

CHAMBER ACTION

1 The Commerce Council 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

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

HB 529 CS

2005
CS

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.;

Page 3 of 122

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hb0529-02-c2

HB 529 CS

2005
CS

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

Page 4 of 122

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hb0529-02-c2

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.; creating two categories of monument
 145 establishment licensure and providing certain requirements
 146 for such categories; revising application procedures for
 147 licensure as a monument establishment; requiring
 148 inspection of proposed monument establishment facilities;
 149 amending s. 497.551, F.S.; revising requirements for
 150 renewal of monument establishment licensure; amending s.
 151 497.552, F.S.; revising facility requirements for monument
 152 establishments; amending s. 497.553, F.S.; requiring the
 153 board to set an annual inspection fee for monument
 154 establishment licensees; providing a cap for such fee;
 155 providing requirements for change of ownership and
 156 location of monument establishments; amending s. 497.554,
 157 F.S.; revising application procedure and renewal
 158 requirements for monument establishment sales
 159 representatives; deferring application of section;
 160 amending s. 497.555, F.S.; requiring monument
 161 establishments to comply with rules establishing minimum
 162 standards for access to cemeteries; amending s. 497.602,
 163 F.S.; revising application procedures for direct disposer

164 licensure; amending s. 497.603, F.S.; raising the cap on
 165 direct disposer license renewal fees; amending s. 497.604,
 166 F.S.; revising provisions relating to direct disposal
 167 establishment licensure and application for such
 168 licensure; revising provisions relating to the regulation
 169 of direct disposal establishments; amending s. 497.606,
 170 F.S.; revising provisions relating to cinerator facility
 171 licensure and application for such licensure; revising
 172 provisions relating to the regulation of cinerator
 173 facilities; amending s. 497.607, F.S.; providing that the
 174 anatomical board at the University of Florida Health
 175 Science Center is not prohibited from causing the final
 176 disposition of unclaimed human remains under certain
 177 circumstances; amending s. 152, ch. 2004-301, Laws of
 178 Florida; specifying applicability of rules; amending s.
 179 626.785, F.S.; revising a policy coverage limit; repealing
 180 s. 497.275, F.S., relating to identification of human
 181 remains in licensed cemeteries; repealing s. 497.388,
 182 F.S., relating to identification of human remains;
 183 repealing s. 497.556, F.S., relating to requirements
 184 relating to monument establishments; providing an
 185 effective date.

186
 187 Be it enacted by the Legislature of the State of Florida:
 188

189 Section 1. Paragraph (a) of subsection (2) of section
 190 316.1974, Florida Statutes, is amended to read:

191 316.1974 Funeral procession right-of-way and liability.--

HB 529 CS

2005
CS

192 (2) EQUIPMENT.--

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

200 Section 2. Section 497.005, as amended by chapter 2004-
201 301, Laws of Florida, is amended to read:

202 497.005 Definitions.--As used in this chapter:

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

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

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

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

224 (5) "Board" means the Board of Funeral, Cemetery, and
 225 Consumer Services.

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

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

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

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

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

HB 529 CS

2005
CS

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

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

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

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

287 (12)~~(13)~~ "Cemetery company" means any legal entity that
 288 owns or controls cemetery lands or property.

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

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

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

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

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

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

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

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

HB 529 CS

2005
CS

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

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

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

342 (a) Be composed of readily combustible materials suitable
343 for cremation.

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

346 (c) Be resistant to leakage or spillage.

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

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

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

356 ~~(24)~~~~(25)~~ "Department" means the Department of Financial
357 Services.

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

361 ~~(26)~~~~(27)~~ "Direct disposer" means any person licensed under
362 this chapter to practice direct disposition in this state.

363 ~~(27)~~~~(28)~~ "Director" means the director of the Division of
364 Funeral, Cemetery, and Consumer Services.

365 ~~(28)~~~~(29)~~ "Disinterment" means removal of a dead human body
366 from earth interment or aboveground interment.

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

370 ~~(30)~~~~(31)~~ "Embalmer" means any person licensed under this
371 chapter to practice embalming in this state.

