31 to all customers at the time of sale, a brochure explaining

1 how and by whom preneed sales are regulated, summarizing
2 consumer rights under the law, and providing the name,
3 address, and phone number of the department's consumer affairs
4 division. The format and content of the brochure shall be as
5 prescribed by rule. The licensing authority may cause the
6 publication of such brochures and, by rule, establish
7 requirements that preneed licensees purchase and make
8 available such brochures as so published, in the licensee's
9 offices, to all potential customers.

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

13 Section 40. Paragraphs (a), (b), (c), (d), and (e) are
14 added to subsection (1) of section 497.550, Florida Statutes,
15 as renumbered and amended by section 118 of chapter 2004-301,
16 Laws of Florida, paragraphs (c), (e), (f), and (h) of
17 subsection (2) of that section are amended, and paragraph (j)
18 is added to subsection (2) of that section, to read:

19 497.550 Licensure of monument establishments required;
20 procedures and criteria.--

21 (1) LICENSE REQUIRED.--No person shall conduct,
22 maintain, manage, or operate a monument establishment in this
23 state unless the monument establishment is licensed pursuant
24 to this part.

25 (a) The two categories of monument establishment
26 licensure available in this state are:

27 1. Monument builder; and

28 2. Monument dealer.

29 (b) An applicant for licensure as a monument
30 establishment shall designate, on the application form, the
31

1 category of monument establishment licensure for which he or
2 she is applying.

3 (c) Each monument establishment that is licensed under
4 this chapter at 11:59 p.m. on September 30, 2005, is, on and
5 after October 1, 2005, licensed as a monument dealer subject
6 to the requirements of this chapter. A person who becomes
7 licensed as a monument dealer by operation of this paragraph
8 may apply to the board for licensure as a monument builder
9 and, upon payment of applicable application fees and the
10 granting of such application and licensure as a monument
11 builder, such person's licensure as a monument dealer will
12 expire.

13 (d) The requirements of this part apply to both
14 monument dealers and monument builders, except as provided in
15 this paragraph. Each monument establishment must be a
16 physical structure that is located at a specific street
17 address, in compliance with zoning regulations of the
18 appropriate local government, and not located on property that
19 is exempt from taxation, but a monument dealer may not
20 otherwise be required to comply with s. 497.552 or be subject
21 to inspection under this part.

22 (e) A monument establishment that is not licensed
23 under the monument-builder category is not eligible for a
24 preneed sales license.

25 (2) APPLICATION PROCEDURES.--A person seeking
26 licensure as a monument establishment shall apply for such
27 licensure using forms prescribed by rule.

28 (c) The applicant shall be required to make disclosure
29 of the applicant's criminal records, if any, as required by s.
30 497.142. ~~The application shall require the applicant to~~
31 ~~disclose whether the applicant or any of its principals have~~

1 ~~ever been convicted or found guilty of, or entered a plea of~~
2 ~~no contest to, regardless of adjudication, any crime in any~~
3 ~~jurisdiction.~~

4 (e) The applicant shall submit fingerprints in
5 accordance with s. 497.142. ~~The application shall require the~~
6 ~~applicant's principals to provide fingerprints in accordance~~
7 ~~with part I of this chapter.~~

8 (f) The applicant shall be a natural person at least
9 18 years of age, a corporation, a partnership, or a limited
10 liability company ~~formed prior to January 1, 2005, which~~
11 ~~limited liability company already holds a license under this~~
12 ~~chapter.~~

13 (h) The application shall be signed in accordance with
14 s. 497.141(12) ~~by the applicant if a natural person, or by the~~
15 ~~president of an applicant that is a corporation.~~

16 (j) Upon receipt of the application and application
17 fee, the licensing authority shall inspect the proposed
18 monument establishment facilities in accordance with rules of
19 the licensing authority.

20 Section 41. Section 497.551, Florida Statutes, as
21 created by chapter 2004-301, Laws of Florida, is amended to
22 read:

23 497.551 Renewal of monument establishment licensure.--

24 (1) A monument establishment license must be renewed
25 biennially by the licensee.

26 (2) A monument establishment licensee ~~that does not~~
27 ~~hold a preneed sales license as of 90 days prior to the date~~
28 ~~its monument establishment license renewal is due,~~ shall renew
29 its monument establishment license by payment of a renewal fee
30 established by rule not to exceed \$250.

