

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to funeral and cemetery industry
7 regulation; amending s. 316.1974, F.S.; authorizing the
8 use of purple lights on certain funeral escort vehicles
9 and funeral lead vehicles; amending s. 497.005, F.S.;
10 revising definitions; amending s. 497.101, F.S.;
11 clarifying eligibility for Board of Funeral, Cemetery, and
12 Consumer Services membership; requiring the Department of
13 Financial Services to adopt rules regarding application
14 for board membership; amending s. 497.103, F.S.; revising
15 authority of the department to take emergency action;
16 limiting the authority of the Chief Financial Officer;
17 amending s. 497.140, F.S.; revising the time period for
18 board reaction to department revenue projections;
19 providing for future termination of certain assessments;
20 providing for delinquency fees to be charged and collected
21 from certain licensees; providing a default delinquency
22 fee; amending s. 497.141, F.S.; requiring licensure
23 applications to include tax identification numbers of

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24 | applicants that are not natural persons; authorizing the
25 | licensing authority to require certain applicants to
26 | provide a photograph; clarifying when licenses may be
27 | issued to entities and to natural persons; clarifying the
28 | types of entities to which licenses may be issued;
29 | providing signature requirements; authorizing the
30 | licensing authority to adopt rules; restricting assignment
31 | or transfer of licenses; amending s. 497.142, F.S. ;
32 | revising fingerprinting requirements; clarifying
33 | requirements as to disclosure of previous criminal
34 | records; revising which members of an entity applying for
35 | licensure are required to disclose their criminal records;
36 | providing for waiver of the fingerprint requirements in
37 | certain circumstances; providing for the cost for
38 | fingerprinting processing; amending s. 497.143, F.S. ;
39 | prohibiting preneed sales under a limited license;
40 | amending s. 497.144, F.S. ; requiring a challenger to pay
41 | the costs for failure to appear at a challenge hearing;
42 | amending s. 497.147, F.S. ; revising provisions relating to
43 | the licensing authority's rules regulating prelicensure
44 | training and continuing education providers; amending s.
45 | 497.149, F.S. ; revising terminology; amending s. 497.151,
46 | F.S. ; revising applicability; specifying what is not
47 | deemed to be a complaint; amending s. 497.152, F.S. ;
48 | revising disciplinary provisions; revising certain grounds
49 | for disciplinary action; specifying what is not deemed to
50 | be a complaint; authorizing the board to adopt rules
51 | providing criteria for identifying minor and nonwillful

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52 remittance deficiencies; amending s. 497.153, F.S.;

53 providing for the use of consent orders in certain

54 circumstances; amending s. 497.158, F.S.; revising fine

55 amounts; amending s. 497.159, F.S.; revising provisions

56 relating to criminal penalties for violations involving

57 prelicensure examinations, willful obstruction, and trust

58 funds and other specified violations; revising what

59 constitutes improper discrimination; amending s. 497.161,

60 F.S.; removing a provision allowing board members to serve

61 as experts in investigations; specifying standing of

62 licensees to challenge rules; amending s. 497.165, F.S.;

63 stipulating that intentional or gross negligence renders

64 owners, directors, and officers jointly and severally

65 liable for certain trust fund deficiencies; amending s.

66 497.166, F.S.; specifying who may act as a preneed sales

67 agent; providing responsibility of certain licensees;

68 amending s. 497.169, F.S.; revising provisions for award

69 of attorney's fees and costs in certain actions; creating

70 s. 497.171, F.S.; providing requirements for the

71 identification of human remains; amending s. 497.260,

72 F.S.; revising what constitutes improper discrimination by

73 cemeteries; amending s. 497.263, F.S.; revising the

74 applicability of certain application procedures for

75 licensure of cemetery companies; amending s. 497.264,

76 F.S.; revising requirements relating to applicants seeking

77 to acquire control of a licensed cemetery; amending s.

78 497.281, F.S.; revising requirements for licensure of

79 burial rights brokers; amending s. 497.365, F.S.;

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80 requiring the board to adopt rules prescribing application
81 and renewal fees for inactive status, a delinquency fee,
82 and a fee for reactivation of a license; providing a cap
83 on such fees; providing a limitation on the department's
84 ability to reactivate a license; amending s. 497.368,
85 F.S.; revising grounds for issuance of licensure as an
86 embalmer by examination; amending s. 497.369, F.S.;
87 revising grounds for issuance of licensure as an embalmer
88 by endorsement; amending s. 497.373, F.S.; revising
89 grounds for issuance of licensure as a funeral director by
90 examination; amending s. 497.374, F.S.; revising grounds
91 for issuance of licensure as a funeral director by
92 endorsement; amending s. 497.376, F.S.; revising authority
93 to issue a combination license as a funeral director and
94 embalmer; authorizing the licensing authority to establish
95 certain rules; amending s. 497.378, F.S.; raising the cap
96 on funeral director and embalmer license renewal fees;
97 amending s. 497.380, F.S.; specifying requirements for
98 funeral establishment licensure applicants; raising the
99 cap on funeral establishment license renewal fees;
100 providing requirements for reporting a change in location
101 of the establishment; amending s. 497.385, F.S.; revising
102 application requirements for licensure of a removal
103 service or a refrigeration service; providing requirements
104 for change in location of removal services and
105 refrigeration services; deleting a provision exempting
106 centralized embalming facilities from certain funeral
107 establishment requirements; authorizing the licensing

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108 authority to adopt certain rules for centralized embalming
 109 facility operations; revising application requirements for
 110 licensure of a centralized embalming facility; providing
 111 for inspection of centralized embalming facilities;
 112 providing for change in ownership and change in location
 113 of centralized embalming facilities; amending s. 497.453,
 114 F.S.; revising net worth requirements for preneed
 115 licensure; specifying authority to accept certain
 116 alternative evidence of financial responsibility in lieu
 117 of net worth regarding preneed licensure applicants;
 118 providing preneed license renewal fees for monument
 119 establishments; revising grounds for issuance of a preneed
 120 branch license; raising the cap on branch license renewal
 121 fees; deleting a provision exempting sponsoring preneed
 122 licensees from responsibility for certain violations of
 123 branch licensees; amending s. 497.456, F.S.; revising use
 124 of the Preneed Funeral Contract Consumer Protection Trust
 125 Fund by the licensing authority; amending s. 497.458,
 126 F.S.; revising requirements to loan or invest trust funds;
 127 amending s. 497.466, F.S.; revising general provisions
 128 applicable to preneed sales agents; revising requirements
 129 and application procedures for preneed sales agent
 130 licensure; providing requirements for the issuance of a
 131 temporary preneed sales agent license; providing
 132 requirements for the conversion of temporary preneed sales
 133 agent licenses to permanent preneed sales agent licenses;
 134 providing requirements for applicants with a criminal or
 135 disciplinary record; providing for termination of a

136 permanent preneed sales agent license due to lack of
 137 appointments; providing requirements for the appointment
 138 of preneed sales agents; providing for administrative
 139 matters regarding preneed sales agent licensure; creating
 140 s. 497.468, F.S.; providing for disclosure of certain
 141 information to the public; requiring the licensing
 142 authority to establish rules relating to the manner in
 143 which certain written contracts are provided; amending s.
 144 497.550, F.S.; revising application procedures for
 145 licensure as a monument establishment; requiring
 146 inspection of proposed monument establishment facilities;
 147 amending s. 497.551, F.S.; revising requirements for
 148 renewal of monument establishment licensure; amending s.
 149 497.552, F.S.; revising facility requirements for monument
 150 establishments; amending s. 497.553, F.S.; requiring the
 151 board to set an annual inspection fee for monument
 152 establishment licensees; providing a cap for such fee;
 153 providing requirements for change of ownership and
 154 location of monument establishments; amending s. 497.554,
 155 F.S.; revising application procedure and renewal
 156 requirements for monument establishment sales
 157 representatives; deferring application of section;
 158 amending s. 497.555, F.S.; requiring monument
 159 establishments to comply with rules establishing minimum
 160 standards for access to cemeteries; amending s. 497.602,
 161 F.S.; revising application procedures for direct disposer
 162 licensure; amending s. 497.603, F.S.; raising the cap on
 163 direct disposer license renewal fees; amending s. 497.604,

164 F.S.; revising provisions relating to direct disposal
 165 establishment licensure and application for such
 166 licensure; revising provisions relating to the regulation
 167 of direct disposal establishments; amending s. 497.606,
 168 F.S.; revising provisions relating to cinerator facility
 169 licensure and application for such licensure; revising
 170 provisions relating to the regulation of cinerator
 171 facilities; amending s. 497.607, F.S.; providing that the
 172 anatomical board at the University of Florida Health
 173 Science Center is not prohibited from causing the final
 174 disposition of unclaimed human remains under certain
 175 circumstances; amending s. 152, ch. 2004-301, Laws of
 176 Florida; specifying applicability of rules; amending s.
 177 626.785, F.S.; revising a policy coverage limit; repealing
 178 s. 497.275, F.S., relating to identification of human
 179 remains in licensed cemeteries; repealing s. 497.388,
 180 F.S., relating to identification of human remains;
 181 repealing s. 497.556, F.S., relating to requirements
 182 relating to monument establishments; providing an
 183 effective date.

184
 185 Be it enacted by the Legislature of the State of Florida:

186
 187 Section 1. Paragraph (a) of subsection (2) of section
 188 316.1974, Florida Statutes, is amended to read:
 189 316.1974 Funeral procession right-of-way and liability.--
 190 (2) EQUIPMENT.--

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191 (a) All non-law enforcement funeral escort vehicles and
 192 funeral lead vehicles shall be equipped with at least one
 193 lighted circulation lamp exhibiting an amber or purple light or
 194 lens visible under normal atmospheric conditions for a distance
 195 of 500 feet from the front of the vehicle. Flashing amber or
 196 purple lights may be used only when such vehicles are used in a
 197 funeral procession.

198 Section 2. Section 497.005, as amended by chapter 2004-
 199 301, Laws of Florida, is amended to read:

200 497.005 Definitions.--As used in this chapter:

201 (1) "Alternative container" means an unfinished wood box
 202 or other a nonmetal receptacle or enclosure, without
 203 ornamentation or a fixed interior lining, that is designed for
 204 the encasement of human remains and that is made of fiberboard,
 205 pressed wood, composition materials (with or without an outside
 206 covering), or like materials ~~which is less expensive than a~~
 207 ~~easket and of sufficient strength to be used to hold and~~
 208 ~~transport a dead human body.~~

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

213 (3) "Bank of belowground crypts" means any construction
 214 unit of belowground crypts that ~~which~~ is acceptable to the
 215 department and that ~~which~~ a cemetery uses to initiate its
 216 belowground crypt program or to add to existing belowground
 217 crypt structures.

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218 (4) "Belowground crypts" consist of interment space in
 219 preplaced chambers, either side by side or multiple depth,
 220 covered by earth and sod and known also as "lawn crypts,"
 221 "westminsters," or "turf-top crypts."

222 (5) "Board" means the Board of Funeral, Cemetery, and
 223 Consumer Services.

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

225 ~~(a) Limbs or other portions of the anatomy which are~~
 226 ~~removed from a person or human remains for medical purposes~~
 227 ~~during treatment, surgery, biopsy, autopsy, or medical research;~~
 228 ~~or~~

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

231 ~~(6)(7)~~ "Burial merchandise," "funeral merchandise," or
 232 "merchandise" means any personal property offered or sold by any
 233 person for use in connection with the final disposition,
 234 memorialization, interment, entombment, or inurnment of human
 235 remains or cremated remains, including, but not limited to,
 236 caskets, outer burial containers, alternative containers,
 237 cremation containers, cremation interment containers, urns,
 238 monuments, private mausoleums, flowers, benches, vases,
 239 acknowledgment cards, register books, memory folders, prayer
 240 cards, and clothing.

241 ~~(7)(8)~~ "Burial right" means the right to use a grave
 242 space, mausoleum, columbarium, ossuary, or scattering garden for
 243 the interment, entombment, inurnment, or other disposition of
 244 human remains or cremated remains.

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245 ~~(8)(9)~~ "Burial service," "funeral service," "funeral," or
 246 "service" means any service offered or provided ~~by any person~~ in
 247 connection with the final disposition, memorialization,
 248 interment, entombment, or inurnment of human remains or cremated
 249 remains.

250 ~~(9)(10)~~ "Care and maintenance" means the perpetual process
 251 of keeping a cemetery and its lots, graves, grounds,
 252 landscaping, roads, paths, parking lots, fences, mausoleums,
 253 columbaria, vaults, crypts, utilities, and other improvements,
 254 structures, and embellishments in a well-cared-for and dignified
 255 condition, so that the cemetery does not become a nuisance or
 256 place of reproach and desolation in the community. As specified
 257 in the rules of the licensing authority, "care and maintenance"
 258 may include, but is not limited to, any or all of the following
 259 activities: mowing the grass at reasonable intervals; raking and
 260 cleaning the grave spaces and adjacent areas; pruning of shrubs
 261 and trees; suppression of weeds and exotic flora; and
 262 maintenance, upkeep, and repair of drains, water lines, roads,
 263 buildings, and other improvements. "Care and maintenance" may
 264 include, but is not limited to, reasonable overhead expenses
 265 necessary for such purposes, including maintenance of machinery,
 266 tools, and equipment used for such purposes. "Care and
 267 maintenance" may also include repair or restoration of
 268 improvements necessary or desirable as a result of wear,
 269 deterioration, accident, damage, or destruction. "Care and
 270 maintenance" does not include expenses for the construction and
 271 development of new grave spaces or interment structures to be
 272 sold to the public.

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273 (10)~~(11)~~ "Casket" means a rigid container that ~~which~~ is
 274 designed for the encasement of human remains and that ~~which~~ is
 275 usually constructed of wood or metal, ornamented, and lined with
 276 fabric.

277 (11)~~(12)~~ "Cemetery" means a place dedicated to and used or
 278 intended to be used for the permanent interment of human remains
 279 or cremated remains. A cemetery may contain land or earth
 280 interment; mausoleum, vault, or crypt interment; a columbarium,
 281 ossuary, scattering garden, or other structure or place used or
 282 intended to be used for the interment or disposition of cremated
 283 remains; or any combination of one or more of such structures or
 284 places.

285 (12)~~(13)~~ "Cemetery company" means any legal entity that
 286 owns or controls cemetery lands or property.

287 (13)~~(14)~~ "Centralized embalming facility" means a
 288 facility, ~~not physically connected with a funeral establishment,~~
 289 in which embalming takes place that operates independently of a
 290 funeral establishment licensee and that offers embalming
 291 services to funeral directors for a fee.

292 (14)~~(15)~~ "Cinerator" means a facility where dead human
 293 bodies are subjected to cremation. ~~reduced to a residue,~~
 294 ~~including bone fragments, by direct flame, also known as~~
 295 ~~"cremation," or by intense heat, also known as "calcination."~~

296 (15)~~(16)~~ "Closed container" means any container in which
 297 cremated remains can be placed and closed in a manner so as to
 298 prevent leakage or spillage of the remains.

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299 ~~(16)(17)~~ "Columbarium" means a structure or building that
 300 ~~which~~ is substantially exposed above the ground and that ~~which~~
 301 is intended to be used for the inurnment of cremated remains.

302 ~~(17)(18)~~ "Common business enterprise" means a group of two
 303 or more business entities that share common ownership in excess
 304 of 50 percent.

305 ~~(18)(19)~~ "Control" means the possession, directly or
 306 indirectly, through the ownership of voting shares, by contract,
 307 arrangement, understanding, relationship, or otherwise, of the
 308 power to direct or cause the direction of the management and
 309 policies of a person or entity. However, a person or entity
 310 shall not be deemed to have control if the person or entity
 311 holds voting shares, in good faith and not for the purpose of
 312 circumventing this definition, as an agent, bank, broker,
 313 nominee, custodian, or trustee for one or more beneficial owners
 314 who do not individually or as a group have control.

315 ~~(19)(20)~~ "Cremated remains" means all the remains of the
 316 human body recovered after the completion of the cremation
 317 process, including processing or pulverization that ~~which~~ leaves
 318 only bone fragments reduced to unidentifiable dimensions and may
 319 include the residue of any foreign matter, including casket
 320 material, bridgework, or eyeglasses that were cremated with the
 321 human remains.

322 ~~(20)(21)~~ "Cremation" means any mechanical or thermal
 323 process whereby a dead human body is reduced to ashes and bone
 324 fragments. Cremation also includes any other mechanical or
 325 thermal process whereby human remains are pulverized, burned,
 326 recremated, or otherwise further reduced in size or quantity ~~the~~

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327 ~~technical process, using direct flame and heat or chemical~~
328 ~~means, which reduces human remains to bone fragments through~~
329 ~~heat and evaporation. Cremation includes the processing and~~
330 ~~usually includes the pulverization of the bone fragments.~~

331 ~~(21)(22)~~ "Cremation chamber" means the enclosed space
332 within which the cremation process takes place. Cremation
333 chambers covered by these procedures shall ~~must~~ be used
334 exclusively for the cremation of human remains.

335 ~~(22)(23)~~ "Cremation container" means the casket or
336 alternative container in which the human remains are transported
337 to and placed in the cremation chamber for a cremation. A
338 cremation container should meet substantially all of the
339 following standards:

340 (a) Be composed of readily combustible materials suitable
341 for cremation.

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

344 (c) Be resistant to leakage or spillage.

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

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

348 ~~(23)(24)~~ "Cremation interment container" means a rigid
349 outer container that, subject to a cemetery's rules and
350 regulations, is composed of concrete, steel, fiberglass, or some
351 similar material in which an urn is placed prior to being
352 interred in the ground and that is designed to support the earth
353 above the urn.

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354 (24)~~(25)~~ "Department" means the Department of Financial
355 Services.

356 (25)~~(26)~~ "Direct disposal establishment" means a facility
357 licensed under this chapter where a direct disposer practices
358 direct disposition.

359 (26)~~(27)~~ "Direct disposer" means any person licensed under
360 this chapter to practice direct disposition in this state.

361 (27)~~(28)~~ "Director" means the director of the Division of
362 Funeral, Cemetery, and Consumer Services.

363 (28)~~(29)~~ "Disinterment" means removal of a dead human body
364 from earth interment or aboveground interment.

365 (29)~~(30)~~ "Division" means the Division of Funeral,
366 Cemetery, and Consumer Services within the Department of
367 Financial Services.

368 (30)~~(31)~~ "Embalmer" means any person licensed under this
369 chapter to practice embalming in this state.

370 (31)~~(32)~~ "Final disposition" means the final disposal of a
371 dead human body by earth interment, aboveground interment,
372 cremation, burial at sea, or delivery to a medical institution
373 for lawful dissection if the medical institution assumes
374 responsibility for disposal. "Final disposition" does not
375 include the disposal or distribution of cremated remains ~~ashes~~
376 and residue of cremated remains.

377 ~~(33) "Funeral" or "funeral service" means the observances,~~
378 ~~services, or ceremonies held to commemorate the life of a~~
379 ~~specific deceased human being and at which the human remains are~~
380 ~~present.~~

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381 (32)~~(34)~~ "Funeral director" means any person licensed
382 under this chapter to practice funeral directing in this state.

383 (33)~~(35)~~ "Funeral establishment" means a facility licensed
384 under this chapter where a funeral director or embalmer
385 practices funeral directing or embalming.

386 ~~(36) "Funeral merchandise" or "merchandise" means any
387 merchandise commonly sold in connection with the funeral, final
388 disposition, or memorialization of human remains, including, but
389 not limited to, caskets, outer burial containers, alternative
390 containers, cremation containers, cremation interment
391 containers, urns, monuments, private mausoleums, flowers,
392 benches, vases, acknowledgment cards, register books, memory
393 folders, prayer cards, and clothing.~~

394 (34)~~(37)~~ "Grave space" means a space of ground in a
395 cemetery intended to be used for the interment in the ground of
396 human remains.

397 (35)~~(38)~~ "Human remains" or "remains," or "dead human
398 body" or "dead human bodies," means the body of a deceased human
399 person for which a death certificate or fetal death certificate
400 is required under chapter 382 and includes the body in any stage
401 of decomposition ~~and the residue of cremated human bodies.~~

402 (36)~~(39)~~ "Legally authorized person" means, in the
403 priority listed, the decedent, when written inter vivos
404 authorizations and directions are provided by the decedent; the
405 surviving spouse, unless the spouse has been arrested for
406 committing against the deceased an act of domestic violence as
407 defined in s. 741.28 that ~~which~~ resulted in or contributed to
408 the death of the deceased; a son or daughter who is 18 years of

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409 age or older; a parent; a brother or sister who is 18 years of
 410 age or older; a grandchild who is 18 years of age or older; a
 411 grandparent; or any person in the next degree of kinship. In
 412 addition, the term may include, if no family member exists or is
 413 available, the guardian of the dead person at the time of death;
 414 the personal representative of the deceased; the attorney in
 415 fact of the dead person at the time of death; the health
 416 surrogate of the dead person at the time of death; a public
 417 health officer; the medical examiner, county commission, or
 418 administrator acting under part II of chapter 406 or other
 419 public administrator; a representative of a nursing home or
 420 other health care institution in charge of final disposition; or
 421 a friend or other person not listed in this subsection who is
 422 willing to assume the responsibility as the legally authorized
 423 person. Where there is a person in any priority class listed in
 424 this subsection, the funeral establishment shall rely upon the
 425 authorization of any one legally authorized person of that class
 426 if that person ~~individual~~ represents that she or he is not aware
 427 of any objection to the cremation of the deceased's human
 428 remains by others in the same class of the person making the
 429 representation or of any person in a higher priority class.