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

379 ~~(32)~~~~(33)~~ "Funeral" or "funeral service" means the
380 observances, services, or ceremonies held to commemorate the
381 life of a specific deceased human being and at which the human
382 remains are present.

383 (33)~~(34)~~ "Funeral director" means any person licensed
384 under this chapter to practice funeral directing in this state.

385 (34)~~(35)~~ "Funeral establishment" means a facility licensed
386 under this chapter where a funeral director or embalmer
387 practices funeral directing or embalming.

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

396 (35)~~(37)~~ "Grave space" means a space of ground in a
397 cemetery intended to be used for the interment in the ground of
398 human remains.

399 (36)~~(38)~~ "Human remains" or "remains," or "dead human
400 body" or "dead human bodies," means the body of a deceased human
401 person for which a death certificate or fetal death certificate
402 is required under chapter 382 and includes the body in any stage
403 of decomposition ~~and the residue of cremated human bodies.~~

404 (37)~~(39)~~ "Legally authorized person" means, in the
405 priority listed, the decedent, when written inter vivos
406 authorizations and directions are provided by the decedent; the
407 surviving spouse, unless the spouse has been arrested for
408 committing against the deceased an act of domestic violence as
409 defined in s. 741.28 that ~~which~~ resulted in or contributed to
410 the death of the deceased; a son or daughter who is 18 years of

HB 529 CS

2005
CS

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

432 ~~(38)(40)~~ "License" includes all authorizations required or
 433 issued under this chapter, except where expressly indicated
 434 otherwise, and shall be understood to include authorizations
 435 previously referred to as registrations or certificates of
 436 authority in chapters 470 and 497 as those chapters appeared in
 437 the 2004 edition of the Florida Statutes.

438 ~~(39)~~(41) "Licensee" means the person or entity holding any
439 license or other authorization issued under this chapter, except
440 where expressly indicated otherwise.

441 ~~(40)~~(42) "Mausoleum" means a structure or building that
442 ~~which~~ is substantially exposed above the ground and that ~~which~~
443 is intended to be used for the entombment of human remains.

444 ~~(41)~~(43) "Mausoleum section" means any construction unit
445 of a mausoleum that ~~which~~ is acceptable to the department and
446 that ~~which~~ a cemetery uses to initiate its mausoleum program or
447 to add to its existing mausoleum structures.

448 ~~(42)~~(44) "Monument" means any product used for identifying
449 a grave site and cemetery memorials of all types, including
450 monuments, markers, and vases.

451 ~~(43)~~(45) "Monument establishment" means a facility that
452 operates independently of a cemetery or funeral establishment
453 and that offers to sell monuments or monument services to the
454 public for placement in a cemetery.

455 ~~(44)~~(46) "Net assets" means the amount by which the total
456 assets of a licensee, excluding goodwill, franchises, customer
457 lists, patents, trademarks, and receivables from or advances to
458 officers, directors, employees, salespersons, and affiliated
459 companies, exceed total liabilities of the licensee. For
460 purposes of this definition, the term "total liabilities" does
461 not include the capital stock, paid-in capital, or retained
462 earnings of the licensee.

463 ~~(45)~~(47) "Net worth" means total assets minus total
464 liabilities pursuant to generally accepted accounting
465 principles.

466 (46)~~(48)~~ "Niche" means a compartment or cubicle for the
467 memorialization or permanent placement of a container or urn
468 containing cremated remains.

469 (47)~~(49)~~ "Ossuary" means a receptacle used for the
470 communal placement of cremated remains without benefit of an urn
471 or any other container in which cremated remains may be
472 commingled with other cremated remains and are nonrecoverable.
473 It may or may not include memorialization.

474 (48)~~(50)~~ "Outer burial container" means an enclosure into
475 which a casket is placed and includes, but is not limited to,
476 vaults made of concrete, steel, fiberglass, or copper; sectional
477 concrete enclosures; crypts; and wooden enclosures.

478 (49)~~(51)~~ "Person," when used without qualification such as
479 "natural" or "individual," includes both natural persons and
480 legal entities.