31

1 ~~(3) A monument establishment licensee which as of 90~~
2 ~~days prior to its monument establishment license renewal date~~
3 ~~also holds a preneed sales license issued under this chapter,~~
4 ~~shall renew its monument establishment license by payment of a~~
5 ~~renewal fee determined by its total gross aggregate at need~~
6 ~~and preneed retail sales for the 12 month period ending 2 full~~
7 ~~calendar months prior to the month in which the renewal is~~
8 ~~required, as follows:~~

9 ~~(a) Total sales of \$1 to \$50,000, renewal fee \$1,000.~~

10 ~~(b) Total sales of \$50,001 to \$250,000, renewal fee~~
11 ~~\$1,500.~~

12 ~~(c) Total sales of \$250,001 to \$500,000, renewal fee~~
13 ~~\$2,000.~~

14 ~~(d) Total sales over \$500,000, renewal fee \$2,500.~~

15 ~~(3)(4)~~ Rules may be adopted providing procedures,
16 forms, and uniform timeframes for monument establishment
17 license renewals.

18 Section 42. Subsection (4) of section 497.552, Florida
19 Statutes, as created by chapter 2004-301, Laws of Florida, is
20 amended to read:

21 497.552 Required facilities.--Effective January 1,
22 2006, a monument establishment shall at all times have and
23 maintain a full-service place of business at a specific street
24 address or location in Florida complying with the following
25 requirements:

26 (4) It shall have facilities on site for inscribing
27 monuments and equipment to deliver and install markers and
28 monuments.

29 Section 43. Subsections (1) and (5) of section
30 497.553, Florida Statutes, as created by chapter 2004-301,
31

1 | Laws of Florida, are amended, and subsection (6) is added to
2 | that section, to read:

3 | 497.553 Regulation of monument establishments.--
4 | (1) The Department of Financial Services shall
5 | establish and implement an inspection program for all monument
6 | establishments in accordance with the requirements of this
7 | act. The board shall set by rule an annual inspection fee not
8 | to exceed \$300, payable upon application for licensure and
9 | upon each renewal of such a license.

10 | (5) Commencing January 1, 2006, the failure of a
11 | monument establishment to deliver and install a purchased
12 | monument or marker by the date agreed in the sales agreement
13 | shall entitle the customer to a full refund of all amounts
14 | paid by the customer for the monument and its delivery and
15 | installation, unless the monument establishment has obtained a
16 | written agreement from the customer extending the delivery
17 | date. Such refund shall be made within 30 days after receipt
18 | by the monument establishment of the customer's written
19 | request for a refund. This subsection does not preclude the
20 | purchase and installation of a new monument from any other
21 | registered monument establishment or ~~preceed sales~~ licensee.

22 | (6)(a) A change in ownership shall be promptly
23 | reported using forms and procedures specified by rule and may
24 | require the relicensure of the licensee, including
25 | reinspection and payment of applicable fees, as required by
26 | rule.

27 | (b) A change in location shall be promptly reported to
28 | the licensing authority pursuant to procedures established by
29 | rule. Operations by the licensee at a new location may not
30 | commence until an inspection by the licensing authority of the

31 |

1 facilities, pursuant to rules of the licensing authority, has
2 been conducted and passed at the new location.

3 Section 44. Paragraph (b) of subsection (2) and
4 subsection (4) of section 497.554, Florida Statutes, as
5 created by chapter 2004-301, Laws of Florida, are amended, and
6 subsection (7) is added to that section, to read:

7 497.554 Monument establishment sales
8 representatives.--

9 (2) APPLICATION PROCEDURES.--Licensure as a monument
10 establishment sales agent shall be by submission of an
11 application for licensure to the department on a form
12 prescribed by rule.

13 (b) The applicant shall be required to make disclosure
14 of the applicant's criminal records, if any, as required by s.
15 497.142. The applicant shall submit fingerprints in accordance
16 with s. 497.142. The application shall require the applicant
17 ~~to disclose whether the applicant has ever been convicted or~~
18 ~~found guilty of, or entered a plea of no contest to,~~
19 ~~regardless of adjudication, any crime in any jurisdiction.~~

20 (4) RENEWAL; TERMINATION OF AUTHORITY.--

21 (a) A monument establishment sales agent license under
22 this section shall be renewed upon payment of a fee determined
23 by rule of the licensing authority but not to exceed \$250.