430 ~~(37)(40)~~ "License" includes all authorizations required or
 431 issued under this chapter, except where expressly indicated
 432 otherwise, and shall be understood to include authorizations
 433 previously referred to as registrations or certificates of
 434 authority in chapters 470 and 497 as those chapters appeared in
 435 the 2004 edition of the Florida Statutes.

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436 (38)~~(41)~~ "Licensee" means the person or entity holding any
437 license or other authorization issued under this chapter, except
438 where expressly indicated otherwise.

439 (39)~~(42)~~ "Mausoleum" means a structure or building that
440 ~~which~~ is substantially exposed above the ground and that ~~which~~
441 is intended to be used for the entombment of human remains.

442 (40)~~(43)~~ "Mausoleum section" means any construction unit
443 of a mausoleum that ~~which~~ is acceptable to the department and
444 that ~~which~~ a cemetery uses to initiate its mausoleum program or
445 to add to its existing mausoleum structures.

446 (41)~~(44)~~ "Monument" means any product used for identifying
447 a grave site and cemetery memorials of all types, including
448 monuments, markers, and vases.

449 (42)~~(45)~~ "Monument establishment" means a facility that
450 operates independently of a cemetery or funeral establishment
451 and that offers to sell monuments or monument services to the
452 public for placement in a cemetery.

453 (43)~~(46)~~ "Net assets" means the amount by which the total
454 assets of a licensee, excluding goodwill, franchises, customer
455 lists, patents, trademarks, and receivables from or advances to
456 officers, directors, employees, salespersons, and affiliated
457 companies, exceed total liabilities of the licensee. For
458 purposes of this definition, the term "total liabilities" does
459 not include the capital stock, paid-in capital, or retained
460 earnings of the licensee.

461 (44)~~(47)~~ "Net worth" means total assets minus total
462 liabilities pursuant to generally accepted accounting
463 principles.

464 (45)~~(48)~~ "Niche" means a compartment or cubicle for the
465 memorialization or permanent placement of a container or urn
466 containing cremated remains.

467 (46)~~(49)~~ "Ossuary" means a receptacle used for the
468 communal placement of cremated remains without benefit of an urn
469 or any other container in which cremated remains may be
470 commingled with other cremated remains and are nonrecoverable.
471 It may or may not include memorialization.

472 (47)~~(50)~~ "Outer burial container" means an enclosure into
473 which a casket is placed and includes, but is not limited to,
474 vaults made of concrete, steel, fiberglass, or copper; sectional
475 concrete enclosures; crypts; and wooden enclosures.

476 (48)~~(51)~~ "Person," when used without qualification such as
477 "natural" or "individual," includes both natural persons and
478 legal entities.

479 (49)~~(52)~~ "Personal residence" means any residential
480 building in which one temporarily or permanently maintains her
481 or his abode, including, but not limited to, an apartment or a
482 hotel, motel, nursing home, convalescent home, home for the
483 aged, or a public or private institution.

484 (50)~~(53)~~ "Practice of direct disposition" means the
485 cremation of human remains without preparation of the human
486 remains by embalming and without any attendant services or rites
487 such as funeral or graveside services or the making of
488 arrangements for such final disposition.

489 (51)~~(54)~~ "Practice of embalming" means disinfecting or
490 preserving or attempting to disinfect or preserve dead human

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491 bodies by replacing certain body fluids with preserving and
492 disinfecting chemicals.

493 (52)~~(55)~~ "Practice of funeral directing" means the
494 performance by a licensed funeral director of any of those
495 functions authorized by s. 497.372.

496 (53)~~(56)~~ "Preneed contract" means any arrangement or
497 method, of which the provider of funeral merchandise or services
498 has actual knowledge, whereby any person agrees to furnish
499 funeral merchandise or service in the future.

500 (54)~~(57)~~ "Preneed sales agent" means any person who is
501 licensed under this chapter to sell preneed burial or funeral
502 service and merchandise contracts or direct disposition
503 contracts in this state.

504 (55)~~(58)~~ "Principal" means and includes the sole
505 proprietor of a sole proprietorship; all partners of a
506 partnership; all members of a limited liability company;
507 regarding a corporation, all directors and officers, and all
508 stockholders controlling more than 10 percent of the voting
509 stock; and all other persons who can exercise control over the
510 person or entity.

511 (56)~~(59)~~ "Processing" means the reduction of identifiable
512 bone fragments after the completion of the cremation process to
513 unidentifiable bone fragments by manual means.

514 (57)~~(60)~~ "Profession" and "occupation" are used
515 interchangeably in this chapter. The use of the word
516 "profession" in this chapter with respect to any activities
517 regulated under this chapter shall not be deemed to mean that

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518 such activities are not occupations for other purposes in state
519 or federal law.

520 (58)~~(61)~~ "Pulverization" means the reduction of
521 identifiable bone fragments after the completion of the
522 cremation and processing to granulated particles by manual or
523 mechanical means.

524 (59)~~(62)~~ "Refrigeration facility" means a facility that is
525 operated independently of not physically connected with a
526 funeral establishment, crematory, or direct disposal
527 establishment, that maintains space and equipment for the
528 storage and refrigeration of dead human bodies, and that offers
529 its service to funeral directors, ~~and~~ funeral establishments,
530 direct disposers, direct disposal establishments, or crematories
531 for a fee.

532 (60)~~(63)~~ "Religious institution" means an organization
533 formed primarily for religious purposes that ~~which~~ has qualified
534 for exemption from federal income tax as an exempt organization
535 under the provisions of s. 501(c)(3) of the Internal Revenue
536 Code of 1986, as amended.

537 (61)~~(64)~~ "Removal service" means any service that operates
538 independently of a funeral establishment or a direct disposal
539 establishment, that handles the initial removal of dead human
540 bodies, and that offers its service to funeral establishments
541 and direct disposal establishments for a fee.

542 (62)~~(65)~~ "Rules" refers to rules adopted under this
543 chapter unless expressly indicated to the contrary.

544 (63)~~(66)~~ "Scattering garden" means a location set aside,
545 within a cemetery, that ~~which~~ is used for the spreading or

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546 broadcasting of cremated remains that have been removed from
 547 their container and can be mixed with or placed on top of the
 548 soil or ground cover or buried in an underground receptacle on a
 549 commingled basis and that are nonrecoverable. It may or may not
 550 include memorialization.

551 (64)~~(67)~~ "Servicing agent" means any person acting as an
 552 independent contractor whose fiduciary responsibility is to
 553 assist both the trustee and licensee in administrating their
 554 responsibilities pursuant to this chapter.

555 (65)~~(68)~~ "Solicitation" means any communication that ~~which~~
 556 directly or implicitly requests an immediate oral response from
 557 the recipient.

558 (66)~~(69)~~ "Statutory accounting" means generally accepted
 559 accounting principles, except as modified by this chapter.

560 (67)~~(70)~~ "Temporary container" means a receptacle for
 561 cremated remains usually made of cardboard, plastic, or similar
 562 material designated to hold the cremated remains until an urn or
 563 other permanent container is acquired.

564 (68)~~(71)~~ "Urn" means a receptacle designed to permanently
 565 encase cremated remains.

566 Section 3. Subsection (2) of section 497.101, Florida
 567 Statutes, as amended by chapter 2004-301, Laws of Florida, is
 568 amended, and subsection (8) is added to said section, to read:

569 497.101 Board of Funeral, Cemetery, and Consumer Services;
 570 membership; appointment; terms.--

571 (2) Two members of the board shall ~~must~~ be funeral
 572 directors licensed under part III of this chapter who are
 573 associated with a funeral establishment. One member of the board

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574 | shall ~~must~~ be a funeral director licensed under part III of this
 575 | chapter who is associated with a funeral establishment licensed
 576 | under part III of this chapter that ~~which~~ has a valid preneed
 577 | license issued pursuant to this chapter and who owns or operates
 578 | a cinerator facility approved under chapter 403 and licensed
 579 | under part VI of this chapter. Two members of the board shall
 580 | ~~must~~ be persons whose primary occupation is associated with a
 581 | cemetery company licensed pursuant to this chapter. Three
 582 | members of the board shall ~~must~~ be consumers who are residents
 583 | of the state, have never been licensed as funeral directors or
 584 | embalmers, are not connected with a cemetery or cemetery company
 585 | licensed pursuant to this chapter, and are not connected with
 586 | the death care industry or the practice of embalming, funeral
 587 | directing, or direct disposition. One of the consumer members
 588 | shall ~~must~~ be at least 60 years of age, and one shall ~~must~~ be
 589 | licensed as a certified public accountant under chapter 473. One
 590 | member of the board shall ~~must~~ be a monument dealer licensed
 591 | under this chapter. One member shall ~~must~~ be the State Health
 592 | Officer or her or his designee. There shall not be two or more
 593 | board members who are principals or directors, employees,
 594 | ~~partners, shareholders, or members~~ of the same company or
 595 | partnership or group of companies or partnerships under common
 596 | control.

597 | (8) The department shall adopt rules establishing forms by
 598 | which persons may apply for membership on the board and
 599 | procedures for applying for such membership. Such forms shall
 600 | require disclosure of the existence and nature of all current
 601 | and past employments by or contracts with, and direct or

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602 indirect affiliations or interests in, any entity or business
 603 that at any time was licensed by the board or by the former
 604 Board of Funeral and Cemetery Services or the former Board of
 605 Funeral Directors and Embalmers or that is or was otherwise
 606 involved in the death care industry, as specified by department
 607 rule.

608 Section 4. Paragraph (m) of subsection (2) of section
 609 497.103, Florida Statutes, as amended by chapter 2004-301, Laws
 610 of Florida, is amended, and paragraph (e) is added to subsection
 611 (4) of said section, to read:

612 497.103 Rulemaking authority of board and department.--

613 (2) DEPARTMENT AUTHORITY.--All authority provided by this
 614 chapter and not expressly vested in the board by subsection (1)
 615 is vested in the department, and the department shall be deemed
 616 to be the licensing authority as to such matters. Without
 617 limiting the generality of the foregoing vesting of authority in
 618 the department, the authority provided by this chapter that
 619 ~~which~~ is vested solely in the department includes:

620 (m) Authority to take emergency action against any
 621 licensee under this chapter, without prior consultation with the
 622 board, when the department determines that there is an imminent
 623 danger to the health, safety, or welfare of the citizens of the
 624 state.

625 (4) RECOMMENDATIONS BY THE CHIEF FINANCIAL OFFICER.--

626 (e) The Chief Financial Officer shall have no authority by
 627 recommendation or otherwise to set fees, rates, or prices to be
 628 used by any licensee under this chapter, and notwithstanding the
 629 provision of this subsection, no licensee under this chapter

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630 | shall in any event be required to set fees, rates, or prices in
 631 | accordance with any recommendation of the Chief Financial
 632 | Officer.

633 | Section 5. Paragraphs (b) and (c) of subsection (1) of
 634 | section 497.140, Florida Statutes, as renumbered and amended by
 635 | section 10 of chapter 2004-301, Laws of Florida, are amended,
 636 | and subsection (8) is added to said section, to read:

637 | 497.140 Fees.--

638 | (1)

639 | (b) It is the legislative intent that the costs of
 640 | regulation under this chapter be provided for by fees collected
 641 | under this chapter. The board shall ensure that fees are
 642 | adequate to cover all anticipated costs of implementation of
 643 | this chapter. The department shall at least every other year
 644 | provide the board with estimates as to projected costs in
 645 | implementing this chapter and projected fee collections under
 646 | this chapter for the following 2 years, information as to
 647 | balances of regulatory trusts from fees collected, other
 648 | information that ~~which~~ the department deems material to the
 649 | setting of fees by the board at proper levels, and a department
 650 | recommendation as to action, if any, regarding changing fee
 651 | levels. The board shall review such information provided by the
 652 | department and increase or decrease ~~make such changes in fees,~~
 653 | ~~up or down,~~ as the board determines appropriate. If sufficient
 654 | action is not taken by the board within 6 months ~~1 year~~ after
 655 | notification by the department that fees are projected to be
 656 | inadequate, the department shall set fees on behalf of the board
 657 | to cover anticipated costs.

658 (c) The board may from time to time by rule assess and
 659 collect a one-time fee from each active and each voluntary
 660 inactive licensee under this chapter in an amount necessary to
 661 correct an inadequacy of fees received to implement regulation
 662 required by this chapter, provided that no such assessments may
 663 be made after October 1, 2007 ~~more than one such assessment may~~
 664 ~~be made in any 4-year period without specific legislative~~
 665 ~~authorization.~~

666 (8) A delinquency fee shall be charged and collected from
 667 a licensee for the failure to timely renew a license issued
 668 under this chapter. Where no specific delinquency fee is
 669 specified in this chapter in relation to a particular category
 670 of licensure under this chapter, the delinquency fee shall be
 671 \$50.

672 Section 6. Subsection (2) of section 497.141, Florida
 673 Statutes, as created by chapter 2004-301, Laws of Florida, is
 674 amended, and subsection (12) is added to said section, to read:

675 497.141 Licensing; general application procedures.--

676 (2) Any person desiring to be licensed shall apply to the
 677 licensing authority in writing using such forms and procedures
 678 as may be prescribed by rule. The application for licensure
 679 shall include the applicant's social security number if the
 680 applicant is a natural person; otherwise, the applicant's
 681 federal tax identification number shall be included.

682 Notwithstanding any other provision of law, the department is
 683 the sole authority for determining the forms and form contents
 684 to be submitted for initial licensure and licensure renewal
 685 application. Such forms and the information and materials

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686 required by such forms may include, as appropriate,
 687 demographics, education, work history, personal background,
 688 criminal history, finances, business information, signature
 689 notarization, performance periods, reciprocity, local government
 690 approvals, supporting documentation, periodic reporting
 691 requirements, fingerprint requirements, continuing education
 692 requirements, business plans, character references, and ongoing
 693 education monitoring. Such forms and the information and
 694 materials required by such forms may also include, to the extent
 695 such information or materials are not already in the possession
 696 of the department or the board, records or information as to
 697 complaints, inspections, investigations, discipline, and
 698 ~~bonding, and photographs~~. The application shall be supplemented
 699 as needed to reflect any material change in any circumstance or
 700 condition stated in the application that ~~which~~ takes place
 701 between the initial filing of the application and the final
 702 grant or denial of the license and that ~~which~~ might affect the
 703 decision of the department or the board. After an application by
 704 a natural person for licensure under this chapter is approved,
 705 the licensing authority may require the successful applicant to
 706 provide a photograph of himself or herself for permanent
 707 lamination onto the license card to be issued to the applicant,
 708 pursuant to rules and fees adopted by the licensing authority.

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

- 711 1. Embalmer apprentice.
- 712 2. Embalmer intern.
- 713 3. Funeral director intern.

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- 714 4. Funeral director.
- 715 5. Funeral director and embalmer.
- 716 6. Direct disposer.
- 717 7. Monument establishment sales agent.
- 718 8. Preneed sales agent.
- 719 (b) The following licenses may be applied for and issued
 720 to a natural person, a corporation, a limited liability company,
 721 or a partnership:
- 722 1. Funeral establishment.
- 723 2. Centralized embalming facility.
- 724 3. Refrigeration facility.
- 725 4. Direct disposal establishment.
- 726 5. Monument establishment.
- 727 6. Cinerator facility.
- 728 7. Removal service.
- 729 8. Preneed sales business under s. 497.453.
- 730 (c) A cemetery license may only be applied for and issued
 731 to a corporation, partnership, or limited liability company.
- 732 (d) No license shall be issued to any applicant that is a
 733 corporation, limited liability company, or partnership unless
 734 the applicant is organized and in good standing under the laws
 735 of this state or another state of the United States and provides
 736 written proof thereof issued by the applicable state office or
 737 official in the state concerned. Each applicant that is a
 738 corporation, limited liability company, or partnership shall
 739 file with its application a written statement, signed by the
 740 same person who signs the application, identifying by name and
 741 business functional title the following persons, as applicable

742 to the type of entity applying: officers, managers, managing
 743 members, partners, general partners, limited partners, managing
 744 partners, directors, all stockholders controlling more than 10
 745 percent of the voting stock, and all other persons who may
 746 exercise control over the applicant. The licensing authority may
 747 require the filing of the applicant's articles of incorporation
 748 or other organizational documents and a resume concerning any
 749 person identified in this paragraph.

750 (e) All applications shall be signed by the applicant.

751 Signatures of the applicant shall be as follows:

752 1. Where the applicant is a natural person, the
 753 application shall be signed by the applicant.

754 2. Where the applicant is a corporation, the application
 755 shall be signed by the corporation's president.

756 3. Where the applicant is a partnership, the application
 757 shall be signed by a partner, who shall provide proof
 758 satisfactory to the licensing authority of that partner's
 759 authority to sign on behalf of the partnership.

760 4. Where the applicant is a limited liability company, the
 761 application shall be signed by a member of the company, who
 762 shall provide proof satisfactory to the licensing authority of
 763 that member's authority to sign on behalf of the company.

764 (f) The licensing authority may adopt rules for the
 765 implementation of this section, including required procedures
 766 and forms.

767 (g) No license regulated under this chapter is assignable
 768 or transferable except as provided in this chapter.

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

771 497.142 Licensing; fingerprinting and criminal background
772 checks.--

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

776 (2) The fingerprints shall ~~must~~ be taken by a law
777 enforcement agency or other agency or entity approved by the
778 department and in such a way as to allow their use to obtain a
779 criminal history check through the Department of Law
780 Enforcement.

781 (3) The department shall submit the fingerprints to or
782 cause them to be submitted to the Department of Law Enforcement
783 for the purpose of ascertaining whether the person fingerprinted
784 has a criminal history in any state or before the Federal
785 Government and, if so, the nature of the criminal history.

786 (4) The Department of Law Enforcement may accept
787 fingerprints of any applicant under this chapter, any principal
788 of any such applicant, and any other person who is examined or
789 investigated or who is subject to examination or investigation
790 under the provisions of this chapter.

791 (5) The Department of Law Enforcement may, to the extent
792 provided for by federal law, exchange state, multistate, and
793 federal criminal history records with the department and the
794 board for the purpose of the issuance, denial, suspension, or
795 revocation of any license or other application under this
796 chapter.

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797 ~~(6) The Department of Law Enforcement may accept~~
 798 ~~fingerprints of any other person required by statute or rule to~~
 799 ~~submit fingerprints to the department or board or any applicant~~
 800 ~~or licensee regulated by the department or board who is required~~
 801 ~~to demonstrate that she or he has not been convicted of or pled~~
 802 ~~guilty or nolo contendere to a felony or a misdemeanor.~~

803 (6)~~(7)~~ The Department of Law Enforcement shall, upon
 804 receipt of fingerprints from the department, submit the
 805 fingerprints to the Federal Bureau of Investigation to check
 806 federal criminal history records.

807 (7)~~(8)~~ Statewide criminal records obtained through the
 808 Department of Law Enforcement, federal criminal records obtained
 809 through the Federal Bureau of Investigation, and local criminal
 810 records obtained through local law enforcement agencies shall be
 811 used by the department and board for the purpose of issuance,
 812 denial, suspension, or revocation of ~~certificates of authority,~~
 813 ~~certifications, or~~ licenses issued to operate in this state.

814 (8)~~(9)~~ For the purposes of criminal background checks,
 815 applicants and principals of applicants for any approval or
 816 license under this chapter may be required to disclose whether
 817 they have ever had their name legally changed and any prior name
 818 or names they have used.

819 (9)~~(10)~~ If any applicant under this chapter has been,
 820 within the 10 years preceding the application under this
 821 chapter, convicted or found guilty of, or entered a plea of nolo
 822 contendere to, regardless of adjudication, any crime in any
 823 jurisdiction, the application shall not be deemed complete until
 824 such time as the applicant provides such certified true copies

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825 of the court records evidencing the conviction, finding, or
826 plea, as the licensing authority may by rule require.

827 (10)(a) When applying for any license under this chapter,
828 every applicant shall be required to disclose the applicant's
829 criminal records in accordance with this subsection.

830 (b) The criminal record required to be disclosed shall be
831 any crime listed in paragraph (c) of which the person or entity
832 required to make disclosure has been convicted or to which that
833 person or entity entered a plea in the nature of no contest.
834 Disclosure shall be required pursuant to this subsection
835 regardless of whether adjudication was entered or withheld by
836 the court in which the case was prosecuted.

837 (c) Crimes to be disclosed are:

838 1. Any felony or misdemeanor, no matter when committed,
839 that was directly or indirectly related to or involving any
840 aspect of the practice or business of funeral directing,
841 embalming, direct disposition, cremation, funeral or cemetery
842 preneed sales, funeral establishment operations, cemetery
843 operations, or cemetery monument or marker sales or
844 installation.

845 2. Any other felony not already disclosed under
846 subparagraph 1. that was committed within the 20 years
847 immediately preceding the application under this chapter.

848 3. Any other misdemeanor not already disclosed under
849 subparagraph 1. that was committed within the 5 years
850 immediately preceding the application under this chapter.

851 (d) Criminal records subject to paragraphs (b) and (c)
852 shall be disclosed regardless of whether the criminal conduct

853 occurred inside or outside the state and regardless of whether
 854 the criminal prosecution occurred in state court or in the court
 855 of another state, the United States, or a foreign country. As to
 856 crimes prosecuted in courts other than the courts of this state,
 857 the designation of the crime as a felony or misdemeanor by the
 858 law of the jurisdiction prosecuting the crime shall control. If
 859 the prosecuting jurisdiction does not use the term "felony" or
 860 "misdemeanor" in classifying the crime, the crime shall be
 861 deemed a felony for purposes of this subsection if punishable
 862 under the law of the prosecuting jurisdiction by a term of
 863 imprisonment in excess of 1 year; otherwise, the crime shall be
 864 classified as a misdemeanor for purposes of this subsection.
 865 Excessive speed in the operation of a motor vehicle and other
 866 noncriminal traffic infractions are not required to be reported
 867 under this section.