481 (50)~~(52)~~ "Personal residence" means any residential
482 building in which one temporarily or permanently maintains her
483 or his abode, including, but not limited to, an apartment or a
484 hotel, motel, nursing home, convalescent home, home for the
485 aged, or a public or private institution.

486 (51)~~(53)~~ "Practice of direct disposition" means the
487 cremation of human remains without preparation of the human
488 remains by embalming and without any attendant services or rites
489 such as funeral or graveside services or the making of
490 arrangements for such final disposition.

491 (52)~~(54)~~ "Practice of embalming" means disinfecting or
492 preserving or attempting to disinfect or preserve dead human

493 | bodies by replacing certain body fluids with preserving and
494 | disinfecting chemicals.

495 | (53)~~(55)~~ "Practice of funeral directing" means the
496 | performance by a licensed funeral director of any of those
497 | functions authorized by s. 497.372.

498 | (54)~~(56)~~ "Preneed contract" means any arrangement or
499 | method, of which the provider of funeral merchandise or services
500 | has actual knowledge, whereby any person agrees to furnish
501 | funeral merchandise or service in the future.

502 | (55)~~(57)~~ "Preneed sales agent" means any person who is
503 | licensed under this chapter to sell preneed burial or funeral
504 | service and merchandise contracts or direct disposition
505 | contracts in this state.

506 | (56)~~(58)~~ "Principal" means and includes the sole
507 | proprietor of a sole proprietorship; all partners of a
508 | partnership; all members of a limited liability company;
509 | regarding a corporation, all directors and officers, and all
510 | stockholders controlling more than 10 percent of the voting
511 | stock; and all other persons who can exercise control over the
512 | person or entity.

513 | (57)~~(59)~~ "Processing" means the reduction of identifiable
514 | bone fragments after the completion of the cremation process to
515 | unidentifiable bone fragments by manual means.

516 | (58)~~(60)~~ "Profession" and "occupation" are used
517 | interchangeably in this chapter. The use of the word
518 | "profession" in this chapter with respect to any activities
519 | regulated under this chapter shall not be deemed to mean that

HB 529 CS

2005
CS

520 such activities are not occupations for other purposes in state
521 or federal law.

522 (59)~~(61)~~ "Pulverization" means the reduction of
523 identifiable bone fragments after the completion of the
524 cremation and processing to granulated particles by manual or
525 mechanical means.

526 (60)~~(62)~~ "Refrigeration facility" means a facility that is
527 operated independently of not physically connected with a
528 funeral establishment, crematory, or direct disposal
529 establishment, that maintains space and equipment for the
530 storage and refrigeration of dead human bodies, and that offers
531 its service to funeral directors, ~~and~~ funeral establishments,
532 direct disposers, direct disposal establishments, or crematories
533 for a fee.

534 (61)~~(63)~~ "Religious institution" means an organization
535 formed primarily for religious purposes that ~~which~~ has qualified
536 for exemption from federal income tax as an exempt organization
537 under the provisions of s. 501(c)(3) of the Internal Revenue
538 Code of 1986, as amended.

539 (62)~~(64)~~ "Removal service" means any service that operates
540 independently of a funeral establishment or a direct disposal
541 establishment, that handles the initial removal of dead human
542 bodies, and that offers its service to funeral establishments
543 and direct disposal establishments for a fee.

544 (63)~~(65)~~ "Rules" refers to rules adopted under this
545 chapter unless expressly indicated to the contrary.

546 (64)~~(66)~~ "Scattering garden" means a location set aside,
547 within a cemetery, that ~~which~~ is used for the spreading or

HB 529 CS

2005
CS

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

553 (65)~~(67)~~ "Servicing agent" means any person acting as an
 554 independent contractor whose fiduciary responsibility is to
 555 assist both the trustee and licensee in administrating their
 556 responsibilities pursuant to this chapter.

557 (66)~~(68)~~ "Solicitation" means any communication that ~~which~~
 558 directly or implicitly requests an immediate oral response from
 559 the recipient.

560 (67)~~(69)~~ "Statutory accounting" means generally accepted
 561 accounting principles, except as modified by this chapter.

562 (68)~~(70)~~ "Temporary container" means a receptacle for
 563 cremated remains usually made of cardboard, plastic, or similar
 564 material designated to hold the cremated remains until an urn or
 565 other permanent container is acquired.