24 ~~Once issued, a monument establishment sales agent license of~~
25 ~~an agent not licensed to make preneed sales shall remain in~~
26 ~~effect without renewal until surrendered, or the sponsoring~~
27 ~~monument establishment terminates the agent's authority to~~
28 ~~sell on behalf of that monument establishment, or the license~~
29 ~~is revoked or suspended by the licensing authority for cause.~~

30 (b) The monument establishment whose officer signed
31 the sales agent application shall terminate that agent's

1 authority to sell on behalf of that monument establishment,
2 and the monument establishment in writing shall advise the
3 licensing authority of such termination within 30 days after
4 the termination.

5 (7) EFFECTIVE DATE.--The provisions of this section
6 shall be effective October 1, 2006.

7 Section 45. Section 497.555, Florida Statutes, as
8 created by chapter 2004-301, Laws of Florida, is amended to
9 read:

10 497.555 Required rules.--Rules shall be adopted
11 establishing minimum standards for access to all cemeteries by
12 licensed monument establishments for the purpose of delivering
13 and installing markers and monuments. In all cases, cemeteries
14 and monument establishments must comply with these minimum
15 standards.

16 Section 46. Paragraphs (d) and (f) of subsection (2)
17 of section 497.602, Florida Statutes, as renumbered and
18 amended by section 127 of chapter 2004-301, Laws of Florida,
19 are amended to read:

20 497.602 Direct disposers, license required; licensing
21 procedures and criteria; regulation.--

22 (2) APPLICATION PROCEDURES.--

23 (d) The applicant shall be required to make disclosure
24 of the applicant's criminal records, if any, as required by s.
25 497.142. ~~The application shall require the applicant to~~
26 ~~disclose whether the applicant has ever been convicted or~~
27 ~~found guilty of, or entered a plea of no contest to,~~
28 ~~regardless of adjudication, any crime in any jurisdiction.~~

29 (f) The applicant shall submit fingerprints in
30 accordance with s. 497.142. ~~The application shall require the~~
31

1 ~~applicant to provide fingerprints in accordance with part I of~~
2 ~~this chapter.~~

3 Section 47. Subsection (1) of section 497.603, Florida
4 Statutes, as renumbered and amended by chapter 2004-301, Laws
5 of Florida, is amended to read:

6 497.603 Direct disposers, renewal of license.--

7 (1) A direct disposer's renewal of license upon
8 receipt of the renewal application and fee set by rule of the
9 licensing authority but not to exceed ~~\$500~~\$250.

10 Section 48. Paragraphs (f), (h), and (j) of subsection
11 (2), paragraphs (a) and (b) of subsection (3), and subsection
12 (7) of section 497.604, Florida Statutes, as renumbered and
13 amended by section 129 of chapter 2004-301, Laws of Florida,
14 are amended, and paragraph (f) is added to subsection (9) of
15 that section, to read:

16 497.604 Direct disposal establishments, license
17 required; licensing procedures and criteria; license renewal;
18 regulation.--

19 (2) APPLICATION PROCEDURES.--

20 (f) The applicant shall be required to make disclosure
21 of the applicant's criminal records, if any, as required by s.
22 497.142. The application shall require the applicant to
23 disclose whether the applicant or any of the applicant's
24 principals including its proposed supervising licensee has
25 ever been convicted or found guilty of, or entered a plea of
26 no contest to, regardless of adjudication, any crime in any
27 jurisdiction.

28 (h) The applicant shall submit fingerprints in
29 accordance with s. 497.142. The application shall require the
30 applicant and its principals to provide fingerprints in
31 accordance with part I of this chapter.

1 (j) The application shall be signed in accordance with
2 s. 497.141(12) ~~by the applicant if a natural person or by the~~
3 ~~president of an applicant that is not a natural person.~~

4 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
5 application for licensure under this section, accompanied by
6 the required fee, shall be approved if the licensing authority
7 determines that the following conditions are met:

8 (a) The applicant is a natural person at least 18
9 years of age, a corporation, a partnership, or a limited
10 liability company ~~formed prior to January 1, 2006, which~~
11 ~~limited liability company already holds a license under this~~
12 ~~chapter.~~

13 (b) The applicant does or will prior to commencing
14 operations under the license comply with all requirements of
15 this chapter relating to the license applied for. The
16 applicant shall have passed an inspection prior to issuance of
17 a license under this section, in accordance with rules of the
18 licensing authority.