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

871 1. Where the applicant is a natural person, only the
 872 natural person making application has the duty to disclose.

873 2. Where the applicant is a corporation, all officers and
 874 directors of that corporation have the duty to disclose.

875 3. Where the applicant is a limited liability company, all
 876 managers and members of the limited liability company have the
 877 duty to disclose.

878 4. Where the applicant is a partnership, all partners have
 879 the duty to disclose.

880 5. Where the applicant is required by this chapter to
 881 identify in the application the individual licensee under this
 882 chapter who will be in charge of the applicant, the identified
 883 individual licensee in charge, in addition to the applicant,
 884 shall make disclosure of criminal records as part of the
 885 application.

886 (f) In addition to persons identified in paragraph (e) as
 887 being required to provide a criminal history in relation to an
 888 application for licensure, the department may, during its
 889 prelicensing investigation of the applicant pursuant to
 890 subsection (3), on a case-by-case basis, require disclosure of
 891 criminal records from any other employee or principal of the
 892 applicant if the department has grounds to believe that such
 893 employee or principal has committed any crime and that such
 894 employee's or principal's relationship to the applicant may
 895 render the applicant a danger to the public if the license
 896 applied for is issued.

897 (g) The licensing authority may adopt rules specifying
 898 forms and procedures to be utilized by persons required to
 899 disclose criminal records under this subsection. The licensing
 900 authority may conduct investigation and further inquiry of any
 901 person regarding any criminal record disclosed pursuant to this
 902 section.

903 (11)(a) When an applicant is required by this chapter to
 904 submit fingerprints in applying for a license, the following
 905 persons shall be required to submit such fingerprints:

906 1. Where the applicant is a natural person, the
 907 fingerprints of the natural person making application.

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908 2. Where the applicant is a corporation, the fingerprints
 909 of the persons serving in the following capacities: chief
 910 executive officer and president, or both persons if the
 911 positions are filled by different persons; chief financial
 912 officer; chief of operations; general counsel if a corporation
 913 employee; and members of the board.

914 3. Where the applicant is a limited liability company, the
 915 fingerprints of all managers and members of the limited
 916 liability company.

917 4. Where the applicant is a partnership, the fingerprints
 918 of all partners.

919 (b) In addition to persons identified in paragraph (a) as
 920 being required to provide fingerprints, the department may,
 921 during its prelicensing investigation of the applicant pursuant
 922 to subsection (3), on a case-by-case basis, require fingerprints
 923 from any other employee of the applicant if the department has
 924 grounds to believe that any such employee may have committed any
 925 crime and that such employee's relationship to the applicant may
 926 render the applicant a danger to the public if the license
 927 applied for is issued.

928 (12) The licensing authority may by rule establish forms,
 929 procedures, and fees for the submission and processing of
 930 fingerprints required to be submitted in accordance with this
 931 chapter. The licensing authority may by rule waive the
 932 requirement for submission of fingerprints otherwise required by
 933 this chapter if the person has within the preceding 24 months
 934 submitted fingerprints to the licensing authority and the
 935 licensing authority has obtained a criminal history report

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936 utilizing those prior fingerprints. The cost for the fingerprint
 937 processing shall be paid to the Department of Law Enforcement
 938 and may be borne by the Department of Financial Services, the
 939 employer, or the person subject to the background check.

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

943 497.143 Licensing; limited licenses for retired
 944 professionals.--

945 (2) Any person desiring to obtain a limited license, when
 946 permitted by rule, shall submit to the department an application
 947 and fee, not to exceed \$300, and an affidavit stating that the
 948 applicant has been licensed to practice in any jurisdiction in
 949 the United States for at least 10 years in the profession for
 950 which the applicant seeks a limited license. The affidavit shall
 951 also state that the applicant has retired or intends to retire
 952 from the practice of that profession and intends to practice
 953 only pursuant to the restrictions of the limited license granted
 954 pursuant to this section. If the applicant for a limited license
 955 submits a notarized statement from the employer stating that the
 956 applicant will not receive monetary compensation for any service
 957 involving the practice of her or his profession, the application
 958 and all licensure fees shall be waived. In no event may a person
 959 holding a limited license under this section engage in preneed
 960 sales under such limited license.

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

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964 497.144 Licensing; examinations, general provisions.--
 965 (13) When any licensed applicant under this chapter
 966 requests a hearing to challenge a decision that the applicant's
 967 answer to any licensure test question was not a correct answer,
 968 or to seek a determination that a challenged question should be
 969 stricken, unless the ~~an~~ applicant notifies the department at
 970 least 5 days prior to the ~~an~~ examination hearing of the
 971 applicant's inability to attend or unless the ~~an~~ applicant can
 972 demonstrate an extreme emergency for failing to attend, the
 973 department may require the ~~an~~ applicant who fails to attend to
 974 pay reasonable attorney's fees, costs, and court costs of the
 975 department for the examination hearing.

976 Section 10. Paragraph (b) of subsection (4) of section
 977 497.147, Florida Statutes, as created by chapter 2004-301, Laws
 978 of Florida, is amended to read:

979 497.147 Continuing education; general provisions.--

980 (4) The licensing authority is authorized to adopt rules
 981 to implement requirements regarding prelicensure training and
 982 continuing education requirements under this chapter. Persons
 983 providing prelicensure training or continuing education for
 984 credit against the requirements of this chapter are hereinafter
 985 referred to as "providers."

986 (b) The rules may establish conditions and requirements
 987 applicable to providers, including, but not limited to:

988 1. Periodic submission by the provider to the licensing
 989 authority of information and documentation as to course
 990 materials, class locations and schedules, names of scheduled

991 | instructors, resumes of instructors, and descriptions of
992 | facilities.

993 | 2. Requirements for periodic reporting by the provider to
994 | the licensing authority of information concerning enrollment,
995 | attendance, and status of persons enrolled for credit under this
996 | chapter.

997 | 3. Requirements for inspection by the licensing authority
998 | of records of the provider related to training or continuing
999 | education of applicants and licensees under this chapter.

1000 | 4. Requirements for announced or unannounced attendance by
1001 | department staff or board members at scheduled classes or
1002 | training, for the purpose of ensuring that the training meets
1003 | the requirements of this chapter and rules adopted under this
1004 | chapter.

1005 | ~~5. Requirements for written contracts or agreements~~
1006 | ~~required to be entered into by providers with the licensing~~
1007 | ~~authority as a prerequisite to acceptance of training or~~
1008 | ~~continuing education provided by such provider for credit under~~
1009 | ~~this chapter.~~

1010 | 5.6. Requirements regarding retention of records by the
1011 | provider regarding training or continuing education for which
1012 | credit has been given to any licensee under this chapter.

1013 | ~~6.7.~~ Procedures and criteria for terminating the status of
1014 | any provider as an approved source of training or continuing
1015 | education for credit under this chapter.

1016 | ~~7.8.~~ Requirements for fees to accompany applications from
1017 | providers for approval or renewal of approval as a provider, not

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1018 | to exceed \$250 per year. The rules may exempt nonprofit entities
1019 | from such fees.

1020 | Section 11. Paragraph (c) of subsection (1) of section
1021 | 497.149, Florida Statutes, as created by chapter 2004-301, Laws
1022 | of Florida, is amended to read:

1023 | 497.149 Investigations, hearings, and inspections.--

1024 | (1) INVESTIGATIONS.--Investigations shall be conducted by
1025 | the department. The following provisions shall apply concerning
1026 | investigations:

1027 | (c) If the department finds any accounts or records of a
1028 | licensee required by this chapter to be created and maintained
1029 | by the licensee to be inadequate or inadequately kept or posted,
1030 | it may employ experts to reconstruct, rewrite, post, or balance
1031 | them at the expense of the person being investigated, provided
1032 | the person has failed to maintain, complete, or correct such
1033 | records or accounting after the department has given the
1034 | licensee ~~her or him~~ notice and a reasonable opportunity to do
1035 | so.

1036 | Section 12. Subsection (1) of section 497.151, Florida
1037 | Statutes, as created by chapter 2004-301, Laws of Florida, is
1038 | amended, and subsection (4) is added to said section, to read:

1039 | 497.151 Complaints; logs; procedures.--

1040 | (1) This section shall be applicable to all entities
1041 | licensed under this chapter ~~licensees under this chapter except~~
1042 | ~~preneed sales agent licensees~~.

1043 | (4) For purposes of this section, the response of a
1044 | customer recorded by the customer on a customer satisfaction
1045 | questionnaire or survey form sent to the customer by the

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1046 | licensee, and returned by the customer to the licensee, shall
 1047 | not be deemed to be a complaint.

1048 | Section 13. Section 497.152, Florida Statutes, as created
 1049 | by chapter 2004-301, Laws of Florida, is amended to read:

1050 | 497.152 Disciplinary grounds.--This section sets forth
 1051 | conduct that ~~which~~ is prohibited and that ~~which~~ shall constitute
 1052 | grounds for denial of any application, imposition of discipline,
 1053 | or ~~and~~ other enforcement action against the licensee or other
 1054 | person committing such conduct. For purposes of this section,
 1055 | the requirements of this chapter include the requirements of
 1056 | rules adopted under authority of this chapter. No subsection
 1057 | heading in this section shall be interpreted as limiting the
 1058 | applicability of any paragraph within the subsection.

1059 | (1) GENERAL PROVISIONS.--The generality of the provisions
 1060 | of this subsection shall not be deemed to be limited by the
 1061 | provisions of any other subsection.

1062 | (a) Violating any provision of this chapter or any lawful
 1063 | order of the board or department or of the statutory
 1064 | predecessors to the board or department.

1065 | (b) Committing fraud, deceit, negligence, incompetency, or
 1066 | misconduct in the practice of any of the activities regulated
 1067 | under this chapter.

1068 | (c) Failing while holding a license under this chapter to
 1069 | maintain one or more of the qualifications for such license.

1070 | (d) Refusing to sell or issue a contract or provide
 1071 | services to any person because of the person's race, color,
 1072 | creed, marital status, sex, or national origin.

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1073 (2) CRIMINAL ACTIVITY.--Being convicted or found guilty
1074 of, or entering a plea of nolo contendere to, regardless of
1075 adjudication, a crime in any jurisdiction that ~~which~~ relates to
1076 the practice of, or the ability to practice, a licensee's
1077 profession or occupation under this chapter.

1078 (3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.--Having a
1079 license or the authority to practice a profession or occupation
1080 revoked, suspended, fined, denied, or otherwise acted against or
1081 disciplined by the licensing authority of another ~~any~~
1082 jurisdiction, including its agencies or subdivisions, for
1083 conduct that would constitute a violation of this chapter if
1084 committed in this state or upon grounds that ~~which~~ directly
1085 relate to the ability to practice under this chapter. The
1086 licensing authority's acceptance of a relinquishment of
1087 licensure, stipulation, consent order, or other settlement
1088 offered in response to or in anticipation of the filing of
1089 charges against the license shall be construed as action against
1090 the license.

1091 (4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT
1092 AGENCIES.--

1093 (a) Improperly interfering with an investigation or
1094 inspection authorized by statute or with any disciplinary
1095 proceeding.

1096 (b) Failure to comply with a lawfully issued subpoena of
1097 the department.

1098 (c) Refusal to produce records to the department or board
1099 in connection with any activity regulated pursuant to this
1100 chapter.

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1101 (d) Failing to report to the department any violation of
 1102 this chapter by another person, which violation is known to the
 1103 licensee to have created or be creating a serious and immediate
 1104 danger to the public health, safety, or welfare ~~person who the~~
 1105 ~~licensee knows is in violation of this chapter.~~

1106 (e) Knowingly concealing information relative to
 1107 violations of this chapter.

1108 (f) Attempting to obtain, obtaining, or renewing a license
 1109 under this chapter by bribery, false or forged evidence, or
 1110 misrepresentation or through an error of the department or board
 1111 known to the applicant.

1112 (g) Making or filing a report or statement to or with any
 1113 government entity that ~~which~~ the licensee knows or has reason to
 1114 know to be false; or intentionally or negligently failing to
 1115 file a report or record required to be filed with any government
 1116 entity, or willfully impeding or obstructing another person to
 1117 do so, or inducing another person to impede or obstruct such
 1118 filing.

1119 (h) Failing to perform any statutory or legal obligation
 1120 placed upon a licensee.

1121 (5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED
 1122 PRACTICE.--

1123 (a) Practicing or offering to practice beyond the scope
 1124 permitted by this chapter and rules adopted under this chapter
 1125 for the type of licensure held or accepting and performing
 1126 professional responsibilities the licensee knows, or has reason
 1127 to know, the licensee is not competent to perform.

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- 1128 (b) Practicing or attempting to practice with a revoked,
 1129 suspended, inactive, or delinquent license.
- 1130 (c) Representing as her or his own the license of another.
- 1131 (d) Aiding, assisting, procuring, employing, or advising
 1132 any person or entity to practice a profession or occupation
 1133 regulated by this chapter without required licensure under this
 1134 chapter.
- 1135 (e) Aiding, assisting, procuring, employing, or advising
 1136 any person or entity to operate or in operating an establishment
 1137 regulated by this chapter without the required licensure under
 1138 this chapter.
- 1139 (f) Delegating to any person the performance of
 1140 professional activities, or contracting with any person for the
 1141 performance of professional activities by such person, when the
 1142 licensee knows or has reason to know the person is not qualified
 1143 by training, experience, and authorization to perform such
 1144 responsibilities.
- 1145 (g) Using the name or title "funeral director,"
 1146 "embalmer," "direct disposer," or other title suggesting
 1147 licensure that ~~which~~ the person using such name or title does
 1148 not hold.
- 1149 (h) Engaging by a direct disposer in the practice of
 1150 direct burial or offering the at-need or preneed service of
 1151 direct burial.
- 1152 (6) EDUCATIONAL REQUIREMENTS.--
- 1153 (a) Failing to comply with applicable educational course
 1154 requirements pursuant to this chapter or rules adopted under

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1155 | this chapter regarding human immunodeficiency virus and acquired
1156 | immune deficiency syndrome.

1157 | (b) Failing to timely comply with applicable continuing
1158 | education requirements of this chapter.

1159 | (7) RELATIONS WITH OTHER LICENSEES.--

1160 | (a) Having been found liable in a civil proceeding for
1161 | knowingly filing a false report or complaint against another
1162 | licensee with the department or the board.

1163 | (b) Making any misleading statements or misrepresentations
1164 | as to the financial condition of any person, or making
1165 | statements that ~~which~~ are falsely and maliciously critical of
1166 | any person for the purpose of damaging that person's business
1167 | regulated under this chapter.

1168 | (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF
1169 | HUMAN REMAINS.--

1170 | (a) Violation of any state law or rule or any municipal or
1171 | county ordinance or regulation affecting the handling, custody,
1172 | care, or transportation of dead human bodies.

1173 | (b) Refusing to surrender promptly the custody of a dead
1174 | human body upon the express order of the person legally
1175 | authorized to its custody; however, this provision shall be
1176 | subject to any state or local laws or rules governing custody or
1177 | transportation of dead human bodies.

1178 | (c) Taking possession of a dead human body without first
1179 | having obtained written or oral permission from a legally
1180 | authorized person. If oral permission is granted, the licensee
1181 | shall ~~must~~ obtain written permission within a reasonable time as
1182 | established by rule.

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1183 (d) Embalming human remains without first having obtained
 1184 written or oral permission from a legally authorized person;
 1185 however, washing and other public health procedures, such as
 1186 closing of the orifices by placing cotton soaked in a
 1187 disinfectant in such orifices until authorization to embalm is
 1188 received, shall not be precluded. If oral permission is granted,
 1189 the licensee shall ~~must~~ obtain written permission within a
 1190 reasonable time as established by board rule.

1191 (e) Failing to obtain written authorization from the
 1192 family or next of kin of the deceased prior to entombment,
 1193 interment, disinterment, disinterment, or disinterment of the
 1194 remains of any human being.

1195 (9) SALES PRACTICES IN GENERAL.--

1196 (a) Soliciting by the licensee, or by her or his agent,
 1197 assistant, or employee, through the use of fraud, undue
 1198 influence, intimidation, overreaching, or other means that ~~which~~
 1199 takes advantage of a customer's ignorance or emotional
 1200 vulnerability.

1201 (b) Exercising undue influence on a client for the purpose
 1202 of financial gain of the licensee or a third party in connection
 1203 with any transaction regulated by this chapter.

1204 (c) Discouraging a customer's purchase of any funeral
 1205 merchandise or service that ~~which~~ is advertised or offered for
 1206 sale, with the purpose of encouraging the purchase of additional
 1207 or more expensive merchandise or service, by disparaging its
 1208 quality or appearance, except that true factual statements
 1209 concerning features, design, or construction do not constitute
 1210 disparagement; by misrepresenting its availability or any delay

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1211 involved in obtaining it; or by suggesting directly or by
1212 implication that a customer's concern for price or expressed
1213 interest in inexpensive funeral merchandise or services is
1214 improper, inappropriate, or indicative of diminished respect or
1215 affection for the deceased.

1216 (d) Misrepresenting the benefits, advantages, conditions,
1217 or terms of any contract to provide any services or merchandise
1218 regulated under this chapter.

1219 (e) Advertising goods and services in a manner that is
1220 fraudulent, deceptive, or misleading in form or content.

1221 (f) Directly or indirectly making any deceptive,
1222 misleading, or untrue representations, whether oral or written,
1223 or employing any trick, scheme, or artifice, in or related to
1224 the practice of a profession or occupation regulated under this
1225 chapter, including in the advertising or sale of any merchandise
1226 or services related to the practice of the profession or
1227 occupation.

1228 (10) SPECIFIC MISREPRESENTATIONS.--

1229 (a) Making any false or misleading statement of the legal
1230 requirement as to the necessity of any particular burial or
1231 funeral merchandise or services.

1232 (b) Making any oral, written, or visual representations,
1233 directly or indirectly, that any funeral merchandise or service
1234 is offered for sale when such is not a bona fide offer to sell
1235 such merchandise or service.

1236 (c) Making any misrepresentation for the purpose of
1237 inducing, or tending to induce, the lapse, forfeiture, exchange,
1238 conversion, or surrender of any preneed contract or any life

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1239 insurance policy pledged or assigned to secure payment for
1240 funeral or burial goods or services.

1241 (d) Misrepresenting pertinent facts or prepaid contract
1242 provisions relating to funeral or burial merchandise or
1243 services.

1244 (e) Misrepresenting the amount advanced on behalf of a
1245 customer for any item of service or merchandise, including, but
1246 not limited to, cemetery or crematory services, pallbearers,
1247 public transportation, clergy honoraria, flowers, musicians or
1248 singers, nurses, obituary notices, gratuities, and death
1249 certificates, described as cash advances, accommodations, or
1250 words of similar import on the contract, final bill, or other
1251 written evidence of agreement or obligation furnished to
1252 customers; however, nothing in this paragraph shall require
1253 disclosure of a discount or rebate that ~~which~~ may accrue to a
1254 licensee subsequent to making a cash advance.

1255 (f) Making any false or misleading statement or claim that
1256 natural decomposition or decay of human remains can be prevented
1257 or substantially delayed by embalming, use of a gasketed or
1258 ungasketed casket, or use of an adhesive or nonadhesive closure
1259 on an outer burial container.

1260 (g) Making any false or misleading statement, oral or
1261 written, directly or indirectly, regarding any law or rule
1262 pertaining to the preparation for disposition, transportation
1263 for disposition, or disposition of dead human bodies.

1264 (h) Making any false or misleading statements of the legal
1265 requirement as to the conditions under which preservation of a

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1266 | dead human body is required or as to the necessity of a casket
1267 | or outer burial container.

1268 | (11) SPECIFIC SALES PRACTICES.--

1269 | (a) Failing to furnish, for retention, to each purchaser
1270 | of burial rights, burial or funeral merchandise, or burial or
1271 | funeral services a written agreement, the form of which has been
1272 | previously approved if and as required by this chapter, that
1273 | ~~which~~ lists in detail the items and services purchased together
1274 | with the prices for the items and services purchased; the name,
1275 | address, and telephone number of the licensee; the signatures of
1276 | the customer and the licensee or her or his representative; and
1277 | the date signed.

1278 | (b) Filling in any contract form for use with a particular
1279 | customer using language that ~~Using any name or title in any~~
1280 | ~~contract regulated under this chapter which~~ misrepresents the
1281 | true nature of the contract.

1282 | (c) Selling an irrevocable preneed contract to a person
1283 | who is not an applicant for or recipient of Supplemental
1284 | Security Income or Aid to Families with Dependent Children or
1285 | pursuant to s. 497.459(6)(a).

1286 | (d) Except as authorized in part IV of this chapter,
1287 | guaranteeing the price of goods and services at a future date.

1288 | (e) Requiring that a casket be purchased for cremation or
1289 | claiming directly or by implication that a casket is required
1290 | for cremation.

1291 | (f) When displaying any caskets for sale, failing to
1292 | display the least expensive casket offered for sale or use in

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1293 adult funerals in the same general manner as the funeral service
1294 industry member's other caskets are displayed.

1295 (g) Assessing fees and costs that have not been disclosed
1296 to the customer in connection with any transaction regulated by
1297 this chapter.

1298 (h) Failure by a cemetery licensed under this chapter to
1299 provide to any person, upon request, a copy of the cemetery
1300 bylaws.

1301 (i) Requirements by a cemetery licensee that lot owners or
1302 current customers make unnecessary visits to the cemetery
1303 company office for the purpose of solicitation.