566 (69)~~(71)~~ "Urn" means a receptacle designed to permanently
 567 encase cremated remains.

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

571 497.101 Board of Funeral, Cemetery, and Consumer Services;
 572 membership; appointment; terms.--

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

HB 529 CS

2005
CS

576 | shall ~~must~~ be a funeral director licensed under part III of this
 577 | chapter who is associated with a funeral establishment licensed
 578 | under part III of this chapter that ~~which~~ has a valid preneed
 579 | license issued pursuant to this chapter and who owns or operates
 580 | a cinerator facility approved under chapter 403 and licensed
 581 | under part VI of this chapter. Two members of the board shall
 582 | ~~must~~ be persons whose primary occupation is associated with a
 583 | cemetery company licensed pursuant to this chapter. Three
 584 | members of the board shall ~~must~~ be consumers who are residents
 585 | of the state, have never been licensed as funeral directors or
 586 | embalmers, are not connected with a cemetery or cemetery company
 587 | licensed pursuant to this chapter, and are not connected with
 588 | the death care industry or the practice of embalming, funeral
 589 | directing, or direct disposition. One of the consumer members
 590 | shall ~~must~~ be at least 60 years of age, and one shall ~~must~~ be
 591 | licensed as a certified public accountant under chapter 473. One
 592 | member of the board shall ~~must~~ be a monument establishment
 593 | ~~dealer~~ licensed under this chapter as a monument builder or, for
 594 | board appointments made before June 1, 2006, a licensed monument
 595 | establishment certified by the department to be eligible for
 596 | licensure as a monument builder. One member shall ~~must~~ be the
 597 | State Health Officer or her or his designee. There shall not be
 598 | two or more board members who are principals or directors,
 599 | ~~employees, partners, shareholders, or members~~ of the same
 600 | company or partnership or group of companies or partnerships
 601 | under common control.

602 | (8) The department shall adopt rules establishing forms by
 603 | which persons may apply for membership on the board and

604 procedures for applying for such membership. Such forms shall
 605 require disclosure of the existence and nature of all current
 606 and past employments by or contracts with, and direct or
 607 indirect affiliations or interests in, any entity or business
 608 that at any time was licensed by the board or by the former
 609 Board of Funeral and Cemetery Services or the former Board of
 610 Funeral Directors and Embalmers or that is or was otherwise
 611 involved in the death care industry, as specified by department
 612 rule.

613 Section 4. Paragraph (m) of subsection (2) of section
 614 497.103, Florida Statutes, as amended by chapter 2004-301, Laws
 615 of Florida, is amended, and paragraph (e) is added to subsection
 616 (4) of said section, to read:

617 497.103 Rulemaking authority of board and department.--

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

625 (m) Authority to take emergency action against any
 626 licensee under this chapter, without prior consultation with the
 627 board, when the department determines that there is an imminent
 628 danger to the health, safety, or welfare of the citizens of the
 629 state.

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

631 (e) The Chief Financial Officer shall have no authority by
 632 recommendation or otherwise to set fees, rates, or prices to be
 633 used by any licensee under this chapter, and notwithstanding the
 634 provision of this subsection, no licensee under this chapter
 635 shall in any event be required to set fees, rates, or prices in
 636 accordance with any recommendation of the Chief Financial
 637 Officer.

638 Section 5. Paragraphs (b) and (c) of subsection (1) of
 639 section 497.140, Florida Statutes, as renumbered and amended by
 640 section 10 of chapter 2004-301, Laws of Florida, are amended,
 641 and subsection (8) is added to said section, to read:

642 497.140 Fees.--

643 (1)

644 (b) It is the legislative intent that the costs of
 645 regulation under this chapter be provided for by fees collected
 646 under this chapter. The board shall ensure that fees are
 647 adequate to cover all anticipated costs of implementation of
 648 this chapter. The department shall at least every other year
 649 provide the board with estimates as to projected costs in
 650 implementing this chapter and projected fee collections under
 651 this chapter for the following 2 years, information as to
 652 balances of regulatory trusts from fees collected, other
 653 information that ~~which~~ the department deems material to the
 654 setting of fees by the board at proper levels, and a department
 655 recommendation as to action, if any, regarding changing fee
 656 levels. The board shall review such information provided by the
 657 department and increase or decrease ~~make such changes in fees,~~
 658 ~~up or down,~~ as the board determines appropriate. If sufficient

659 | action is not taken by the board within 6 months ~~1-year~~ after
 660 | notification by the department that fees are projected to be
 661 | inadequate, the department shall set fees on behalf of the board
 662 | to cover anticipated costs.