19 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee
20 under this section must provide notice as required by rule
21 prior to any change in location or control of the licensee or
22 licensed person in charge of the licensee's operations. A
23 change in control is subject to approval by the licensing
24 authority and to reasonable conditions imposed by the
25 licensing authority, for the protection of the public to
26 ensure compliance with this chapter. Operations by the
27 licensee at a new location may not commence until an
28 inspection by the licensing authority of the facilities at the
29 new location, pursuant to rules of the licensing authority,
30 has been conducted and passed. ~~Each licensee under this~~
31 ~~section must provide notice as required by rule prior to any~~

1 ~~change in location or control of the licensee or licensed~~
2 ~~person in charge of the licensee's operations. Any such change~~
3 ~~is subject to disapproval or to reasonable conditions imposed~~
4 ~~by the licensing authority, for the protection of the public~~
5 ~~to ensure compliance with this chapter.~~

6 (9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.--

7 (f) A direct disposal establishment shall retain all
8 signed contracts for a period of at least 2 years.

9 Section 49. Paragraphs (f), (h), and (j) of subsection
10 (2), paragraph (b) of subsection (3), subsection (7), and
11 paragraphs (i), (j), and (k) of subsection (9) of section
12 497.606, Florida Statutes, as renumbered and amended by
13 section 131 of chapter 2004-301, Laws of Florida, are amended
14 to read:

15 497.606 Cinerator facility, licensure required;
16 licensing procedures and criteria; license renewal;
17 regulation.--

18 (2) APPLICATION PROCEDURES.--

19 (f) The applicant shall be required to make disclosure
20 of the applicant's criminal records, if any, as required by s.
21 497.142. ~~The application shall require the applicant to~~
22 ~~disclose whether the applicant or any of the applicant's~~
23 ~~principals including its proposed supervising licensee has~~
24 ~~ever been convicted or found guilty of, or entered a plea of~~
25 ~~no contest to, regardless of adjudication, any crime in any~~
26 ~~jurisdiction.~~

27 (h) The applicant shall submit fingerprints in
28 accordance with s. 497.142. ~~The application shall require the~~
29 ~~applicant and its principals to provide fingerprints in~~
30 ~~accordance with part I of this chapter.~~

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1 (j) The application shall be signed in accordance with
2 s. 497.141(12) ~~by the applicant if a natural person or by the~~
3 ~~president of an applicant that is not a natural person.~~

4 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
5 application for licensure under this section, accompanied by
6 the required fee, shall be approved if the licensing authority
7 determines that the following conditions are met:

8 (b) The applicant is a natural person at least 18
9 years of age, a corporation, a partnership, or a limited
10 liability company ~~formed prior to January 1, 2006, which~~
11 ~~limited liability company already holds a license under this~~
12 ~~chapter.~~

13 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee
14 under this section must provide notice as required by rule
15 prior to any change in location or ~~control of the licensee,~~
16 or licensed person in charge of the licensee's operations. ~~A~~
17 change in control is subject to approval by the licensing
18 authority and to reasonable conditions ~~Any such change is~~
19 ~~subject to disapproval or to reasonable conditions~~ imposed by
20 the licensing authority, for the protection of the public to
21 ensure compliance with this chapter. Operations by the
22 licensee at a new location may not commence until an
23 inspection by the licensing authority of the facilities,
24 pursuant to rules of the licensing authority, has been
25 conducted and passed at the new location.

26 (9) REGULATION OF CINERATOR FACILITIES.--

27 ~~(i) There shall be adopted by rule criteria for~~
28 ~~acceptable cremation and alternative containers.~~

29 ~~(i)(j)~~ There shall be rules adopted requiring each
30 facility to submit periodic reports to the department which
31 include the names of persons cremated, the date and county of

1 death, the name of each person supervising each cremation, the
2 name and license number of the establishment requesting
3 cremation, and the types of containers used to hold the body
4 during cremation.

5 ~~(j)(k)~~ Each cinerator facility must be inspected prior
6 to the initial issuance of its license and annually thereafter
7 ~~issuance and renewal of its license~~ and shall:

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

10 2. Maintain refrigeration that satisfies the standards
11 set by the Department of Health and contains ~~a~~ sufficient
12 refrigerated space ~~number of shelves~~ for the average daily
13 number of bodies stored, if unembalmed bodies are kept at the
14 site.