1304 (12) DISCLOSURE REQUIREMENTS.--

1305 (a) Failure to disclose, when such disclosure is desired,
1306 the components of the prices for alternatives offered by the
1307 licensee from whom disclosure is requested, such as graveside
1308 service, direct disposition, and body donation without any rites
1309 or ceremonies prior to the delivery of the body and prices of
1310 service if there are to be such after the residue has been
1311 removed following the use thereof.

1312 (b) Failing to furnish, for retention, to anyone who
1313 inquires in person about burial rights, burial or funeral
1314 merchandise, or burial or funeral services, before any
1315 discussion of selection, a printed or typewritten list
1316 specifying the range of retail prices for such rights,
1317 merchandise, or services. At a minimum, the list shall itemize
1318 the highest and lowest priced product and service regularly
1319 offered and shall include the name, address, and telephone
1320 number of the licensee and statements that the customer may

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1321 | choose only the items the customer desires, that the customer
1322 | will be charged for only those items selected, and that there
1323 | may be other charges for other items or other services.

1324 | (c) Failing to reasonably provide by telephone, upon
1325 | request, accurate information regarding the retail prices of
1326 | funeral merchandise and services offered for sale by that
1327 | licensee.

1328 | (d) Failure by a funeral director to make full disclosure
1329 | in the case of a funeral or direct disposition with regard to
1330 | the use of funeral merchandise that ~~which~~ is not to be disposed
1331 | of with the body or failure to obtain written permission from
1332 | the purchaser regarding disposition of such merchandise.

1333 | (e) Failure by any funeral director to fully disclose all
1334 | of her or his available services and merchandise prior to the
1335 | selection of a casket offered by a licensee. The full disclosure
1336 | required shall identify what is included in the funeral or
1337 | direct disposition and the prices of all services and
1338 | merchandise provided by the licensee or registrant.

1339 | (f) Failing to have the price of any casket offered for
1340 | sale clearly marked on or in the casket, whether the casket is
1341 | displayed at a funeral establishment or at any other location,
1342 | regardless of whether the licensee is in control of such
1343 | location. If a licensee uses books, catalogs, brochures, or
1344 | other printed display aids, the price of each casket shall be
1345 | clearly marked.

1346 | (g) Failing to disclose all fees and costs the customer
1347 | may incur to use the burial rights or merchandise purchased.

1348 | (13) CONTRACT OBLIGATIONS.--

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1349 (a) Failing without reasonable justification to timely
1350 honor contracts entered into by the licensee or under the
1351 licensee's license for funeral or burial merchandise or
1352 services.

1353 (b) Failure to honor preneed contract cancellation
1354 requests and make refunds as required by the chapter.

1355 (14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY
1356 CUSTOMERS.--

1357 (a) Failing to adopt and implement standards for the
1358 proper investigation and resolution of claims and complaints
1359 received by a licensee relating to the licensee's activities
1360 regulated by this chapter.

1361 (b) Committing or performing with such frequency as to
1362 indicate a general business practice any of the following:

1363 1. Failing to acknowledge and act promptly upon
1364 communications from a licensee's customers and their
1365 representatives with respect to claims or complaints relating to
1366 the licensee's activities regulated by this chapter.

1367 2. Denying claims or rejecting complaints received by a
1368 licensee from a customer or customer's representative, relating
1369 to the licensee's activities regulated by this chapter, without
1370 first conducting reasonable investigation based upon available
1371 information.

1372 3. Attempting to settle a claim or complaint on the basis
1373 of a material document that ~~which~~ was altered without notice to,
1374 or without the knowledge or consent of, the contract purchaser
1375 or her or his representative or legal guardian.

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1376 4. Failing within a reasonable time to affirm or deny
1377 coverage of specified services or merchandise under a contract
1378 entered into by a licensee upon written request of the contract
1379 purchaser or her or his representative or legal guardian.

1380 5. Failing to promptly provide, in relation to a contract
1381 for funeral or burial merchandise or services entered into by
1382 the licensee or under the licensee's license, a reasonable
1383 explanation to the contract purchaser or her or his
1384 representative or legal guardian of the licensee's basis for
1385 denying or rejecting all or any part of a claim or complaint
1386 submitted.

1387 (c) Making a material misrepresentation to a contract
1388 purchaser or her or his representative or legal guardian for the
1389 purpose and with the intent of effecting settlement of a claim
1390 or complaint or loss under a prepaid contract on less favorable
1391 terms than those provided in, and contemplated by, the prepaid
1392 contract.

1393 (d) Failing to maintain a complete copy of every complaint
1394 received by the licensee since the date of the last examination
1395 of the licensee by the department. For purposes of this
1396 subsection, the term "complaint" means any written communication
1397 primarily expressing a grievance and which communication is
1398 from:

1399 1. A representative or family member of a deceased person
1400 interred at the licensee's facilities or using the licensee's
1401 services, or which deceased's remains were the subject of any
1402 service provided by the licensee or licensee's business; or

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1403 2. A person, or such person's family member or
1404 representative, who inquired of the licensee or licensee's
1405 business concerning the purchase of, or who purchased or
1406 contracted to purchase, any funeral or burial merchandise or
1407 services from the licensee or licensee's business.

1408
1409 For purposes of this subsection, the response of a customer
1410 recorded by the customer on a customer satisfaction
1411 questionnaire or survey form sent to the customer by the
1412 licensee, and returned by the customer to the licensee, shall
1413 not be deemed to be a complaint.

1414 (15) MISCELLANEOUS FINANCIAL MATTERS.--

1415 (a) Failing to timely pay any fee required by this
1416 chapter.

1417 (b) Failing to timely remit as required by this chapter
1418 the required amounts to any trust fund required by this chapter.
1419 The board may by rule provide criteria for identifying minor,
1420 nonwillful trust remittance deficiencies; and remittance
1421 deficiencies falling within such criteria, if fully corrected
1422 within 30 days after notice to the licensee by the department,
1423 shall not constitute grounds for disciplinary action.

1424 (c) Paying to or receiving from any organization, agency,
1425 or person, either directly or indirectly, any commission, bonus,
1426 kickback, or rebate in any form whatsoever for any business
1427 regulated under this chapter, whether such payments are made or
1428 received by the licensee, or her or his agent, assistant, or
1429 employee; however, this provision shall not prohibit the payment
1430 of commissions by a funeral director, funeral establishment,

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1431 cemetery, or monument establishment to its preneed agents
1432 licensed pursuant to this chapter or to licensees under this
1433 chapter.

1434 Section 14. Subsection (1), paragraph (b) of subsection
1435 (2), and paragraph (c) of subsection (4) of section 497.153,
1436 Florida Statutes, as created by chapter 2004-301, Laws of
1437 Florida, are amended to read:

1438 497.153 Disciplinary procedures and penalties.--

1439 (1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE AND
1440 PROSECUTE.--The expiration, nonrenewal, or surrender of
1441 licensure under this chapter shall not eliminate jurisdiction in
1442 the licensing authority to investigate and prosecute for
1443 violations committed by a licensee while licensed under this
1444 chapter. The prosecution of any matter may be initiated or
1445 continued notwithstanding the withdrawal of any complaint.

1446 (2) DETERMINATION OF PROBABLE CAUSE.--

1447 (b) Prior to submitting a matter to the probable cause
1448 panel, the licensee who is the subject of the matter shall be
1449 provided by the department with a copy of any written complaint
1450 received by the department in the matter and shall be advised
1451 that the licensee ~~she or he~~ may, within 20 days after receipt of
1452 a copy of such complaint from the department, submit to the
1453 department a written response. Any response timely received by
1454 the department shall be provided by the department to the
1455 probable cause panel. Licensees may not appear in person or
1456 through a representative at any probable cause panel proceeding.
1457 This paragraph shall not apply to emergency action.

1458 (4) ACTION AFTER PROBABLE CAUSE FOUND.--

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1459 (c) The department may at any time present to the board a
 1460 proposed settlement by consent order or otherwise of any matter
 1461 as to which probable cause has been found. If the board accepts
 1462 the proposed settlement, it may execute and file the consent
 1463 order as its final order in the matter or may otherwise issue
 1464 its final order in the matter ~~shall issue its final order~~
 1465 ~~adopting the settlement~~. If the board does not accept such
 1466 settlement, the prosecution of the matter shall be resumed. No
 1467 settlement of any disciplinary matter as to which probable cause
 1468 has been found may be entered into by the board prior to receipt
 1469 of a recommended order of an administrative law judge without
 1470 the department's concurrence.

1471 Section 15. Subsection (1) of section 497.158, Florida
 1472 Statutes, as renumbered and amended by section 28 of chapter
 1473 2004-301, Laws of Florida, is amended to read:

1474 497.158 Court enforcement actions; powers; abatement of
 1475 nuisances.--

1476 (1) In addition to or in lieu of other actions authorized
 1477 by this chapter, the department may petition the courts of this
 1478 state for injunctive or other relief against any licensed or
 1479 unlicensed person for the enforcement of this chapter and orders
 1480 issued under this chapter. The court shall be authorized to
 1481 impose a fine of up to \$5,000 per violation on any licensee
 1482 under this chapter and up to \$10,000 on any person not licensed
 1483 under this chapter, payable to the department, upon any person
 1484 determined by the court to have violated this chapter, and may
 1485 order payment to the department of the department's attorney's

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1486 fees and litigation costs, by any person found to have violated
1487 this chapter.

1488 Section 16. Subsections (1), (3), and (4) and paragraph
1489 (a) of subsection (5) of section 497.159, Florida Statutes, as
1490 created by chapter 2004-301, Laws of Florida, are amended to
1491 read:

1492 497.159 Crimes.--

1493 (1) The theft ~~of an examination~~ in whole or in part or the
1494 act of unauthorized reproducing, circulating, or copying of any
1495 questions or answers on, from, or for any prelicensure
1496 examination administered by the department or the board, whether
1497 such examination is reproduced or copied in part or in whole and
1498 by any means, constitutes a felony of the third degree,
1499 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1500 (3) Any person individual who willfully obstructs the
1501 department or its examiner in any examination or investigation
1502 authorized by this chapter commits ~~is guilty of~~ a misdemeanor of
1503 the second degree and is, in addition to any disciplinary action
1504 under this chapter, punishable as provided in s. 775.082 or s.
1505 775.083. The initiation of action in any court by or on behalf
1506 of any licensee to terminate or limit any examination or
1507 investigation under this chapter shall not constitute a
1508 violation under this subsection.

1509 (4) Any officer or director, or person occupying similar
1510 status or performing similar functions, of a preneed licensee
1511 who fails ~~under this chapter who knowingly directs or causes the~~
1512 ~~failure~~ to make required deposits to any trust fund required by
1513 this chapter; any director, officer, agent, or employee of a

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1514 preneed licensee who makes any unlawful withdrawal of funds from
 1515 any such account or who knowingly discloses to the department or
 1516 an employee thereof any false report made pursuant to this
 1517 chapter; or any person who willfully violates any of the
 1518 provisions of part II, part IV or part V, or with knowledge that
 1519 such required deposits are not being made as required by law
 1520 fails to report such failure to the department, or who knowingly
 1521 directs or causes the unlawful withdrawal of funds from any
 1522 trust fund required by this chapter, commits a felony of the
 1523 third degree, punishable as provided in s. 775.082, s. 775.083,
 1524 or s. 775.084.

1525 (5)(a) No cemetery company or other legal entity
 1526 conducting or maintaining any public or private cemetery may
 1527 deny burial space to any person because of race, creed, marital
 1528 status, sex, national origin, or color. A cemetery company or
 1529 other entity operating any cemetery may designate parts of
 1530 cemeteries or burial grounds for the specific use of persons
 1531 whose religious code requires isolation. Religious institution
 1532 cemeteries may limit burials to members of the religious
 1533 institution and their families.

1534 Section 17. Paragraphs (g) and (h) of subsection (1) and
 1535 subsection (3) of section 497.161, Florida Statutes, as created
 1536 by chapter 2004-301, Laws of Florida, are amended to read:

1537 497.161 Other rulemaking provisions.--

1538 (1) In addition to such other rules as are authorized or
 1539 required under this chapter, the following additional rules, not
 1540 inconsistent with this chapter, shall be authorized by the
 1541 licensing authority.

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1542 ~~(g) Rules establishing procedures by which the department~~
 1543 ~~may use the expert or technical advice of the board or members~~
 1544 ~~of the board for the purposes of any investigation, inspection,~~
 1545 ~~or financial examination, without thereby disqualifying the~~
 1546 ~~board member from voting on final action in the matter.~~

1547 (g)(h) In connection with the statutory revisions by the
 1548 2004 ~~2005~~ Regular Session of the Legislature merging chapters
 1549 470 and 497 as those chapters appeared in the 2003 ~~2004~~ edition
 1550 of the Florida Statutes and the elimination of the former boards
 1551 under those chapters and the movement of regulation out of the
 1552 Department of Business and Professional Regulation, the
 1553 licensing authority shall through July 1, 2006, be deemed to
 1554 have extraordinary rulemaking authority to adopt any and all
 1555 rules jointly agreed by the board and the department to be
 1556 necessary for the protection of the public concerning the
 1557 regulation of the professions and occupations regulated under
 1558 this chapter, or for the relief of licensees regulated under
 1559 this chapter concerning any impacts that ~~which~~ the department
 1560 and the board jointly agree were unintended or not contemplated
 1561 in the enactment of the 2004 ~~2005~~ legislative changes. The
 1562 authority under this paragraph and any rules adopted under
 1563 authority of this paragraph shall expire July 1, 2006.

1564 (3) The department and the board shall each have standing
 1565 under chapter 120 for the purposes of challenging rules or
 1566 proposed rules under this chapter. This subsection shall not be
 1567 interpreted to deny standing to a licensee to challenge any rule
 1568 under this chapter if the licensee would otherwise have
 1569 standing.

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1570 Section 18. Section 497.165, Florida Statutes, as
1571 renumbered and amended by section 35 of chapter 2004-301, Laws
1572 of Florida, is amended to read:

1573 497.165 Liability of owners, directors, and officers
1574 regarding trust funds.--The owners, officers, and directors of
1575 any licensee under this chapter may be held jointly and
1576 severally liable for any deficiency in any trust fund required
1577 by this chapter, to the extent the deficiency arose during the
1578 period they were owners, officers, or directors of the licensee,
1579 if they intentionally or through gross ~~their conduct, or their~~
1580 negligence in the performance of their duties, caused the
1581 deficiency or substantially contributed to conditions that
1582 allowed the deficiency to arise or increase.

1583 Section 19. Subsections (1) and (3) of section 497.166,
1584 Florida Statutes, as created by chapter 2004-301, Laws of
1585 Florida, are amended to read:

1586 497.166 Preneed sales.--

1587 (1) Regulation of preneed sales shall be as set forth in
1588 part IV of this chapter. No person may act as an agent for a
1589 preneed licensee ~~funeral establishment or direct disposal~~
1590 ~~establishment~~ with respect to preneed contracts unless such
1591 person is licensed as a preneed sales agent pursuant to part IV
1592 of this chapter or is a licensed funeral director acting as a
1593 preneed sales agent.

1594 (3)(a) The funeral director in charge of a funeral
1595 establishment shall be responsible for the control and
1596 activities of the establishment's preneed sales agents.

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1597 (b) The direct disposer in charge or a funeral director
 1598 acting as a direct disposer in charge of a direct disposal
 1599 establishment shall be responsible for the control and
 1600 activities of the establishment's preneed sales agents.

1601 (c) The responsibility imposed by this subsection on the
 1602 funeral director and direct disposer in charge is a duty of
 1603 reasonable supervision and not absolute liability. The
 1604 responsibility of the funeral director or direct disposer in
 1605 charge shall be in addition to the responsibility of the preneed
 1606 licensee for the conduct of the preneed sales agents it employs.

1607 Section 20. Subsection (2) of section 497.169, Florida
 1608 Statutes, as renumbered and amended by section 39 of chapter
 1609 2004-301, Laws of Florida, is amended to read:

1610 497.169 Private actions; actions on behalf of consumers;
 1611 attorney's fee.--

1612 (2) In any civil litigation resulting from a transaction
 1613 involving a violation of this chapter by a cemetery company or
 1614 burial rights broker licensed under part II, a monument
 1615 establishment licensed under part V, or a preneed entity or
 1616 preneed sales agent licensed under part IV, the court may award
 1617 to the prevailing party and against such cemetery company,
 1618 burial rights broker, monument establishment, or preneed entity
 1619 or sales agent, after judgment in the trial court and exhaustion
 1620 of any appeal, reasonable attorney's fees and costs from the
 1621 nonprevailing party in an amount to be determined by the trial
 1622 court. Any award of attorney's fees or costs shall become a part
 1623 of the judgment and shall be subject to execution as the law

1624 | allows. This subsection does not apply to licensees licensed
 1625 | under part III or part VI.

1626 | Section 21. Section 497.171, Florida Statutes, is created
 1627 | to read:

1628 | 497.171 Identification of human remains.--

1629 | (1) PRIOR TO FINAL DISPOSITION.--

1630 | (a) This subsection shall apply to licensees under parts
 1631 | III and VI.

1632 | (b) The licensee in charge of the final disposition of
 1633 | dead human remains shall, prior to final disposition of such
 1634 | dead human remains, affix to the ankle or wrist of the deceased,
 1635 | and on the casket, alternative container, or cremation
 1636 | container, a tag providing proper identification of the dead
 1637 | human remains. The identification tag shall be encased in or
 1638 | consist of durable and long-lasting material and shall list the
 1639 | name, date of birth, and date of death of the deceased, if
 1640 | available. The board may adopt rules specifying acceptable
 1641 | materials for such identification tag, acceptable locations for
 1642 | the tag on the casket, alternative container, or cremation
 1643 | container, and acceptable methods of affixing the tag.

1644 | (c) If the dead human remains are cremated, proper
 1645 | identification shall be placed in the container or urn
 1646 | containing the cremated remains.

1647 | (d) Any licensee responsible for removal of dead human
 1648 | remains to any establishment, facility, or location shall ensure
 1649 | that the remains are identified by a tag or other means of
 1650 | identification that is affixed to the ankle or wrist of the

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1651 deceased at the time the remains are removed from the place of
 1652 death or other location.

1653 (2) INTERMENT IN UNLICENSED CEMETERIES.--The
 1654 identification of human remains interred in an unlicensed
 1655 cemetery shall be the responsibility of the licensed funeral
 1656 establishment in charge of the funeral arrangements for the
 1657 deceased person. The licensed funeral establishment in charge of
 1658 the funeral arrangements for the interment of human remains in
 1659 an unlicensed cemetery shall place on the outer burial
 1660 container, cremation interment container, or other container or
 1661 on the inside of a crypt or niche a tag or permanent identifying
 1662 mark listing the name of the decedent and the date of death, if
 1663 available. The materials and locations of the tag or mark shall
 1664 be more specifically described by rule of the licensing
 1665 authority.

1666 (3) INTERMENT IN LICENSED CEMETERIES.--

1667 (a) This subsection shall apply to cemetery licensees
 1668 under part II.

1669 (b) As to interments in a licensed cemetery, each licensed
 1670 cemetery shall place on the outer burial container, cremation
 1671 interment container, or other container or on the inside of a
 1672 crypt or niche a tag or permanent identifying marker listing the
 1673 name of the decedent and the date of death, if available. The
 1674 materials and the location of the tag or marker shall be more
 1675 specifically described by rule of the licensing authority.

1676 (c) Each licensed cemetery may rely entirely on the
 1677 identity stated on the burial transit permit or on the
 1678 identification supplied by a person licensed under this chapter

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1679 to establish the identity of the dead human remains delivered by
 1680 such person for burial and shall not be liable for any
 1681 differences between the identity shown on the burial transit
 1682 permit or identification and the actual identity of the dead
 1683 human remains delivered by such person and buried in the
 1684 cemetery.

1685 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
 1686 establishments shall establish a system of identification of
 1687 human remains received that shall be designed to track the
 1688 identity of the remains from the time of receipt until delivery
 1689 of the remains to the authorized persons. This is in addition to
 1690 the requirements for identification of human remains set forth
 1691 in subsection (1). A copy of the identification procedures shall
 1692 be available, upon request, to the department and legally
 1693 authorized persons.

1694 (5) RELIANCE ON LEGALLY AUTHORIZED PERSON.--Any licensee
 1695 charged with responsibility under this section may rely on the
 1696 representation of a legally authorized person to establish the
 1697 identity of dead human remains.

1698 Section 22. Paragraph (b) of subsection (6) of section
 1699 497.260, Florida Statutes, as renumbered and amended by section
 1700 42 of chapter 2004-301, Laws of Florida, is amended to read:

1701 497.260 Cemeteries; exemption; investigation and
 1702 mediation.--

1703 (6)

1704 (b) No cemetery company or other legal entity conducting
 1705 or maintaining any public or private cemetery may deny burial
 1706 space to any person because of race, creed, marital status, sex,

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1707 national origin, or color. A cemetery company or other entity
 1708 operating any cemetery may designate parts of cemeteries or
 1709 burial grounds for the specific use of persons whose religious
 1710 code requires isolation. Religious institution cemeteries may
 1711 limit burials to members of the religious institution and their
 1712 families.