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

671 | (8) A delinquency fee shall be charged and collected from
 672 | a licensee for the failure to timely renew a license issued
 673 | under this chapter. Where no specific delinquency fee is
 674 | specified in this chapter in relation to a particular category
 675 | of licensure under this chapter, the delinquency fee shall be
 676 | \$50.

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

680 | 497.141 Licensing; general application procedures.--

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

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

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

- 716 1. Embalmer apprentice.
- 717 2. Embalmer intern.
- 718 3. Funeral director intern.
- 719 4. Funeral director.
- 720 5. Funeral director and embalmer.
- 721 6. Direct disposer.
- 722 7. Monument establishment sales agent.
- 723 8. Preneed sales agent.

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

- 727 1. Funeral establishment.
- 728 2. Centralized embalming facility.
- 729 3. Refrigeration facility.
- 730 4. Direct disposal establishment.
- 731 5. Monument establishment.
- 732 6. Cinerator facility.
- 733 7. Removal service.
- 734 8. Preneed sales business under s. 497.453.

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

737 (d) No license shall be issued to any applicant that is a
738 corporation, limited liability company, or partnership unless
739 the applicant is organized and in good standing under the laws
740 of this state or another state of the United States and provides
741 written proof thereof issued by the applicable state office or

742 official in the state concerned. Each applicant that is a
 743 corporation, limited liability company, or partnership shall
 744 file with its application a written statement, signed by the
 745 same person who signs the application, identifying by name and
 746 business functional title the following persons, as applicable
 747 to the type of entity applying: officers, managers, managing
 748 members, partners, general partners, limited partners, managing
 749 partners, directors, all stockholders controlling more than 10
 750 percent of the voting stock, and all other persons who may
 751 exercise control over the applicant. The licensing authority may
 752 require the filing of the applicant's articles of incorporation
 753 or other organizational documents and a resume concerning any
 754 person identified in this paragraph.

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

757 1. Where the applicant is a natural person, the
 758 application shall be signed by the applicant.

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

761 3. Where the applicant is a partnership, the application
 762 shall be signed by a partner, who shall provide proof
 763 satisfactory to the licensing authority of that partner's
 764 authority to sign on behalf of the partnership.

765 4. Where the applicant is a limited liability company, the
 766 application shall be signed by a member of the company, who
 767 shall provide proof satisfactory to the licensing authority of
 768 that member's authority to sign on behalf of the company.

769 (f) The licensing authority may adopt rules for the
 770 implementation of this section, including required procedures
 771 and forms.

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

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

776 497.142 Licensing; fingerprinting and criminal background
 777 checks.--

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

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

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

791 (4) The Department of Law Enforcement may accept
 792 fingerprints of any applicant under this chapter, any principal
 793 of any such applicant, and any other person who is examined or
 794 investigated or who is subject to examination or investigation
 795 under the provisions of this chapter.

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

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

808 (6)~~(7)~~ The Department of Law Enforcement shall, upon
 809 receipt of fingerprints from the department, submit the
 810 fingerprints to the Federal Bureau of Investigation to check
 811 federal criminal history records.

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

819 (8)~~(9)~~ For the purposes of criminal background checks,
 820 applicants and principals of applicants for any approval or
 821 license under this chapter may be required to disclose whether
 822 they have ever had their name legally changed and any prior name
 823 or names they have used.

824 (9)~~(10)~~ If any applicant under this chapter has been,
 825 within the 10 years preceding the application under this
 826 chapter, convicted or found guilty of, or entered a plea of nolo
 827 contendere to, regardless of adjudication, any crime in any
 828 jurisdiction, the application shall not be deemed complete until
 829 such time as the applicant provides such certified true copies
 830 of the court records evidencing the conviction, finding, or
 831 plea, as the licensing authority may by rule require.