15 3. Maintain sufficient pollution control equipment to
16 comply with requirements of the Department of Environmental
17 Protection in order to secure annual approved certification.

18 4. Either have on site or immediately available
19 sufficient gasketed ~~sealed~~ containers of a type required for
20 the transportation of bodies as specified in applicable state
21 rules.

22 5. Maintain the premises in a clean and sanitary
23 condition.

24 6. Have appropriate Department of Environmental
25 Protection permits.

26 ~~7. Retain all signed contracts for a period of at~~
27 ~~least 2 years.~~

28 Section 50. Subsection (3) of section 497.607, Florida
29 Statutes, as renumbered and amended by section 132 of chapter
30 2004-301, Laws of Florida, is amended, and subsection (4) is
31 added to that section, to read:

1 497.607 Cremation; procedure required.--

2 (3) Pursuant to the request of a legally authorized
3 person and incidental to final disposition, cremation may be
4 performed on parts of human remains. ~~This subsection does not~~
5 ~~authorize the cremation of body parts as defined in s.~~
6 ~~497.005.~~

7 (4) In regard to human remains delivered to the
8 control of the anatomical board of this state headquartered at
9 the University of Florida Health Science Center, the
10 provisions of this subsection and chapter may not be construed
11 to prohibit the anatomical board from causing the final
12 disposition of such human remains through cremation or
13 otherwise, when performed in facilities owned and operated by
14 the anatomical board or the University of Florida Health
15 Science Center pursuant to and using such processes,
16 equipment, and procedures as the anatomical board determines
17 to be proper and adequate.

18 Section 51. Section 152 of chapter 2004-301, Laws of
19 Florida, is amended to read:

20 Section 152. (1) The rules of the Board of Funeral
21 Directors and Embalmers and of the Department of Business and
22 Professional Regulation relating to the Board of Funeral
23 Directors and Embalmers or implementation of chapter 470,
24 Florida Statutes, which were in effect at 11:59 p.m. on the
25 day prior to this act taking effect shall become on the
26 subjects that they address the rules of the Department of
27 Financial Services and the Board of Funeral, Cemetery, and
28 Consumer Services and shall remain in effect until amended or
29 repealed in the manner provided by law.

30 (2) The rules of the Board of Funeral and Cemetery
31 Services which were in effect at 11:59 p.m. on the day prior

1 to this act taking effect shall become on the subjects that
2 they address the rules of the Department of Financial Services
3 and the Board of Funeral, Cemetery, and Consumer Services and
4 shall remain in effect until specifically amended or repealed
5 in the manner provided by law.

6 (3) The rules of the Department of Financial Services
7 relating to chapter 497, Florida Statutes, which were in
8 effect at 11:59 p.m. ~~P.M.~~ on the day prior to this act taking
9 effect shall continue in force until thereafter repealed or
10 amended pursuant to chapter 120, Florida Statutes, and this
11 act.

12 Section 52. Subsection (3) of section 626.785, Florida
13 Statutes, is amended to read:

14 626.785 Qualifications for license.--

15 (3) Notwithstanding any other provisions of this
16 chapter, a funeral director, a direct disposer, or an employee
17 of a funeral establishment which holds a certificate of
18 authority pursuant to s. 497.452 ~~s. 497.405~~ may obtain an
19 agent's license to sell only policies of life insurance
20 covering the expense of a prearrangement for funeral services
21 or merchandise so as to provide funds at the time the services
22 and merchandise are needed. The face amount of insurance
23 covered by any such policy shall not exceed \$12,500, plus an
24 annual percentage increase based on the Annual Consumer Price
25 Index compiled by the United States Department of Labor,
26 beginning with the Annual Consumer Price Index announced by
27 the United States Department of Labor for 2003 ~~\$7,500.~~

28 Section 53. Sections 497.275, 497.388, and 497.556,
29 Florida Statutes, are repealed.

30 Section 54. This act shall take effect October 1,
31 2005.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/CS/SB 2346

- Restores a definition of "'funeral' or 'funeral service,'" which was previously stricken.
- Removes a provision granting rulemaking authority to the Board of Funeral and Cemetery Services relating to written contracts or agreements required to be entered into by providers with the licensing authority as a prerequisite to acceptance of training or continuing education provided by such provider for credit under ch. 497, F.S.
- Provides that fingerprint processing must be paid to the Department of Financial Services.