1713 Section 23. Paragraphs (b), (m), (o), and (q) of
 1714 subsection (2) of section 497.263, Florida Statutes, as
 1715 renumbered and amended by section 45 of chapter 2004-301, Laws
 1716 of Florida, are amended to read:

1717 497.263 Cemetery companies; license required; licensure
 1718 requirements and procedures.--

1719 (2) APPLICATION PROCEDURES.--

1720 (b) The applicant shall be a corporation, or a
 1721 partnership, or a limited liability company ~~formed prior to~~
 1722 ~~January 1, 2005, which limited liability company already holds a~~
 1723 ~~license under this chapter.~~

1724 (m) The applicant shall be required to make disclosure of
 1725 the applicant's criminal records, if any, as required by s.
 1726 497.142. ~~The application shall require the applicant to disclose~~
 1727 ~~whether the applicant or any principal of the applicant has ever~~
 1728 ~~been convicted or found guilty of, or entered a plea of no~~
 1729 ~~contest to, regardless of adjudication, any crime in any~~
 1730 ~~jurisdiction. The licensing authority may require by rule~~
 1731 ~~additional information to be provided concerning any affirmative~~
 1732 ~~answers.~~

1733 (o) The applicant shall submit fingerprints in accordance
 1734 with s. 497.142. ~~The application shall require the applicant and~~

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1735 ~~applicant's principals to provide fingerprints in accordance~~
 1736 ~~with part I of this chapter.~~

1737 (q) The application shall be signed in accordance with s.
 1738 497.141(12) ~~by the president of the applicant.~~

1739 Section 24. Paragraphs (h), (j), and (l) of subsection (2)
 1740 of section 497.264, Florida Statutes, as renumbered and amended
 1741 by section 46 of chapter 2004-301, Laws of Florida, are amended
 1742 to read:

1743 497.264 License not assignable or transferable.--

1744 (2) Any person or entity that seeks to purchase or
 1745 otherwise acquire control of any cemetery licensed under this
 1746 chapter shall first apply to the licensing authority and obtain
 1747 approval of such purchase or change in control.

1748 (h) The applicant shall be required to make disclosure of
 1749 the applicant's criminal records, if any, as required by s.
 1750 497.142. ~~The application shall require the applicant to disclose~~
 1751 ~~whether the applicant or any principal of the applicant has ever~~
 1752 ~~been convicted or found guilty of, or entered a plea of no~~
 1753 ~~contest to, regardless of adjudication, any crime in any~~
 1754 ~~jurisdiction. The licensing authority may require by rule~~
 1755 ~~additional information to be provided concerning any affirmative~~
 1756 ~~answers.~~

1757 (j) The applicant shall submit fingerprints in accordance
 1758 with s. 497.142. ~~The application shall require the applicant and~~
 1759 ~~the applicant's principals to provide fingerprints in accordance~~
 1760 ~~with part I of this chapter.~~

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1761 (1) The application shall be signed in accordance with s.
 1762 497.141(12) ~~by the applicant if a natural person, otherwise by~~
 1763 ~~the president of the applicant.~~

1764 Section 25. Section 497.281, Florida Statutes, as
 1765 renumbered and amended by section 62 of chapter 2004-301, Laws
 1766 of Florida, is amended to read:

1767 497.281 Licensure of brokers of burial rights.--

1768 (1) No person shall receive compensation to act as a third
 1769 party to the sale or transfer of three or more burial rights in
 1770 a 12-month period unless the person pays a license fee as
 1771 determined by licensing authority rule but not to exceed \$250
 1772 and is licensed with the department as a burial rights broker in
 1773 accordance with this section.

1774 (2)(a) The applicant shall be required to make disclosure
 1775 of the applicant's criminal records, if any, as required by s.
 1776 497.142.

1777 (b) The application shall require the applicant to
 1778 disclose whether the applicant or any principal of the applicant
 1779 has ever had a license or the authority to practice a profession
 1780 or occupation refused, suspended, fined, denied, or otherwise
 1781 acted against or disciplined by the licensing authority of any
 1782 jurisdiction. The licensing authority may require by rule
 1783 additional information to be provided concerning any affirmative
 1784 answers. A licensing authority's acceptance of a relinquishment
 1785 of licensure, stipulation, consent order, or other settlement,
 1786 offered in response to or in anticipation of the filing of
 1787 charges against the license, shall be construed as action
 1788 against the license. The licensing authority may require by rule

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1789 additional information to be provided concerning any affirmative
1790 answers.

1791 (c) The applicant shall submit fingerprints in accordance
1792 with s. 497.142. The application shall be signed in accordance
1793 with s. 497.141(12).

1794 (d) The applicant shall demonstrate by clear and
1795 convincing evidence that the applicant has the ability,
1796 experience, and integrity to act as a burial broker and, if the
1797 applicant is an entity, that the applicant's principals are of
1798 good character.

1799 (3) For the purpose of preventing confusion and error by
1800 the licensee or by the cemeteries in which the burial rights are
1801 located as to the status as sold or unsold, and as to the
1802 identity of the owner, of the burial rights and related
1803 interment spaces in the cemetery, the licensing authority shall
1804 by rule establish requirements for minimum records to be
1805 maintained by licensees under this section.

1806 (4) The licensing authority may by rule require
1807 inspections of the records of licensees under this section.

1808 (5)(2) The department, by rule, shall provide for the
1809 biennial renewal of licenses under this section and a renewal
1810 fee as determined by licensing authority rule but not to exceed
1811 \$250.

1812 (6)(3) The licensure requirements of this section shall
1813 not apply to persons otherwise licensed pursuant to this
1814 chapter, but such persons, if they engage in activity as burial
1815 rights brokers, shall be subject to rules relating to required
1816 records and inspections.

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1817 ~~(4) The licensing authority may by rule specify records of~~
 1818 ~~brokerage transactions which shall be required to be maintained~~
 1819 ~~by burial rights brokers licensed under this subsection, and~~
 1820 ~~which shall be subject to inspection by the department.~~

1821 Section 26. Subsection (12) is added to section 497.365,
 1822 Florida Statutes, as created by chapter 2004-301, Laws of
 1823 Florida, to read:

1824 497.365 Licensure; inactive and delinquent status.--

1825 (12) The board shall prescribe by rule an application fee
 1826 for inactive status, a renewal fee for inactive status, a
 1827 delinquency fee, and a fee for reactivation of a license. None
 1828 of these fees may exceed the biennial renewal fee established by
 1829 the board for an active license. The department may not
 1830 reactivate a license unless the inactive or delinquent licensee
 1831 has paid any applicable biennial renewal or delinquency fee, or
 1832 both, and a reactivation fee.

1833 Section 27. Paragraph (c) of subsection (1) of section
 1834 497.368, Florida Statutes, as renumbered and amended by section
 1835 73 of chapter 2004-301, Laws of Florida, is amended to read:

1836 497.368 Embalmers; licensure as an embalmer by
 1837 examination; provisional license.--

1838 (1) Any person desiring to be licensed as an embalmer
 1839 shall apply to the licensing authority to take the licensure
 1840 examination. The licensing authority shall examine each
 1841 applicant who has remitted an examination fee set by rule of the
 1842 licensing authority not to exceed \$200 plus the actual per
 1843 applicant cost to the licensing authority for portions of the
 1844 examination and who has:

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1845 (c) Made disclosure of the applicant's criminal records,
 1846 if any, as required by s. 497.142. The applicant shall submit
 1847 fingerprints in accordance with s. 497.142. The applicant may
 1848 not be licensed under this section unless the licensing
 1849 authority determines the applicant is of good character and has
 1850 no demonstrated history of lack of trustworthiness or integrity
 1851 in business or professional matters. ~~Had no conviction or~~
 1852 ~~finding of guilt, regardless of adjudication, for a crime which~~
 1853 ~~directly relates to the ability to practice embalming or the~~
 1854 ~~practice of embalming.~~

1855 Section 28. Paragraph (d) is added to subsection (1) of
 1856 section 497.369, Florida Statutes, as renumbered and amended by
 1857 section 74 of chapter 2004-301, Laws of Florida, to read:

1858 497.369 Embalmers; licensure as an embalmer by
 1859 endorsement; licensure of a temporary embalmer.--

1860 (1) The licensing authority shall issue a license by
 1861 endorsement to practice embalming to an applicant who has
 1862 remitted an examination fee set by rule of the licensing
 1863 authority not to exceed \$200 and who the licensing authority
 1864 certifies:

1865 (d) Has made disclosure of the applicant's criminal
 1866 records, if any, as required by s. 497.142. The applicant shall
 1867 submit fingerprints in accordance with s. 497.142. The applicant
 1868 may not be licensed under this section unless the licensing
 1869 authority determines the applicant is of good character and has
 1870 no demonstrated history of lack of trustworthiness or integrity
 1871 in business or professional matters.

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1872 Section 29. Paragraph (c) of subsection (1) of section
1873 497.373, Florida Statutes, as renumbered and amended by section
1874 78 of chapter 2004-301, Laws of Florida, is amended to read:

1875 497.373 Funeral directing; licensure as a funeral director
1876 by examination; provisional license.--

1877 (1) Any person desiring to be licensed as a funeral
1878 director shall apply to the licensing authority to take the
1879 licensure examination. The licensing authority shall examine
1880 each applicant who has remitted an examination fee set by rule
1881 of the licensing authority not to exceed \$200 plus the actual
1882 per applicant cost to the licensing authority for portions of
1883 the examination and who the licensing authority certifies has:

1884 (c) Made disclosure of the applicant's criminal records,
1885 if any, as required by s. 497.142. The applicant shall submit
1886 fingerprints in accordance with s. 497.142. The applicant may
1887 not be licensed under this section unless the licensing
1888 authority determines the applicant is of good character and has
1889 no demonstrated history of lack of trustworthiness or integrity
1890 in business or professional matters. ~~Had no conviction or~~
1891 ~~finding of guilt, regardless of adjudication, for a crime which~~
1892 ~~directly relates to the ability to practice funeral directing or~~
1893 ~~the practice of funeral directing.~~

1894 Section 30. Paragraph (d) is added to subsection (1) of
1895 section 497.374, Florida Statutes, as renumbered and amended by
1896 section 79 of chapter 2004-301, Laws of Florida, to read:

1897 497.374 Funeral directing; licensure as a funeral director
1898 by endorsement; licensure of a temporary funeral director.--

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1899 (1) The licensing authority shall issue a license by
 1900 endorsement to practice funeral directing to an applicant who
 1901 has remitted a fee set by rule of the licensing authority not to
 1902 exceed \$200 and who:

1903 (d) Has made disclosure of the applicant's criminal
 1904 records, if any, as required by s. 497.142. The applicant shall
 1905 submit fingerprints in accordance with s. 497.142. The applicant
 1906 may not be licensed under this section unless the licensing
 1907 authority determines the applicant is of good character and has
 1908 no demonstrated history of lack of trustworthiness or integrity
 1909 in business or professional matters.

1910 Section 31. Subsection (1) of section 497.376, Florida
 1911 Statutes, as renumbered and amended by section 81 of chapter
 1912 2004-301, Laws of Florida, is amended to read:

1913 497.376 License as funeral director and embalmer
 1914 permitted; display of license.--

1915 (1) Nothing in this chapter may be construed to prohibit a
 1916 person from holding a license as an embalmer and a license as a
 1917 funeral director at the same time. There may be issued and
 1918 renewed by the licensing authority a combination license as both
 1919 funeral director and embalmer to persons meeting the separate
 1920 requirements for both licenses as set forth in this chapter. The
 1921 licensing authority may adopt rules providing procedures for
 1922 applying for and renewing such combination license. The
 1923 licensing authority may by rule establish application, renewal,
 1924 and other fees for such combination license, which fees shall
 1925 not exceed the sum of the maximum fees for the separate funeral
 1926 director and embalmer license categories as provided in this

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1927 chapter. Persons holding a combination license as a funeral
 1928 director and an embalmer shall be subject to regulation under
 1929 this chapter both as a funeral director and an embalmer.

1930 Section 32. Subsection (1) of section 497.378, Florida
 1931 Statutes, as amended and renumbered by section 83 of chapter
 1932 2004-301, Laws of Florida, is amended to read:

1933 497.378 Renewal of funeral director and embalmer
 1934 licenses.--

1935 (1) There shall be renewed a funeral director or embalmer
 1936 license upon receipt of the renewal application and fee set by
 1937 the licensing authority not to exceed \$500 ~~\$250~~. The licensing
 1938 authority may prescribe by rule continuing education
 1939 requirements of up to 12 classroom hours and may by rule
 1940 establish criteria for accepting alternative nonclassroom
 1941 continuing education on an hour-for-hour basis, in addition to a
 1942 licensing authority-approved course on communicable diseases
 1943 that includes the course on human immunodeficiency virus and
 1944 acquired immune deficiency syndrome required by s. 497.367, for
 1945 the renewal of a funeral director or embalmer license. The rule
 1946 may provide for the waiver of continuing education requirements
 1947 in circumstances that would justify the waiver, such as
 1948 hardship, disability, or illness. The continuing education
 1949 requirement is not required ~~after July 1, 1996,~~ for a licensee
 1950 who is over the age of 75 years if the licensee does not qualify
 1951 as the sole person in charge of an establishment or facility.

1952 Section 33. Subsections (1), (4), (5), and (12) of section
 1953 497.380, Florida Statutes, as renumbered and amended by section
 1954 85 of chapter 2004-301, Laws of Florida, are amended to read:

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1955 497.380 Funeral establishment; licensure.--

1956 (1) A funeral establishment shall be a place at a specific

1957 street address or location consisting of at least 1,250

1958 contiguous interior square feet and shall ~~must~~ maintain or make

1959 arrangements for ~~either~~ capacity for the refrigeration and

1960 storage of dead human bodies handled and stored by the

1961 establishment and a preparation room equipped with necessary

1962 ventilation and drainage and containing necessary instruments

1963 for embalming dead human bodies or shall ~~must~~ make arrangements

1964 for a preparation room as established by rule.

1965 (4) Application for a funeral establishment license shall

1966 be made on forms and pursuant to procedures specified by rule,

1967 shall be accompanied by a nonrefundable fee not to exceed \$300

1968 as set by licensing authority rule, and shall include the name

1969 of the licensed funeral director who is in charge of that

1970 establishment. The applicant shall be required to make

1971 disclosure of the applicant's criminal records, if any, as

1972 required by s. 497.142. The applicant shall submit fingerprints

1973 in accordance with s. 497.142. A duly completed application

1974 accompanied by the required fees shall be approved and the

1975 license issued if the proposed funeral establishment has passed

1976 an inspection pursuant to rule of the licensing authority, the

1977 licensing authority determines the applicant is of good

1978 character and has no demonstrated history of lack of

1979 trustworthiness or integrity in business or professional

1980 matters, and the applicant otherwise is in compliance with all

1981 applicable requirements of this chapter.

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1982 (5) A funeral establishment license shall be renewable
 1983 biennially pursuant to procedures, and upon payment of a
 1984 nonrefundable fee not to exceed \$500 ~~\$300~~, as set by licensing
 1985 authority rule. The licensing authority may also establish by
 1986 rule a delinquency fee not to exceed \$50 per day.

1987 (12)(a) A change in ownership of a funeral establishment
 1988 shall be promptly reported pursuant to procedures established by
 1989 rule and shall require the relicensure of the funeral
 1990 establishment, including reinspection and payment of applicable
 1991 fees.

1992 (b) A change in location of a funeral establishment shall
 1993 be promptly reported to the licensing authority pursuant to
 1994 procedures established by rule. Operations by the licensee at a
 1995 new location may not commence until an inspection by the
 1996 licensing authority of the facilities, pursuant to rules of the
 1997 licensing authority, has been conducted and passed at the new
 1998 location.

1999 Section 34. Paragraphs (a) and (g) of subsection (1) and
 2000 paragraphs (a), (f), and (g) of subsection (2) of section
 2001 497.385, Florida Statutes, as renumbered and amended by section
 2002 90 of chapter 2004-301, Laws of Florida, are amended, and
 2003 paragraph (i) is added to subsection (2) of said section, to
 2004 read:

2005 497.385 Removal services; refrigeration facilities;
 2006 centralized embalming facilities.--In order to ensure that the
 2007 removal, refrigeration, and embalming of all dead human bodies
 2008 is conducted in a manner that properly protects the public's
 2009 health and safety, the licensing authority shall adopt rules to

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2010 provide for the licensure of removal services, refrigeration
 2011 facilities, and centralized embalming facilities operated
 2012 independently of funeral establishments, direct disposal
 2013 establishments, and cinerator facilities.

2014 (1) REMOVAL SERVICES AND REFRIGERATION SERVICES.--

2015 (a) Application for licensure of a removal service or a
 2016 refrigeration service shall be made using forms and procedures
 2017 as specified by rule, shall be accompanied by a nonrefundable
 2018 fee not to exceed \$300 as set by licensing authority rule, and
 2019 shall include the name of the business owner, manager in charge,
 2020 business address, and copies of occupational and other local
 2021 permits. The applicant shall be required to make disclosure of
 2022 the applicant's criminal records, if any, as required by s.
 2023 497.142. The applicant shall submit fingerprints in accordance
 2024 with s. 497.142. A duly completed application accompanied by the
 2025 required fees shall be approved and the license issued if the
 2026 applicant has passed an inspection pursuant to rule of the
 2027 licensing authority, the licensing authority determines the
 2028 applicant is of good character and has no demonstrated history
 2029 of lack of trustworthiness or integrity in business or
 2030 professional matters, and the applicant otherwise is in
 2031 compliance with all applicable requirements of this chapter.

2032 (g)1. A change in ownership shall be promptly reported
 2033 using forms and procedures specified by rule and may require the
 2034 relicensure of the licensee, including reinspection and payment
 2035 of applicable fees, as required by rule.

2036 2. A change in location shall be promptly reported to the
 2037 licensing authority pursuant to procedures established by rule.

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2038 Operations by the licensee at a new location may not commence
 2039 until an inspection by the licensing authority of the
 2040 facilities, pursuant to rules of the licensing authority, has
 2041 been conducted and passed at the new location.

2042 (2) CENTRALIZED EMBALMING FACILITIES.--In order to ensure
 2043 that all funeral establishments have access to embalming
 2044 facilities that comply with all applicable health and safety
 2045 requirements, the licensing authority shall adopt rules to
 2046 provide for the licensure and operation of centralized embalming
 2047 facilities and shall require, at a minimum, the following:

2048 (a) All centralized embalming facilities shall contain all
 2049 of the equipment and meet all of the requirements that a
 2050 preparation room located in a funeral establishment is required
 2051 to meet, ~~but such facilities shall not be required to comply~~
 2052 ~~with any of the other requirements for funeral establishments,~~
 2053 ~~as set forth in s. 497.380.~~ The licensing authority may adopt
 2054 rules establishing the equipment and other requirements for
 2055 operation of a centralized embalming facility consistent with
 2056 this paragraph.

2057 (f) Application for licensure of a centralized embalming
 2058 facility shall be made utilizing forms and procedures prescribed
 2059 by rule and shall be accompanied by a nonrefundable fee not to
 2060 exceed \$300 as set by licensing authority rule, and licensure
 2061 shall be renewed biennially pursuant to procedures and upon
 2062 payment of a nonrefundable fee not to exceed \$300 as set by
 2063 licensing authority rule. The licensing authority may also
 2064 establish by rule a late fee not to exceed \$50 per day. Any
 2065 licensure not renewed within 30 days after the renewal date

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2066 | shall expire without further action by the department. The
 2067 | applicant shall be required to make disclosure of the
 2068 | applicant's criminal records, if any, as required by s. 497.142.
 2069 | The applicant shall submit fingerprints in accordance with s.
 2070 | 497.142. A duly completed application accompanied by the
 2071 | required fees shall be approved and the license issued if the
 2072 | applicant has passed an inspection pursuant to rule of the
 2073 | licensing authority, the licensing authority determines the
 2074 | applicant is of good character and has no demonstrated history
 2075 | of lack of trustworthiness or integrity in business or
 2076 | professional matters, and the applicant otherwise is in
 2077 | compliance with all applicable requirements of this chapter.

2078 | (g) The licensing authority shall set by rule an annual
 2079 | inspection fee not to exceed \$300, payable upon application for
 2080 | licensure and upon renewal of such licensure. Centralized
 2081 | embalming facilities shall be subject to inspection before
 2082 | issuance of license and annually thereafter and also upon change
 2083 | of location and during investigation of any complaint. A
 2084 | centralized embalming facility shall notify the licensing
 2085 | authority of any change in location. A change in ownership shall
 2086 | be promptly reported to the licensing authority using forms and
 2087 | procedures specified by rule and may require the relicensure of
 2088 | the licensee, including reinspection and payment of applicable
 2089 | fees, as required by rule. The licensing authority shall adopt
 2090 | rules establishing inspection criteria and otherwise
 2091 | establishing forms and procedures for the implementation of this
 2092 | paragraph.

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2093 (i) A change in location shall be promptly reported to the
 2094 licensing authority pursuant to procedures established by rule.
 2095 Operations by the licensee at a new location may not commence
 2096 until an inspection by the licensing authority of the
 2097 facilities, pursuant to rules of the licensing authority, has
 2098 been conducted and passed at the new location.

2099 Section 35. Section 497.453, Florida Statutes, as
 2100 renumbered and amended by section 102 of chapter 2004-301, Laws
 2101 of Florida, is amended to read:

2102 497.453 Application for preneed license, procedures and
 2103 criteria; renewal; reports.--

2104 (1) PRENEED LICENSE APPLICATION PROCEDURES.--

2105 (a) A person seeking a license to enter into preneed
 2106 contracts shall apply for such licensure using forms prescribed
 2107 by rule.

2108 (b) The application shall require the name, business
 2109 address, residence address, date and place of birth or
 2110 incorporation, and business phone number of the applicant and
 2111 all principals of the applicant. The application shall require
 2112 the applicant's social security number, or, if the applicant is
 2113 an entity, its federal tax identification number.

2114 (c) The application may require information as to the
 2115 applicant's financial resources.