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

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

842 (c) Crimes to be disclosed are:

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

850 2. Any other felony not already disclosed under
 851 subparagraph 1. that was committed within the 20 years
 852 immediately preceding the application under this chapter.

853 3. Any other misdemeanor not already disclosed under
 854 subparagraph 1. that was committed within the 5 years
 855 immediately preceding the application under this chapter.

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

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

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

HB 529 CS

2005
CS

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

880 3. Where the applicant is a limited liability company, all
881 managers and members of the limited liability company have the
882 duty to disclose.

883 4. Where the applicant is a partnership, all partners have
884 the duty to disclose.

885 5. Where the applicant is required by this chapter to
886 identify in the application the individual licensee under this
887 chapter who will be in charge of the applicant, the identified
888 individual licensee in charge, in addition to the applicant,
889 shall make disclosure of criminal records as part of the
890 application.

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

902 (g) The licensing authority may adopt rules specifying
903 forms and procedures to be utilized by persons required to
904 disclose criminal records under this subsection. The licensing
905 authority may conduct investigation and further inquiry of any

906 person regarding any criminal record disclosed pursuant to this
 907 section.

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

911 1. Where the applicant is a natural person, the
 912 fingerprints of the natural person making application.

913 2. Where the applicant is a corporation, the fingerprints
 914 of the persons serving in the following capacities: chief
 915 executive officer and president, or both persons if the
 916 positions are filled by different persons; chief financial
 917 officer; chief of operations; general counsel if a corporation
 918 employee; and members of the board.

919 3. Where the applicant is a limited liability company, the
 920 fingerprints of all managers and members of the limited
 921 liability company.

922 4. Where the applicant is a partnership, the fingerprints
 923 of all partners.

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

933 (12) The licensing authority may by rule establish forms,
 934 procedures, and fees for the submission and processing of
 935 fingerprints required to be submitted in accordance with this
 936 chapter. The licensing authority may by rule waive the
 937 requirement for submission of fingerprints otherwise required by
 938 this chapter if the person has within the preceding 24 months
 939 submitted fingerprints to the licensing authority and the
 940 licensing authority has obtained a criminal history report
 941 utilizing those prior fingerprints. The cost for the fingerprint
 942 processing shall be paid to the Department of Law Enforcement
 943 and may be borne by the Department of Financial Services, the
 944 employer, or the person subject to the background check.

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

948 497.143 Licensing; limited licenses for retired
 949 professionals.--

950 (2) Any person desiring to obtain a limited license, when
 951 permitted by rule, shall submit to the department an application
 952 and fee, not to exceed \$300, and an affidavit stating that the
 953 applicant has been licensed to practice in any jurisdiction in
 954 the United States for at least 10 years in the profession for
 955 which the applicant seeks a limited license. The affidavit shall
 956 also state that the applicant has retired or intends to retire
 957 from the practice of that profession and intends to practice
 958 only pursuant to the restrictions of the limited license granted
 959 pursuant to this section. If the applicant for a limited license
 960 submits a notarized statement from the employer stating that the

HB 529 CS

2005
CS

961 applicant will not receive monetary compensation for any service
 962 involving the practice of her or his profession, the application
 963 and all licensure fees shall be waived. In no event may a person
 964 holding a limited license under this section engage in preneed
 965 sales under such limited license.

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

969 497.144 Licensing; examinations, general provisions.--

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

981 Section 10. Paragraph (b) of subsection (4) of section
 982 497.147, Florida Statutes, as created by chapter 2004-301, Laws
 983 of Florida, is amended to read:

984 497.147 Continuing education; general provisions.--

985 (4) The licensing authority is authorized to adopt rules
 986 to implement requirements regarding prelicensure training and
 987 continuing education requirements under this chapter. Persons
 988 providing prelicensure training or continuing education for

989 credit against the requirements of this chapter are hereinafter
990 referred to as "providers."