2116 (d) The application may require information as to the
 2117 educational and employment history of an individual applicant;
 2118 and as to applicants that are not natural persons, the business
 2119 and employment history of the applicant and principals of the
 2120 applicant.

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2121 (e) The applicant shall be required to make disclosure of
 2122 the applicant's criminal records, if any, as required by s.
 2123 497.142. The application shall require the applicant to disclose
 2124 whether the applicant or any of the applicant's principals have
 2125 ever been convicted or found guilty of, or entered a plea of no
 2126 contest to, regardless of adjudication, any crime in any
 2127 jurisdiction.

2128 (f) The application shall require the applicant to
 2129 disclose whether the applicant or any of the applicant's
 2130 principals have ever had a license or the authority to practice
 2131 a profession or occupation refused, suspended, fined, denied, or
 2132 otherwise acted against or disciplined by the licensing
 2133 authority of any jurisdiction. A licensing authority's
 2134 acceptance of a relinquishment of licensure, stipulation,
 2135 consent order, or other settlement, offered in response to or in
 2136 anticipation of the filing of charges against the license, shall
 2137 be construed as action against the license.

2138 (g) The applicant shall submit fingerprints in accordance
 2139 with s. 497.142. The application shall require the applicant and
 2140 its principals to provide fingerprints in accordance with part I
 2141 of this chapter.

2142 (h) The application shall state the name and license
 2143 number of the funeral establishment, cemetery company, direct
 2144 disposal establishment, or monument establishment, under whose
 2145 license the preneed application is made.

2146 (i) The application shall state the types of preneed
 2147 contracts proposed to be written.

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2148 (j) The application shall disclose the existence of all
2149 preneed contracts for service or merchandise entered into by the
2150 applicant, or by any other entity under common control with the
2151 applicant, without or prior to authorization under this section
2152 or predecessors to this section. As to each such contract, the
2153 applicant shall disclose the name and address of the contract
2154 purchaser, the status of the contract, and what steps or
2155 measures the applicant has taken to ensure performance of
2156 unfulfilled contracts, setting forth the treatment and status of
2157 funds received from the customer in regard to the contract, and
2158 stating the name and address of any institution where such funds
2159 are deposited and the number used by the institution to identify
2160 the account. With respect to contracts entered into before
2161 January 1, 1983, an application to issue or renew a preneed
2162 license may not be denied solely on the basis of such
2163 disclosure. The purchaser of any such contract may not be
2164 required to liquidate the account if such account was
2165 established before July 1, 1965. Information disclosed may be
2166 used by the licensing authority to notify the contract purchaser
2167 and the institution in which such funds are deposited should the
2168 holder of a preneed license be unable to fulfill the
2169 requirements of the contract.

2170 (k) The application shall require the applicant to
2171 demonstrate that the applicant complies and will comply with all
2172 requirements for preneed contract licensure under this chapter.

2173 (l) The application may require any other information
2174 considered necessary by the department or board to meet its
2175 responsibilities under this chapter.

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2176 (m) The application shall be sworn to and signed in
 2177 accordance with s. 497.141(12) ~~by the applicant if a natural~~
 2178 ~~person, or by the president of an applicant that is not a~~
 2179 ~~natural person.~~

2180 (n) The application shall be accompanied by a
 2181 nonrefundable fee as determined by licensing authority rule but
 2182 not to exceed \$500.

2183 (2) ACTION CONCERNING APPLICATIONS.--A duly completed
 2184 application for licensure under this section, accompanied by the
 2185 required fees, shall be approved and a license issued, if the
 2186 licensing authority determines that the following conditions are
 2187 met:

2188 (a) The application is made by a funeral establishment,
 2189 cemetery company, direct disposal establishment, or monument
 2190 establishment, or on behalf of one of the preceding licensees by
 2191 its agent in the case of a corporate entity, licensed and in
 2192 good standing under this chapter.

2193 (b) The applicant meets net worth requirements specified
 2194 by rule of the licensing authority.

2195 1. The net worth required by rule to obtain or renew a
 2196 preneed license and write and carry up to \$100,000 in total
 2197 retail value of outstanding preneed contracts shall not exceed
 2198 \$20,000. The board may specify higher net worth requirements by
 2199 increments, for total retail value of outstanding preneed
 2200 contracts carried in excess of \$100,000, as the board determines
 2201 necessary for the protection of the public.

2202 2. An applicant to obtain or renew a preneed license who
 2203 cannot demonstrate the required initial minimum net worth may

2204 voluntarily submit to the licensing authority, and request
 2205 acceptance of, alternative evidence of financial stability and
 2206 resources or agree to additional oversight in lieu of the
 2207 required net worth. Such additional evidence or oversight may
 2208 include, as appropriate, one or more of the following:
 2209 a. An agreement to submit monthly financial statements of
 2210 the entity.
 2211 b. An agreement to submit quarterly financial statements
 2212 of the entity.
 2213 c. An appraisal of the entity's property or broker's
 2214 opinion of the entity's assets.
 2215 d. A credit report of the entity or its principals.
 2216 e. A subordination-of-debt agreement from the entity's
 2217 principals.
 2218 f. An indemnification or subrogation agreement binding the
 2219 entity and its principals.
 2220 g. A guarantee agreement for the entity from its
 2221 principals.
 2222 h. A written explanation of past financial activity.
 2223 i. Submission of a 12-month projected business plan that
 2224 includes:
 2225 (I) A statement of cash flows.
 2226 (II) Pro forma income statements, with sources of revenues
 2227 identified.
 2228 (III) Marketing initiatives.
 2229 j. Submission of previous department examination reports.
 2230 k. An agreement of 100 percent voluntary trust by the
 2231 entity.

2232 3. The licensing authority may accept such alternative
 2233 evidence or arrangements in lieu of the required net worth only
 2234 if the licensing authority determines such alternative evidence
 2235 or arrangements are an adequate substitute for required net
 2236 worth and that acceptance would not substantially increase the
 2237 risk to existing or future customers of nonperformance by the
 2238 applicant or licensee on its retail sales agreements.

2239 (c) The applicant has and will have the ability to
 2240 discharge her or his liabilities as they become due in the
 2241 normal course of business, and has and will have sufficient
 2242 funds available during the calendar year to perform her or his
 2243 obligations under her or his contracts.

2244 (d) If the applicant or any entity under common control
 2245 with the applicant has entered into preneed contracts prior to
 2246 being authorized to do so under the laws of this state:

2247 1. The licensing authority determines that adequate
 2248 provision has been made to ensure the performance of such
 2249 contracts.

2250 2. The licensing authority determines that the improper
 2251 sale of such preneed contracts prior to authorization under this
 2252 chapter does not indicate, under the facts of the particular
 2253 application in issue, that the applicant has a disregard of the
 2254 laws of this state such as would expose the public to
 2255 unreasonable risk if the applicant were issued a preneed
 2256 license.

2257 3. Nothing in this section shall imply any authorization
 2258 to enter into preneed contracts without authorization under this
 2259 chapter.

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2260 (e) Neither the applicant nor the applicant's principals
2261 have a demonstrated history of conducting their business affairs
2262 to the detriment of the public.

2263 (f) The applicant and the applicant's principals are of
2264 good character and have no demonstrated history of lack of
2265 trustworthiness or integrity in business or professional
2266 matters.

2267 (g) The applicant does and will comply with all other
2268 requirements of this chapter relating to preneed licensure.

2269 (3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.--It is
2270 the policy of this state to encourage competition for the public
2271 benefit in the preneed contract business by, among other means,
2272 the entry of new licensees into that business. To facilitate
2273 issuance of licenses concerning applications judged by the
2274 licensing authority to be borderline as to qualification for
2275 licensure, the licensing authority may issue a new license under
2276 this section on a probationary basis, subject to conditions
2277 specified by the licensing authority on a case-by-case basis,
2278 which conditions may impose special monitoring, reporting, and
2279 restrictions on operations for up to the first 12 months of
2280 licensure, to ensure the licensee's responsibility, competency,
2281 financial stability, and compliance with this chapter. Provided,
2282 no such probationary license shall be issued unless the
2283 licensing authority determines that issuance would not pose an
2284 unreasonable risk to the public, and the licensing authority
2285 shall ~~must~~ within 12 months after issuance of the license either
2286 remove the probationary status or determine that the licensee is

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2287 | not qualified for licensure under this chapter and institute
2288 | proceedings for revocation of licensure.

2289 | (4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.--

2290 | (a) Each licensee under this section shall ~~must~~ provide
2291 | notice as required by rule prior to any change in control of the
2292 | licensee. Any such change is subject to disapproval or to
2293 | reasonable conditions imposed by the licensing authority, for
2294 | the protection of the public to ensure compliance with this
2295 | chapter, based upon criteria established by rule, which criteria
2296 | shall promote the purposes of this part in protecting the
2297 | consumer.

2298 | (b) The licensing authority may authorize the transfer of
2299 | a preneed license and establish by rule a fee for the transfer
2300 | in an amount not to exceed \$500. Upon receipt of an application
2301 | for transfer, the executive director may grant a temporary
2302 | preneed license to the proposed transferee, based upon criteria
2303 | established by the licensing authority by rule, which criteria
2304 | shall promote the purposes of this chapter in protecting the
2305 | consumer. Such a temporary preneed license shall expire at the
2306 | conclusion of the next regular meeting of the board unless
2307 | renewed by the board. The licensing authority may by rule
2308 | establish forms and procedures for the implementation of this
2309 | paragraph.

2310 | (5) RENEWAL OF LICENSES.--

2311 | (a) A preneed license shall expire annually on June 1,
2312 | unless renewed, or at such other time or times as may be
2313 | provided by rule. The application for renewal of the license

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2314 shall be on forms prescribed by rule and shall be accompanied by
2315 a renewal fee as specified in paragraph (c).

2316 (b) Within 3 months after the end of its fiscal period, or
2317 within an extension of time therefor, as the department for good
2318 cause may grant, the licensee shall file with the department a
2319 full and true statement of her or his financial condition,
2320 transactions, and affairs, prepared on a basis as adopted by
2321 rule, as of the end of the preceding fiscal period or at such
2322 other time or times as may be required by rule, together with
2323 such other information and data that ~~which~~ may be required by
2324 rule. To facilitate uniformity in financial statements and to
2325 facilitate department analysis, there may be adopted by rule a
2326 form for financial statements. The rules regarding net worth,
2327 authorized by paragraph (2)(b), shall be applicable to the
2328 renewal of preneed licenses.

2329 (c)1. Each annual application for renewal of a preneed
2330 license that is not held by a monument establishment shall be
2331 accompanied by the appropriate fee as follows:

2332 a.1. For a preneed licensee with no preneed contract sales
2333 during the immediately preceding year....\$300.

2334 b.2. For a preneed licensee with at least 1 but fewer than
2335 50 preneed contract sales during the immediately preceding
2336 year....\$400.

2337 c.3. For a preneed licensee with at least 50 but fewer
2338 than 250 preneed contract sales during the immediately preceding
2339 year....\$500.

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2340 ~~d.4.~~ For a preneed licensee with at least 250 but fewer
2341 than 1,000 preneed contract sales during the immediately
2342 preceding year....\$850.

2343 ~~e.5.~~ For a preneed licensee with at least 1,000 but fewer
2344 than 2,500 preneed contract sales during the immediately
2345 preceding year....\$1,500.

2346 ~~f.6.~~ For a preneed licensee with at least 2,500 but fewer
2347 than 5,000 preneed contract sales during the immediately
2348 preceding year....\$2,500.

2349 ~~g.7.~~ For a preneed licensee with at least 5,000 but fewer
2350 than 15,000 preneed contract sales during the immediately
2351 preceding year....\$6,000.

2352 ~~h.8.~~ For a preneed licensee with at least 15,000 but fewer
2353 than 30,000 preneed contract sales during the immediately
2354 preceding year....\$12,500.

2355 ~~i.9.~~ For a preneed licensee with 30,000 preneed contract
2356 sales or more during the immediately preceding year....\$18,500.

2357 2. Each annual application for renewal of a preneed
2358 license that is held by a monument establishment shall be
2359 accompanied by the appropriate fee determined by its total gross
2360 aggregate at-need and preneed retail sales for the 12-month
2361 period ending 2 full calendar months prior to the month in which
2362 the renewal is required, as follows:

2363 a. Total sales of \$1 to \$50,000: \$1,000 renewal fee.

2364 b. Total sales of \$50,001 to \$250,000: \$1,500 renewal
2365 fee.

2366 c. Total sales of \$250,001 to \$500,000: \$2,000 renewal
2367 fee.

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2368 | d. Total sales over \$500,000: \$2,500 renewal fee.
 2369 | (d) An application for renewal shall disclose the
 2370 | existence of all preneed contracts for service or merchandise
 2371 | funded by any method other than a method permitted by this
 2372 | chapter, which contracts are known to the applicant and were
 2373 | entered into by the applicant, or any other entity under common
 2374 | control with the applicant, during the annual license period
 2375 | then ending. Such disclosure shall include the name and address
 2376 | of the contract purchaser, the name and address of the
 2377 | institution where such funds are deposited, and the number used
 2378 | by the institution to identify the account.
 2379 | (e) In addition to any other penalty that may be provided
 2380 | for under this chapter, there may be levied a late fee as
 2381 | determined by licensing authority rule but not to exceed \$50 a
 2382 | day for each day the preneed licensee fails to file its annual
 2383 | statement, and there may be levied a late fee as determined by
 2384 | licensing authority rule but not to exceed \$50 a day for each
 2385 | day the preneed licensee fails to file the statement of
 2386 | activities of the trust. Upon notice to the preneed licensee by
 2387 | the department that the preneed licensee has failed to file the
 2388 | annual statement or the statement of activities of the trust,
 2389 | the preneed licensee's authority to sell preneed contracts shall
 2390 | cease while such default continues.
 2391 | (6) QUARTERLY PAYMENTS.--In addition to other amounts
 2392 | required to be paid by this section, each preneed licensee shall
 2393 | pay to the Regulatory Trust Fund an amount established by rule
 2394 | not to exceed \$10 for each preneed contract entered into. This
 2395 | amount shall ~~must~~ be paid within 60 days after the end of each

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2396 | quarter. These funds shall ~~must~~ be used to defray the cost of
 2397 | administering the provisions of this chapter ~~part~~.

2398 | (7) BRANCH OPERATIONS AND LICENSURE.--

2399 | (a) Any person or entity that is part of a common business
 2400 | enterprise that has a preneed license issued pursuant to this
 2401 | section and desires to operate under a name other than that of
 2402 | the common business enterprise, may submit an application on a
 2403 | form adopted by rule to become a branch licensee. The
 2404 | application shall be accompanied by an application fee as
 2405 | determined by licensing authority rule but not to exceed \$300.

2406 | (b) Upon a determination that such branch applicant
 2407 | qualifies to sell preneed contracts under this part except for
 2408 | the requirements of paragraph (2)(c), and if the sponsoring
 2409 | preneed licensee under whose preneed license the branch
 2410 | applicant seeks branch status meets the requirements of such
 2411 | paragraph and is in compliance with all requirements of this
 2412 | part regarding its preneed license and operations thereunder, a
 2413 | branch license shall be issued.

2414 | (c) Branch licenses shall be renewed annually by payment
 2415 | of a renewal fee set by licensing authority rule and not to
 2416 | exceed \$500 ~~\$300~~. Branch licenses may be renewed only so long as
 2417 | the preneed license of the sponsoring preneed licensee remains
 2418 | in good standing.

2419 | ~~(d) Violations of this part by the branch shall be deemed~~
 2420 | ~~to be violations of this part by its sponsoring preneed~~
 2421 | ~~licensee, unless the licensing authority determines that~~
 2422 | ~~extenuating circumstances indicate that it would be unjust to~~
 2423 | ~~attribute the branch's misconduct to the sponsoring preneed~~

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2424 ~~licensee.~~ Preneed sales of the branch shall be deemed to be
 2425 sales of the sponsoring licensee for purposes of renewal fees
 2426 and trust requirements under this chapter.

2427 (e) The sponsoring preneed licensee shall be responsible
 2428 for performance of preneed contracts entered into by its branch
 2429 if the branch does not timely fulfill any such contract.

2430 (8) ANNUAL TRUST REPORTS.--On or before April 1 of each
 2431 year, the preneed licensee shall file in the form prescribed by
 2432 rule a full and true statement as to the activities of any trust
 2433 established by it pursuant to this part for the preceding
 2434 calendar year.

2435 (9) DEPOSIT OF FUNDS.--All sums collected under this
 2436 section shall be deposited to the credit of the Regulatory Trust
 2437 Fund.

2438 Section 36. Subsection (6) of section 497.456, Florida
 2439 Statutes, as renumbered and amended by section 105 of chapter
 2440 2004-301, Laws of Florida, is amended to read:

2441 497.456 Preneed Funeral Contract Consumer Protection Trust
 2442 Fund.--

2443 (6) Upon the commencement of a delinquency proceeding
 2444 pursuant to this chapter against a preneed licensee, the
 2445 licensing authority may use up to 50 percent of the balance of
 2446 the trust fund not already committed to a prior delinquency
 2447 proceeding ~~solely~~ for the purpose of establishing a receivership
 2448 and providing restitution to preneed contract purchasers and
 2449 their estates due to a preneed licensee's failure to provide the
 2450 benefits of a preneed contract or failure to refund the
 2451 appropriate principal amount by reason of cancellation thereof.

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2452 The balance of the trust fund shall be determined as of the date
2453 of the delinquency proceeding.

2454 Section 37. Paragraph (h) of subsection (1) and subsection
2455 (4) of section 497.458, Florida Statutes, as renumbered and
2456 amended by section 107 of chapter 2004-301, Laws of Florida, are
2457 amended to read:

2458 497.458 Disposition of proceeds received on contracts.--

2459 (1)

2460 (h) In no event may trust funds be loaned, directly or
2461 indirectly, to any of the following persons: the preneed
2462 licensee; any entity under any degree of common control with the
2463 preneed licensee; any employee, director, full or partial owner,
2464 or principal of the preneed licensee; or any person related by
2465 blood or marriage to any of those persons. In no event may trust
2466 funds, directly or indirectly, be invested in or with, or loaned
2467 to, any business or business venture in which any of the
2468 following persons have an interest: the preneed licensee; any
2469 entity under any degree of common control with the preneed
2470 licensee; any employee, director, full or partial owner, or
2471 principal of the preneed licensee; or any person related by
2472 blood or marriage to any of those persons. ~~In no event may said~~
2473 ~~funds be loaned to a preneed licensee, an affiliate of a preneed~~
2474 ~~licensee, or any person directly or indirectly engaged in the~~
2475 ~~burial, funeral home, or cemetery business.~~

2476 (4)(a) ~~Trust funds shall not be invested in or loaned to~~
2477 ~~or for the benefit of any business venture in which the preneed~~
2478 ~~licensee, its principals, or persons related by blood or~~
2479 ~~marriage to the licensee or its principals, have a direct or~~

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2480 ~~indirect interest, without the prior approval of the licensing~~
 2481 ~~authority.~~

2482 ~~(b) Trust funds shall not be loaned to or for the benefit~~
 2483 ~~of the preneed licensee, its principals, or persons related by~~
 2484 ~~blood or marriage to the licensee or its principals, without the~~
 2485 ~~prior approval of the licensing authority.~~

2486 ~~(c) No approval of such loans or investments shall be~~
 2487 ~~given unless it be shown by clear and convincing evidence that~~
 2488 ~~such loan or investment would be in the interest of the preneed~~
 2489 ~~contract holders whose contracts are secured by the trust funds.~~

2490 ~~(d)~~ The licensing authority may adopt rules exempting from
 2491 the prohibition of paragraph (1)(h) ~~this subsection~~, pursuant to
 2492 criteria established in such rule, the investment of trust funds
 2493 in investments, such as widely and publicly traded stocks and
 2494 bonds, notwithstanding that the licensee, its principals, or
 2495 persons related by blood or marriage to the licensee or its
 2496 principals have an interest by investment in the same entity,
 2497 where neither the licensee, its principals, or persons related
 2498 by blood or marriage to the licensee or its principals have the
 2499 ability to control the entity invested in, and it would be in
 2500 the interest of the preneed contract holders whose contracts are
 2501 secured by the trust funds to allow the investment.

2502 Section 38. Section 497.466, Florida Statutes, as
 2503 renumbered and amended by section 115 of chapter 2004-301, Laws
 2504 of Florida, is amended to read:

2505 497.466 Preneed sales agents, license required;
 2506 application procedures and criteria; appointment of agents;
 2507 responsibility of preneed licensee.--

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2508 (1) GENERAL PROVISIONS APPLICABLE TO PRENEED SALES
 2509 AGENTS.--
 2510 (a) All persons ~~individuals~~ who offer preneed contracts to
 2511 the public, or who execute preneed contracts on behalf of a
 2512 preneed licensee, including all persons ~~individuals~~ who offer,
 2513 sell, or sign contracts for the preneed sale of burial rights,
 2514 shall be licensed as preneed sales agents, pursuant to this
 2515 section. Persons, unless such individuals are licensed as
 2516 funeral directors pursuant to this chapter may engage in preneed
 2517 sales for the preneed licensee with whom they are affiliated
 2518 without preneed sales agent licensure or appointment under this
 2519 section.
 2520 (b) ~~All preneed sales agents and funeral directors acting~~
 2521 ~~as preneed sales agents must be employed by or under written~~
 2522 ~~contract with the preneed licensee that they are representing.~~
 2523 (c) ~~A preneed licensee shall be responsible for the~~
 2524 ~~activities of all preneed sales agents and all funeral directors~~
 2525 ~~acting as preneed sales agents, who are affiliated with the~~
 2526 ~~preneed licensee and who perform any type of preneed-related~~
 2527 ~~activity on behalf of the preneed licensee. In addition to the~~
 2528 ~~preneed sales agents and funeral directors acting as preneed~~
 2529 ~~sales agents, each preneed licensee shall also be subject to~~
 2530 ~~discipline if its preneed sales agents or funeral directors~~
 2531 ~~acting as preneed sales agents violate any provision of this~~
 2532 ~~chapter.~~
 2533 (d) ~~A preneed sales agent and a funeral director acting as~~
 2534 ~~a preneed sales agent shall be authorized to sell, offer, and~~

2535 ~~execute preneed contracts on behalf of all entities owned or~~
 2536 ~~operated by its sponsoring preneed licensee.~~

2537 ~~(e) An individual may be licensed as a preneed sales agent~~
 2538 ~~on behalf of more than one preneed licensee, provided that the~~
 2539 ~~individual has received the written consent of all such preneed~~
 2540 ~~licensees and makes separate application under this section for~~
 2541 ~~each such agency.~~

2542 ~~(f) A sponsoring preneed licensee shall notify the~~
 2543 ~~department in writing within 30 days after the sponsored preneed~~
 2544 ~~sales agent's authority to represent that preneed licensee has~~
 2545 ~~terminated.~~

2546 (2) PRENEED SALES AGENT LICENSE; APPLICATION PROCEDURES.--

2547 (a) A person may hold only one preneed sales agent license
 2548 at a time seeking licensure as a preneed sales agent shall apply
 2549 for such licensure using forms prescribed by rule of the
 2550 licensing authority.

2551 (b) No preneed sales agent license shall be issued to a
 2552 person under age 18.

2553 (c) Persons desiring a preneed sales agent license shall
 2554 apply to the department for such license. The application shall
 2555 require the name, residence address, residence phone number if
 2556 any, and date and place of birth of the preneed sales agent
 2557 applicant. ~~Applicants shall be at least 18 years of age. The~~
 2558 ~~application shall require identification of the name, address,~~
 2559 ~~and license number of the sponsoring preneed licensee. The~~
 2560 ~~application shall require the preneed sales agent applicant's~~
 2561 ~~social security number and the federal tax identification number~~
 2562 ~~of the sponsoring preneed licensee.~~

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2563 ~~(c) The application shall require information as to the~~
 2564 ~~educational and employment history of the preneed sales agent~~
 2565 ~~applicant.~~

2566 (d) The application shall require the preneed sales agent
 2567 applicant to disclose any criminal record, as required by s.
 2568 497.142 ~~whether the preneed sales agent applicant has ever been~~
 2569 ~~convicted or found guilty of, or entered a plea of no contest~~
 2570 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

2571 (e) The application shall require the preneed sales agent
 2572 applicant to disclose whether the preneed sales agent applicant
 2573 has ever had a license or the authority to practice a profession
 2574 or occupation refused, suspended, fined, denied, or otherwise
 2575 acted against or disciplined by the licensing authority of any
 2576 jurisdiction. A licensing authority's acceptance of a
 2577 relinquishment of licensure, stipulation, consent order, or
 2578 other settlement, offered in response to or in anticipation of
 2579 the filing of charges against the license, shall be construed as
 2580 action against the license.

2581 (f) The application shall require identification by the
 2582 preneed sales agent applicant of the preneed licensee whom the
 2583 preneed sales agent applicant believes will initially appoint
 2584 the preneed sales agent applicant if a preneed sales agent
 2585 license is issued. ~~The application shall require a~~
 2586 ~~representation by the sponsoring preneed licensee, that:~~

2587 ~~1. The sponsoring preneed licensee's license is in good~~
 2588 ~~standing.~~

2589 ~~2. Upon licensure as a preneed sales agent the sponsored~~
 2590 ~~preneed sales agent applicant will be authorized to offer, sell,~~
 2591 ~~and sign preneed contracts on behalf of the preneed licensee.~~

2592 ~~3. The preneed licensee has trained the applicant in the~~
 2593 ~~provisions of this chapter relating to preneed sales, the~~
 2594 ~~provisions of the preneed licensee's preneed contracts, and the~~
 2595 ~~nature of the merchandise, services, or burial rights sold by~~
 2596 ~~the preneed licensee.~~

2597 ~~(g) The application shall require the preneed sales agent~~
 2598 ~~applicant to indicate whether the applicant has any type of~~
 2599 ~~working relationship with any other preneed licensee or~~
 2600 ~~insurance company, and if yes, to identify such other preneed~~
 2601 ~~licensee or insurance company, as the case may be.~~

2602 ~~(h) The applicant shall be required to submit her or his~~
 2603 ~~fingerprints in accordance with part I of this chapter.~~

2604 (g)(i) The application shall be signed by the applicant
 2605 and by an officer or manager of the sponsoring preneed licensee.
 2606 The licensing authority may accept electronic signatures.

2607 (h)(j) The application shall be accompanied by a
 2608 nonrefundable fee of \$150 if made through the department's on-
 2609 line licensing system or \$175 if made using paper forms. Payment
 2610 of either fee shall entitle the applicant to one initial
 2611 appointment without payment of further fees by the preneed sales
 2612 agent or the appointing preneed licensee if a preneed sales
 2613 agent license is issued \$100. The licensing authority may from
 2614 time to time increase such fees ~~fee~~ but not to exceed \$300 ~~\$200~~.

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2615 (3) ISSUANCE OF A TEMPORARY PRENEED SALES AGENT LICENSE
2616 ACTION CONCERNING APPLICATIONS; TEMPORARY AND REGULAR
2617 LICENSURE.--

2618 (a) Upon receipt of a duly completed application and the
2619 required fee, a temporary preneed sales agent license shall be
2620 issued to the applicant if:

2621 1. The applicant is at least 18 years of age.

2622 2. The application indicates that the applicant has no
2623 disciplinary or criminal record and the department has no record
2624 indicating the applicant has any disciplinary or criminal
2625 record.

2626 3. The applicant has never previously held a temporary
2627 preneed sales agent license that lapsed for failure to submit
2628 fingerprints as required by this section.

2629 (b) A temporary preneed sales agent license shall be valid
2630 for only 120 days from the date issued and may not be renewed.

2631 (c) An applicant for a preneed sales agent license who has
2632 previously been issued a temporary preneed sales agent license
2633 that for any reason expired without becoming permanent shall not
2634 thereafter be eligible for another temporary preneed sales agent
2635 license. Such person may apply again for a preneed sales agent
2636 license, but no license shall be issued until fingerprints are
2637 provided as required by s. 497.142, a report is received from
2638 the Department of Law Enforcement advising that the applicant
2639 has no criminal record, and the applicant is otherwise
2640 determined by the department and board to qualify for preneed
2641 sales agent licensure.

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2642 (4) CONVERSION OF TEMPORARY PRENEED SALES AGENT LICENSE TO
2643 PERMANENT PRENEED SALES AGENT LICENSE.--

2644 (a) A temporary preneed sales agent licensee who desires
2645 to obtain a permanent preneed sales agent license shall, within
2646 90 days after issuance of the temporary preneed sales agent
2647 license, submit his or her fingerprints to the licensing
2648 authority for a criminal background check, in accordance with s.
2649 497.142. Unless the department determines prior to the
2650 expiration of the temporary preneed sales agent license that the
2651 temporary licensee has a criminal or disciplinary record, the
2652 temporary preneed sales agent license shall automatically be
2653 converted to a permanent preneed sales agent license.

2654 (b) The department shall promptly give written notice to
2655 the temporary preneed sales agent licensee, and to all preneed
2656 licensees who have the temporary preneed sales agent under
2657 appointment, that such preneed sales agent's temporary license
2658 has been converted to a permanent license, or has lapsed, as the
2659 case may be.

2660 (5) APPLICANTS WITH A CRIMINAL OR DISCIPLINARY RECORD.--

2661 (a) A preneed sales agent applicant having a criminal or
2662 disciplinary record shall not be eligible for a temporary
2663 preneed sales agent license. No permanent preneed sales agent
2664 license shall be issued to any person with a criminal or
2665 disciplinary record, except upon approval of the board.

2666 (b) If, while a temporary preneed sales agent license is
2667 in force, the department determines that the temporary licensee
2668 has a criminal or disciplinary record, the temporary license
2669 shall be immediately suspended and shall not automatically

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2670 convert to a permanent preneed sales agent license. The
 2671 department shall promptly give written notice of the suspension
 2672 to the suspended licensee and to all preneed licensees who have
 2673 the suspended preneed sales agent licensee under appointment.
 2674 The suspended preneed sales agent licensee may, within 21 days
 2675 after the date of suspension, petition the board under paragraph
 2676 (c) for issuance of a permanent preneed sales agent license
 2677 notwithstanding the criminal or disciplinary record. If no
 2678 petition for board review is timely received by the department
 2679 or board, the temporary preneed sales agent license shall be
 2680 revoked.

2681 (c) An applicant with a criminal or disciplinary record
 2682 who desires a permanent preneed sales agent license shall
 2683 petition the board for issuance of such license using forms and
 2684 procedures as specified by rule. The board shall issue a
 2685 permanent preneed sales agent license to an applicant with a
 2686 criminal or disciplinary record if the board determines:

2687 1. That there was no inaccuracy in the application for
 2688 license such as indicates the applicant is untrustworthy.

2689 2. That the applicant, if issued a preneed sales agent
 2690 license, would not pose an unreasonable risk to members of the
 2691 public who might deal with the applicant in preneed
 2692 transactions.

2693 (d) The board may issue a preneed sales agent license to
 2694 an applicant with a criminal or disciplinary record on a
 2695 probationary basis and subject to reasonable terms of probation
 2696 not to exceed 24 months in duration.

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2697 (6) TERMINATION OF A PERMANENT PRENEED SALES AGENT LICENSE
 2698 DUE TO LACK OF APPOINTMENTS.--A permanent preneed sales agent
 2699 license shall remain in force without a requirement for renewal
 2700 until such time as there have been no appointments of the
 2701 preneed sales agent under the license for 48 consecutive months,
 2702 at which time the permanent preneed sales agent license will
 2703 terminate. The former preneed sales agent licensee may
 2704 thereafter apply for issuance of a new preneed sales agent
 2705 license under this section.

2706 (7) APPOINTMENT OF PRENEED SALES AGENTS.--

2707 (a) A preneed sales agent licensee may be appointed by as
 2708 many preneed licensees as desire to appoint the preneed sales
 2709 agent licensee. When a preneed sales agent licensee is appointed
 2710 by a preneed licensee, the department shall promptly give
 2711 written notice to all other preneed licensees then having that
 2712 same preneed sales agent under appointment.

2713 (b) A preneed licensee may appoint a preneed sales agent
 2714 licensee by identifying to the department the preneed sales
 2715 agent licensee to be appointed, requesting appointment, and
 2716 paying the required appointment fee. The appointment request
 2717 shall be signed by the preneed licensee. The department may
 2718 accept electronic signatures.

2719 (c) Appointments shall be effective when made and shall
 2720 expire 24 months from the last day of the month in which the
 2721 appointment was made unless earlier terminated by the preneed
 2722 licensee or the preneed sales agent. No initial appointment of a
 2723 preneed sales agent licensee may be made until 24 hours after a
 2724 temporary preneed sales agent license is issued to that preneed

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2725 sales agent. Appointments are effective only so long as the
 2726 preneed sales agent licensee's license is in good standing.

2727 (d) A preneed licensee is responsible for taking
 2728 reasonable steps to ensure that the preneed sales agent
 2729 licensees it appoints have adequate training regarding preneed
 2730 sales.

2731 (e) Appointments may be renewed for additional 24-month
 2732 periods by notification by the preneed licensee to the
 2733 department that the preneed licensee desires to renew the
 2734 appointment, accompanied by payment by the preneed licensee of
 2735 the appointment renewal fee.

2736 (f) Initial and renewal appointment fees shall be
 2737 nonrefundable and shall be \$150 if made through the department's
 2738 on-line licensing system and \$175 if made using paper forms
 2739 requiring manual processing by the department. The board may
 2740 from time to time by rule increase said appointment fees but not
 2741 to exceed \$300.

2742 (g)1. Appointments may be terminated at any time by the
 2743 appointing preneed licensee or by the appointed preneed sales
 2744 agent licensee.

2745 2. Termination of appointment shall be accomplished by
 2746 notice of termination conveyed to the department and signed by
 2747 the person or entity requesting the termination. The department
 2748 may accept electronic signatures. There shall be no fee for
 2749 termination of appointment accomplished through the department's
 2750 on-line licensing system; however, there shall be a fee of \$25
 2751 for terminations made using paper forms requiring manual
 2752 processing by the department.

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2753 3. When an appointment is terminated, whether by the
 2754 preneed licensee or the preneed sales agent licensee, the
 2755 department shall promptly provide written confirmation of the
 2756 termination to both the preneed sales agent licensee and the
 2757 preneed licensee at their respective addresses of record with
 2758 the department.

2759 4. If a preneed licensee terminates the authority of a
 2760 preneed sales agent license to sell for the preneed licensee,
 2761 the preneed licensee shall, within 30 days after such
 2762 termination, terminate the appointment as indicated in
 2763 subparagraph 2.

2764 5. If a preneed sales agent licensee terminates the
 2765 preneed sales relationship with a preneed licensee, the preneed
 2766 sales agent licensee shall, within 30 days after such
 2767 termination, terminate the appointment as indicated in
 2768 subparagraph 2.

2769 6. If the license of a preneed sales agent is suspended or
 2770 revoked pursuant to disciplinary action by the licensing
 2771 authority against the preneed sales agent, the department shall
 2772 promptly give written notice of such action to all preneed
 2773 licensees then having that preneed sales agent under
 2774 appointment.

2775 (8) ADMINISTRATIVE MATTERS.--

2776 (a) The licensing authority shall have rulemaking
 2777 authority to prescribe forms and procedures for implementation
 2778 of this section.

2779 (b)1. All persons holding one or more preneed sales agent
 2780 licenses in good standing under s. 497.439, as of 11:59 p.m. on

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2781 September 30, 2005, shall be deemed as of October 1, 2005, to
 2782 hold a permanent preneed sales agent license under this statute
 2783 as effective on October 1, 2005.

2784 2. All persons holding one or more preneed sales agent
 2785 licenses in good standing under s. 497.439, as of 11:59 p.m. on
 2786 September 30, 2005, shall be deemed as of October 1, 2005, to be
 2787 appointed by each preneed licensee in regard to whom they hold a
 2788 preneed sales agent license as of 11:59 p.m. on September 30,
 2789 2005. Such appointments shall expire on the same date as the
 2790 preneed sales agent license would have expired under the law in
 2791 effect at 11:59 p.m. on September 30, 2005.

2792 (c) As used in this section, "criminal record" means and
 2793 includes only crimes required to be disclosed under s. 497.142.

2794 (d) As used in this section, "disciplinary record" means
 2795 and includes any instance wherein the applicant has ever had a
 2796 license or the authority to practice a profession or occupation
 2797 refused, suspended, fined, denied, or otherwise acted against or
 2798 disciplined by the licensing authority of any jurisdiction. A
 2799 licensing authority's acceptance of a relinquishment of
 2800 licensure, stipulation, consent order, or other settlement,
 2801 offered in response to or in anticipation of the filing of
 2802 charges against the license, shall be construed as action
 2803 against the license.

2804 (e) A preneed licensee shall be responsible for the
 2805 activities of all preneed sales agents, and all funeral
 2806 directors acting as preneed sales agents, who are affiliated
 2807 with the preneed licensee and who perform any type of preneed-
 2808 related activity on behalf of the preneed licensee. In addition

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2809 to the preneed sales agents and funeral directors acting as
2810 preneed sales agents, each preneed licensee shall also be
2811 subject to discipline if its preneed sales agents or funeral
2812 directors acting as preneed sales agents violate any provision
2813 of this chapter.

2814 ~~(a) An applicant shall be deemed to have been issued a~~
2815 ~~temporary preneed sales agent license and may begin functioning~~
2816 ~~as a preneed sales agent, immediately upon receipt by the~~
2817 ~~department of a duly completed application for licensure under~~
2818 ~~this section, if the application shows an applicant of at least~~
2819 ~~18 years of age who has answered in the negative regarding~~
2820 ~~paragraphs (2)(d) and (e) relating to prior criminal and~~
2821 ~~disciplinary actions, and which application is accompanied by~~
2822 ~~the required application fee. The temporary preneed sales agent~~
2823 ~~license shall be valid for 90 days unless earlier suspended by~~
2824 ~~the licensing authority for cause. If the application is~~
2825 ~~approved by the board within the 90-day period, the temporary~~
2826 ~~license shall be deemed converted to a regular biennial license~~
2827 ~~which shall expire in accordance with the schedule established~~
2828 ~~by the licensing authority by rule.~~

2829 ~~(b)1. A person who cannot truthfully answer in the~~
2830 ~~negative regarding paragraphs (2)(d) and (e) relating to prior~~
2831 ~~criminal and disciplinary actions, may apply to the licensing~~
2832 ~~authority for issuance of a preneed sales agent license~~
2833 ~~notwithstanding such criminal or disciplinary record. The~~
2834 ~~licensing authority may by rule specify forms and procedures for~~
2835 ~~use by such persons in applying for preneed sales agent~~
2836 ~~licensure, to be used by such persons in lieu of the forms and~~

2837 ~~procedures specified under paragraph (a). Licensure shall be~~
 2838 ~~granted unless the licensing authority reasonably determines~~
 2839 ~~that the prior criminal or disciplinary record indicates that~~
 2840 ~~the granting of licensure would pose unreasonable risk to the~~
 2841 ~~public.~~

2842 ~~2. To facilitate issuance of licenses concerning~~
 2843 ~~applicants with criminal or disciplinary records which the~~
 2844 ~~licensing authority judges to make the applicant borderline as~~
 2845 ~~to qualification for licensure, the licensing authority may~~
 2846 ~~issue a new license under this section on a probationary basis,~~
 2847 ~~subject to conditions specified by the licensing authority on a~~
 2848 ~~case-by-case basis, which conditions may impose special~~
 2849 ~~monitoring, reporting, and restrictions on operations for up to~~
 2850 ~~the first 24 months of licensure, to ensure the preneed sales~~
 2851 ~~agent licensee's integrity, trustworthiness, and compliance with~~
 2852 ~~this chapter. Provided, no such probationary license shall be~~
 2853 ~~issued unless the licensing authority determines that issuance~~
 2854 ~~would not pose an unreasonable risk to the public, and the~~
 2855 ~~licensing authority must within 24 months after issuance of the~~
 2856 ~~license either remove the probationary status or determine that~~
 2857 ~~the licensee is not qualified for licensure under this chapter~~
 2858 ~~and institute proceedings for revocation of licensure. The~~
 2859 ~~licensing authority may adopt rules prescribing criteria and~~
 2860 ~~procedures for issuance of such probationary licenses.~~

2861 ~~(4) RENEWAL OF LICENSES. Nontemporary preneed sales agent~~
 2862 ~~licenses under this section shall be renewed biennially in~~
 2863 ~~accordance with a schedule, forms, and procedures established by~~

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2864 ~~rule. The nonrefundable biennial renewal fee shall be as~~
2865 ~~determined by licensing authority rule but not to exceed \$200.~~
2866 ~~(5) SIMPLIFIED PROCEDURES FOR SUBSEQUENT CHANGE OF~~
2867 ~~SPONSORING LICENSEE. The board may by rule establish simplified~~
2868 ~~requirements and procedures under which any preneed sales agent,~~
2869 ~~who within the 12 months preceding application under this~~
2870 ~~subsection held in good standing a preneed sales agent license~~
2871 ~~under this section, may obtain a preneed sales agent's license~~
2872 ~~under this section to represent a different sponsoring preneed~~
2873 ~~licensee. The simplified requirements shall dispense with the~~
2874 ~~requirement for submission of fingerprints. The licensing~~
2875 ~~authority may by rule prescribe forms to be used by applicants~~
2876 ~~under this subsection, which forms may dispense with the~~
2877 ~~requirement for any information not deemed by the licensing~~
2878 ~~authority to be necessary to tracking the identity of the~~
2879 ~~preneed licensee responsible for the activities of the preneed~~
2880 ~~sales agent. No preneed sales agent licensee whose sales agent~~
2881 ~~license issued by the board was revoked or suspended or~~
2882 ~~otherwise terminated while in other than good standing, shall be~~
2883 ~~eligible to use the simplified requirements and procedures. The~~
2884 ~~issuance of a preneed sales agent license under this subsection~~
2885 ~~shall not operate as a bar to any subsequent disciplinary action~~
2886 ~~relating to grounds arising prior to obtaining the license under~~
2887 ~~this subsection. There shall be a fee payable to the department~~
2888 ~~under such simplified procedures, which fee shall be the same as~~
2889 ~~the fee paid upon initial application for a preneed sales agent~~
2890 ~~license, except that no fingerprint fee shall be required if~~
2891 ~~such fingerprint fee is required for initial applications.~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2892 Section 39. Section 497.468, Florida Statutes, is created
2893 to read:

2894 497.468 Disclosure of information to the public.--A
2895 preneed licensee offering to provide burial rights, merchandise,
2896 or services to the public shall:

2897 (1) Provide by telephone, upon request, accurate
2898 information regarding the retail prices of burial merchandise
2899 and services offered for sale by the licensee.

2900 (2) Fully disclose all regularly offered services and
2901 merchandise prior to the customer's selection of burial services
2902 or merchandise. The full disclosure required shall identify the
2903 prices of all burial rights, services, and merchandise provided
2904 by the licensee.

2905 (3) Not make any false or misleading statements of the
2906 legal requirement as to the necessity of a casket or outer
2907 burial container.

2908 (4) Provide a good faith estimate of all fees and costs
2909 the customer will incur to use any burial rights, merchandise,
2910 or services purchased.

2911 (5) Provide to the customer, upon the purchase of any
2912 burial right, merchandise, or service, a written contract the
2913 form of which has been approved by the licensing authority
2914 pursuant to procedures specified by rule. The written contract
2915 shall:

2916 (a) Be completed as to all essential provisions prior to
2917 the signing of the contract by the customer.

2918 (b) Provide an itemization of the amounts charged for all
2919 services, merchandise, and fees, which itemization shall be

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2920 clearly and conspicuously segregated from everything else on the
 2921 written contract.

2922 (c) Provide a description of the merchandise covered by
 2923 the contract to include, when applicable, model, manufacturer,
 2924 and other relevant specifications.

2925 (6) Provide the licensee's policy on cancellation and
 2926 refunds to each customer.

2927 (7) In a manner established by rule of the licensing
 2928 authority, provide on the signature page of the written
 2929 contract, clearly and conspicuously in boldfaced 10-point type
 2930 or larger, the following:

2931 (a) The words "purchase price."

2932 (b) The amount to be trusted.

2933 (c) The amount to be refunded upon contract cancellation.

2934 (d) The amounts allocated to merchandise, services, and
 2935 cash advances.

2936 (e) The toll-free number of the department which is
 2937 available for questions or complaints.

2938 (f) A statement that the customer shall have 30 days from
 2939 the date of execution of contract to cancel the contract and
 2940 receive a total refund of all moneys paid for items not used.

2941 (8) Effective October 1, 2006, display in its offices for
 2942 free distribution to all potential customers, and provide to all
 2943 customers at the time of sale, a brochure explaining how and by
 2944 whom preneed sales are regulated, summarizing consumer rights
 2945 under the law, and providing the name, address, and phone number
 2946 of the department's consumer affairs division. The format and
 2947 content of the brochure shall be as prescribed by rule. The

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2948 licensing authority may cause the publication of such brochures
 2949 and by rule require that preneed licensees purchase and make
 2950 available such brochures as so published, in the licensee's
 2951 offices, to all potential customers.

2952 (9) Provide to each customer a complete description of any
 2953 monument, marker, or memorialization to be placed at the
 2954 gravesite pursuant to the preneed contract.

2955 Section 40. Paragraphs (c), (e), (f), and (h) of
 2956 subsection (2) of section 497.550, Florida Statutes, as
 2957 renumbered and amended by section 118 of chapter 2004-301, Laws
 2958 of Florida, are amended, and paragraph (j) is added to said
 2959 subsection, to read:

2960 497.550 Licensure of monument establishments required;
 2961 procedures and criteria.--

2962 (2) APPLICATION PROCEDURES.--A person seeking licensure as
 2963 a monument establishment shall apply for such licensure using
 2964 forms prescribed by rule.

2965 (c) The applicant shall be required to make disclosure of
 2966 the applicant's criminal records, if any, as required by s.
 2967 497.142. ~~The application shall require the applicant to disclose~~
 2968 ~~whether the applicant or any of its principals have ever been~~
 2969 ~~convicted or found guilty of, or entered a plea of no contest~~
 2970 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

2971 (e) The applicant shall submit fingerprints in accordance
 2972 with s. 497.142. ~~The application shall require the applicant's~~
 2973 ~~principals to provide fingerprints in accordance with part I of~~
 2974 ~~this chapter.~~

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2975 (f) The applicant shall be a natural person at least 18
 2976 years of age, a corporation, a partnership, or a limited
 2977 liability company ~~formed prior to January 1, 2005, which limited~~
 2978 ~~liability company already holds a license under this chapter.~~

2979 (h) The application shall be signed in accordance with s.
 2980 497.141(12) ~~by the applicant if a natural person, or by the~~
 2981 ~~president of an applicant that is a corporation.~~

2982 (j) Upon receipt of the application and application fee,
 2983 the licensing authority shall inspect the proposed monument
 2984 establishment facilities in accordance with rules of the
 2985 licensing authority.

2986 Section 41. Section 497.551, Florida Statutes, as created
 2987 by chapter 2004-301, Laws of Florida, is amended to read:

2988 497.551 Renewal of monument establishment licensure.--

2989 (1) A monument establishment license shall ~~must~~ be renewed
 2990 biennially by the licensee.

2991 (2) A monument establishment licensee ~~that does not hold a~~
 2992 ~~preneed sales license as of 90 days prior to the date its~~
 2993 ~~monument establishment license renewal is due,~~ shall renew its
 2994 monument establishment license by payment of a renewal fee
 2995 established by rule not to exceed \$250.

2996 (3) ~~A monument establishment licensee which as of 90 days~~
 2997 ~~prior to its monument establishment license renewal date also~~
 2998 ~~holds a preneed sales license issued under this chapter, shall~~
 2999 ~~renew its monument establishment license by payment of a renewal~~
 3000 ~~fee determined by its total gross aggregate at-need and preneed~~
 3001 ~~retail sales for the 12-month period ending 2 full calendar~~

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3002 ~~months prior to the month in which the renewal is required, as~~
 3003 ~~follows:~~

3004 ~~(a) Total sales of \$1 to \$50,000, renewal fee \$1,000.~~

3005 ~~(b) Total sales of \$50,001 to \$250,000, renewal fee~~
 3006 ~~\$1,500.~~

3007 ~~(c) Total sales of \$250,001 to \$500,000, renewal fee~~
 3008 ~~\$2,000.~~

3009 ~~(d) Total sales over \$500,000, renewal fee \$2,500.~~

3010 (3)~~(4)~~ Rules may be adopted providing procedures, forms,
 3011 and uniform timeframes for monument establishment license
 3012 renewals.

3013 Section 42. Subsection (4) of section 497.552, Florida
 3014 Statutes, as created by chapter 2004-301, Laws of Florida, is
 3015 amended to read:

3016 497.552 Required facilities.--Effective January 1, 2006, a
 3017 monument establishment shall at all times have and maintain a
 3018 full-service place of business at a specific street address or
 3019 location in Florida complying with the following requirements:

3020 (4) It shall have facilities on site for inscribing
 3021 monuments and equipment to deliver and install markers and
 3022 monuments.

3023 Section 43. Subsections (1) and (5) of section 497.553,
 3024 Florida Statutes, as created by chapter 2004-301, Laws of
 3025 Florida, are amended, and subsection (6) is added to said
 3026 section, to read:

3027 497.553 Regulation of monument establishments.--

3028 (1) The Department of Financial Services shall establish
 3029 and implement an inspection program for all monument

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3030 establishments in accordance with the requirements of this act.
 3031 The board shall set by rule an annual inspection fee not to
 3032 exceed \$300, payable upon application for licensure and upon
 3033 each renewal of such license.

3034 (5) Commencing January 1, 2006, the failure of a monument
 3035 establishment to deliver and install a purchased monument or
 3036 marker by the date agreed in the sales agreement shall entitle
 3037 the customer to a full refund of all amounts paid by the
 3038 customer for the monument and its delivery and installation,
 3039 unless the monument establishment has obtained a written
 3040 agreement from the customer extending the delivery date. Such
 3041 refund shall be made within 30 days after receipt by the
 3042 monument establishment of the customer's written request for a
 3043 refund. This subsection does not preclude the purchase and
 3044 installation of a new monument from any other registered
 3045 monument establishment or ~~preneed sales~~ licensee.

3046 (6)(a) A change in ownership shall be promptly reported
 3047 using forms and procedures specified by rule and may require the
 3048 relicensure of the licensee, including reinspection and payment
 3049 of applicable fees, as required by rule.

3050 (b) A change in location shall be promptly reported to the
 3051 licensing authority pursuant to procedures established by rule.
 3052 Operations by the licensee at a new location may not commence
 3053 until an inspection by the licensing authority of the
 3054 facilities, pursuant to rules of the licensing authority, has
 3055 been conducted and passed at the new location.

3056 Section 44. Paragraph (b) of subsection (2) and subsection
 3057 (4) of section 497.554, Florida Statutes, as created by chapter

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3058 | 2004-301, Laws of Florida, are amended, and subsection (7) is
3059 | added to said section, to read:

3060 | 497.554 Monument establishment sales representatives.--

3061 | (2) APPLICATION PROCEDURES.--Licensure as a monument
3062 | establishment sales agent shall be by submission of an
3063 | application for licensure to the department on a form prescribed
3064 | by rule.

3065 | (b) The applicant shall be required to make disclosure of
3066 | the applicant's criminal records, if any, as required by s.
3067 | 497.142. The applicant shall submit fingerprints in accordance
3068 | with s. 497.142. ~~The application shall require the applicant to~~
3069 | ~~disclose whether the applicant has ever been convicted or found~~
3070 | ~~guilty of, or entered a plea of no contest to, regardless of~~
3071 | ~~adjudication, any crime in any jurisdiction.~~

3072 | (4) RENEWAL; TERMINATION OF AUTHORITY.--

3073 | (a) A monument establishment sales agent license under
3074 | this section shall be renewed upon payment of a fee determined
3075 | by rule of the licensing authority but not to exceed \$250. ~~Once~~
3076 | ~~issued, a monument establishment sales agent license of an agent~~
3077 | ~~not licensed to make preneed sales shall remain in effect~~
3078 | ~~without renewal until surrendered, or the sponsoring monument~~
3079 | ~~establishment terminates the agent's authority to sell on behalf~~
3080 | ~~of that monument establishment, or the license is revoked or~~
3081 | ~~suspended by the licensing authority for cause.~~

3082 | (b) The monument establishment whose officer signed the
3083 | sales agent application shall terminate that agent's authority
3084 | to sell on behalf of that monument establishment, and the
3085 | monument establishment in writing shall advise the licensing

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3086 authority of such termination within 30 days after the
3087 termination.

3088 (7) EFFECTIVE DATE.--The provisions of this section shall
3089 take effect October 1, 2006.

3090 Section 45. Section 497.555, Florida Statutes, as created
3091 by chapter 2004-301, Laws of Florida, is amended to read:

3092 497.555 Required rules.--Rules shall be adopted
3093 establishing minimum standards for access to all cemeteries by
3094 licensed monument establishments for the purpose of delivering
3095 and installing markers and monuments. In all cases, cemeteries
3096 and monument establishments shall ~~must~~ comply with these minimum
3097 standards.

3098 Section 46. Paragraphs (d) and (f) of subsection (2) of
3099 section 497.602, Florida Statutes, as renumbered and amended by
3100 section 127 of chapter 2004-301, Laws of Florida, are amended to
3101 read:

3102 497.602 Direct disposers, license required; licensing
3103 procedures and criteria; regulation.--

3104 (2) APPLICATION PROCEDURES.--

3105 (d) The applicant shall be required to make disclosure of
3106 the applicant's criminal records, if any, as required by s.
3107 497.142. ~~The application shall require the applicant to disclose~~
3108 ~~whether the applicant has ever been convicted or found guilty~~
3109 ~~of, or entered a plea of no contest to, regardless of~~
3110 ~~adjudication, any crime in any jurisdiction.~~

3111 (f) The applicant shall submit fingerprints in accordance
3112 with s. 497.142. ~~The application shall require the applicant to~~
3113 ~~provide fingerprints in accordance with part I of this chapter.~~

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3114 Section 47. Subsection (1) of section 497.603, Florida
3115 Statutes, as renumbered and amended by section 128 of chapter
3116 2004-301, Laws of Florida, is amended to read:

3117 497.603 Direct disposers, renewal of license.--

3118 (1) A direct disposer's license shall be renewed upon
3119 receipt of the renewal application and fee set by rule of the
3120 licensing authority but not to exceed \$500 ~~\$250~~.

3121 Section 48. Paragraphs (f), (h), and (j) of subsection
3122 (2), paragraphs (a) and (b) of subsection (3), and subsection
3123 (7) of section 497.604, Florida Statutes, as renumbered and
3124 amended by section 129 of chapter 2004-301, Laws of Florida, are
3125 amended, and paragraph (f) is added to subsection (9) of said
3126 section, to read:

3127 497.604 Direct disposal establishments, license required;
3128 licensing procedures and criteria; license renewal;
3129 regulation.--

3130 (2) APPLICATION PROCEDURES.--

3131 (f) The applicant shall be required to make disclosure of
3132 the applicant's criminal records, if any, as required by s.
3133 ~~497.142. The application shall require the applicant to disclose~~
3134 ~~whether the applicant or any of the applicant's principals~~
3135 ~~including its proposed supervising licensee has ever been~~
3136 ~~convicted or found guilty of, or entered a plea of no contest~~
3137 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

3138 (h) The applicant shall submit fingerprints in accordance
3139 with s. 497.142. ~~The application shall require the applicant and~~
3140 ~~its principals to provide fingerprints in accordance with part I~~
3141 ~~of this chapter.~~

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3142 (j) The application shall be signed in accordance with s.
 3143 497.141(12) ~~by the applicant if a natural person or by the~~
 3144 ~~president of an applicant that is not a natural person.~~

3145 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
 3146 application for licensure under this section, accompanied by the
 3147 required fee, shall be approved if the licensing authority
 3148 determines that the following conditions are met:

3149 (a) The applicant is a natural person at least 18 years of
 3150 age, a corporation, a partnership, or a limited liability
 3151 company ~~formed prior to January 1, 2006, which limited liability~~
 3152 ~~company already holds a license under this chapter.~~

3153 (b) The applicant does or will prior to commencing
 3154 operations under the license comply with all requirements of
 3155 this chapter relating to the license applied for. The applicant
 3156 shall have passed an inspection prior to issuance of a license
 3157 under this section, in accordance with rules of the licensing
 3158 authority.

3159 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee under
 3160 this section shall ~~must~~ provide notice as required by rule prior
 3161 to any change in location or control of the licensee or licensed
 3162 person in charge of the licensee's operations. A ~~Any such~~ change
 3163 in control is subject to approval by the licensing authority and
 3164 ~~disapproval or~~ to reasonable conditions imposed by the licensing
 3165 authority, for the protection of the public to ensure compliance
 3166 with this chapter. Operations by the licensee at a new location
 3167 may not commence until an inspection by the licensing authority
 3168 of the facilities at the new location, pursuant to rules of the
 3169 licensing authority, has been conducted and passed.

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3170 (9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.--

3171 (f) A direct disposal establishment shall retain all
3172 signed contracts for a period of at least 2 years.

3173 Section 49. Paragraphs (f), (h), and (j) of subsection
3174 (2), paragraph (b) of subsection (3), subsection (7), and
3175 paragraphs (i), (j), and (k) of subsection (9) of section
3176 497.606, Florida Statutes, as renumbered and amended by section
3177 131 of chapter 2004-301, Laws of Florida, are amended to read:

3178 497.606 Cinerator facility, licensure required; licensing
3179 procedures and criteria; license renewal; regulation.--

3180 (2) APPLICATION PROCEDURES.--

3181 (f) The applicant shall be required to make disclosure of
3182 the applicant's criminal records, if any, as required by s.
3183 497.142. ~~The application shall require the applicant to disclose~~
3184 ~~whether the applicant or any of the applicant's principals~~
3185 ~~including its proposed supervising licensee has ever been~~
3186 ~~convicted or found guilty of, or entered a plea of no contest~~
3187 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

3188 (h) The applicant shall submit fingerprints in accordance
3189 with s. 497.142. ~~The application shall require the applicant and~~
3190 ~~its principals to provide fingerprints in accordance with part I~~
3191 ~~of this chapter.~~

3192 (j) The application shall be signed in accordance with s.
3193 497.141(12) ~~by the applicant if a natural person or by the~~
3194 ~~president of an applicant that is not a natural person.~~

3195 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
3196 application for licensure under this section, accompanied by the

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3197 required fee, shall be approved if the licensing authority
3198 determines that the following conditions are met:

3199 (b) The applicant is a natural person at least 18 years of
3200 age, a corporation, a partnership, or a limited liability
3201 company ~~formed prior to January 1, 2006, which limited liability~~
3202 ~~company already holds a license under this chapter.~~

3203 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee under
3204 this section shall ~~must~~ provide notice as required by rule prior
3205 to any change in location or ~~7~~ control of the licensee ~~7~~ or
3206 licensed person in charge of the licensee's operations. A Any
3207 ~~such~~ change in control is subject to approval by the licensing
3208 authority and disapproval ~~or~~ to reasonable conditions imposed by
3209 the licensing authority, for the protection of the public to
3210 ensure compliance with this chapter. Operations by the licensee
3211 at a new location may not commence until an inspection by the
3212 licensing authority of the facilities, pursuant to rules of the
3213 licensing authority, has been conducted and passed at the new
3214 location.

3215 (9) REGULATION OF CINERATOR FACILITIES.--

3216 ~~(i) There shall be adopted by rule criteria for acceptable~~
3217 ~~cremation and alternative containers.~~

3218 ~~(i)~~(j) There shall be rules adopted requiring each
3219 facility to submit periodic reports to the department that ~~which~~
3220 include the names of persons cremated, the date and county of
3221 death, the name of each person supervising each cremation, the
3222 name and license number of the establishment requesting
3223 cremation, and the types of containers used to hold the body
3224 during cremation.

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3225 ~~(j)(k)~~ Each cinerator facility shall ~~must~~ be inspected
 3226 prior to the initial issuance ~~and renewal~~ of its license and
 3227 annually thereafter and shall:

3228 1. Maintain one or more retorts for the reduction of dead
 3229 human bodies.

3230 2. Maintain refrigeration that satisfies the standards set
 3231 by the Department of Health and contains a sufficient
 3232 refrigerated space ~~number of shelves~~ for the average daily
 3233 number of bodies stored, if unembalmed bodies are kept at the
 3234 site.

3235 3. Maintain sufficient pollution control equipment to
 3236 comply with requirements of the Department of Environmental
 3237 Protection in order to secure annual approved certification.

3238 4. Either have on site or immediately available sufficient
 3239 gasketed ~~sealed~~ containers of a type required for the
 3240 transportation of bodies as specified in applicable state rules.

3241 5. Maintain the premises in a clean and sanitary
 3242 condition.

3243 6. Have appropriate Department of Environmental Protection
 3244 permits.

3245 ~~7. Retain all signed contracts for a period of at least 2~~
 3246 ~~years.~~

3247 Section 50. Subsection (3) of section 497.607, Florida
 3248 Statutes, as renumbered and amended by section 132 of chapter
 3249 2004-301, Laws of Florida, is amended, and subsection (4) is
 3250 added to said section, to read:

3251 497.607 Cremation; procedure required.--

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3252 (3) Pursuant to the request of a legally authorized person
 3253 and incidental to final disposition, cremation may be performed
 3254 on parts of human remains. ~~This subsection does not authorize~~
 3255 ~~the cremation of body parts as defined in s. 497.005.~~

3256 (4) In regard to unclaimed human remains delivered
 3257 pursuant to s. 406.50 to the control of the anatomical board of
 3258 this state headquartered at the University of Florida Health
 3259 Science Center, the provisions of this section and chapter shall
 3260 not be construed to prohibit said anatomical board from causing
 3261 the final disposition of such unclaimed human remains through
 3262 cremation by chemical means or otherwise when performed in
 3263 facilities owned and operated by such anatomical board or the
 3264 University of Florida Health Science Center pursuant to and
 3265 using such processes, equipment, and procedures as said
 3266 anatomical board determines to be proper and adequate.

3267 Section 51. Section 152 of chapter 2004-301, Laws of
 3268 Florida, is amended to read:

3269 Section 152. (1) The rules of the Board of Funeral
 3270 Directors and Embalmers and of the Department of Business and
 3271 Professional Regulation relating to the Board of Funeral
 3272 Directors and Embalmers or implementation of chapter 470,
 3273 Florida Statutes, that ~~which~~ were in effect at 11:59 p.m. on the
 3274 day prior to this act taking effect shall become, on the
 3275 subjects they address, the rules of the Department of Financial
 3276 Services and the Board of Funeral, Cemetery, and Consumer
 3277 Services and shall remain in effect until amended or repealed in
 3278 the manner provided by law.

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3279 (2) The rules of the Board of Funeral and Cemetery
 3280 Services that ~~which~~ were in effect at 11:59 p.m. on the day
 3281 prior to this act taking effect shall become, on the subjects
 3282 they address, the rules of the Department of Financial Services
 3283 and the Board of Funeral, Cemetery, and Consumer Services and
 3284 shall remain in effect until specifically amended or repealed in
 3285 the manner provided by law.

3286 (3) The rules of the Department of Financial Services
 3287 relating to chapter 497, Florida Statutes, that ~~which~~ were in
 3288 effect at 11:59 p.m. on the day prior to this act taking effect
 3289 shall continue in force until thereafter repealed or amended
 3290 pursuant to chapter 120, Florida Statutes, and this act.

3291 Section 52. Subsection (3) of section 626.785, Florida
 3292 Statutes, is amended to read:

3293 626.785 Qualifications for license.--

3294 (3) Notwithstanding any other provisions of this chapter,
 3295 a funeral director, a direct disposer, or an employee of a
 3296 funeral establishment that ~~which~~ holds a certificate of
 3297 authority pursuant to s. 497.405 may obtain an agent's license
 3298 to sell only policies of life insurance covering the expense of
 3299 a prearrangement for funeral services or merchandise so as to
 3300 provide funds at the time the services and merchandise are
 3301 needed. The face amount of insurance covered by any such policy
 3302 shall not exceed \$12,500 ~~\$7,500~~.

3303 Section 53. Sections 497.275, 497.388, and 497.556,
 3304 Florida Statutes, are repealed.

3305 Section 54. This act shall take effect October 1, 2005.