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

993 1. Periodic submission by the provider to the licensing
994 authority of information and documentation as to course
995 materials, class locations and schedules, names of scheduled
996 instructors, resumes of instructors, and descriptions of
997 facilities.

998 2. Requirements for periodic reporting by the provider to
999 the licensing authority of information concerning enrollment,
1000 attendance, and status of persons enrolled for credit under this
1001 chapter.

1002 3. Requirements for inspection by the licensing authority
1003 of records of the provider related to training or continuing
1004 education of applicants and licensees under this chapter.

1005 4. Requirements for announced or unannounced attendance by
1006 department staff or board members at scheduled classes or
1007 training, for the purpose of ensuring that the training meets
1008 the requirements of this chapter and rules adopted under this
1009 chapter.

1010 ~~5. Requirements for written contracts or agreements~~
1011 ~~required to be entered into by providers with the licensing~~
1012 ~~authority as a prerequisite to acceptance of training or~~
1013 ~~continuing education provided by such provider for credit under~~
1014 ~~this chapter.~~

1015 ~~5.6.~~ Requirements regarding retention of records by the
 1016 provider regarding training or continuing education for which
 1017 credit has been given to any licensee under this chapter.

1018 ~~6.7.~~ Procedures and criteria for terminating the status of
 1019 any provider as an approved source of training or continuing
 1020 education for credit under this chapter.

1021 ~~7.8.~~ Requirements for fees to accompany applications from
 1022 providers for approval or renewal of approval as a provider, not
 1023 to exceed \$250 per year. The rules may exempt nonprofit entities
 1024 from such fees.

1025 Section 11. Paragraph (c) of subsection (1) of section
 1026 497.149, Florida Statutes, as created by chapter 2004-301, Laws
 1027 of Florida, is amended to read:

1028 497.149 Investigations, hearings, and inspections.--

1029 (1) INVESTIGATIONS.--Investigations shall be conducted by
 1030 the department. The following provisions shall apply concerning
 1031 investigations:

1032 (c) If the department finds any accounts or records of a
 1033 licensee required by this chapter to be created and maintained
 1034 by the licensee to be inadequate or inadequately kept or posted,
 1035 it may employ experts to reconstruct, rewrite, post, or balance
 1036 them at the expense of the person being investigated, provided
 1037 the person has failed to maintain, complete, or correct such
 1038 records or accounting after the department has given the
 1039 licensee ~~her or him~~ notice and a reasonable opportunity to do
 1040 so.

HB 529 CS

2005
CS

1041 Section 12. Subsection (1) of section 497.151, Florida
 1042 Statutes, as created by chapter 2004-301, Laws of Florida, is
 1043 amended, and subsection (4) is added to said section, to read:

1044 497.151 Complaints; logs; procedures.--

1045 (1) This section shall be applicable to all entities
 1046 licensed under this chapter ~~licensees under this chapter except~~
 1047 ~~preneed sales agent licensees.~~

1048 (4) For purposes of this section, the response of a
 1049 customer recorded by the customer on a customer satisfaction
 1050 questionnaire or survey form sent to the customer by the
 1051 licensee, and returned by the customer to the licensee, shall
 1052 not be deemed to be a complaint.

1053 Section 13. Section 497.152, Florida Statutes, as created
 1054 by chapter 2004-301, Laws of Florida, is amended to read:

1055 497.152 Disciplinary grounds.--This section sets forth
 1056 conduct that ~~which~~ is prohibited and that ~~which~~ shall constitute
 1057 grounds for denial of any application, imposition of discipline,
 1058 or ~~and~~ other enforcement action against the licensee or other
 1059 person committing such conduct. For purposes of this section,
 1060 the requirements of this chapter include the requirements of
 1061 rules adopted under authority of this chapter. No subsection
 1062 heading in this section shall be interpreted as limiting the
 1063 applicability of any paragraph within the subsection.

1064 (1) GENERAL PROVISIONS.--The generality of the provisions
 1065 of this subsection shall not be deemed to be limited by the
 1066 provisions of any other subsection.

HB 529 CS

2005
CS

1067 (a) Violating any provision of this chapter or any lawful
1068 order of the board or department or of the statutory
1069 predecessors to the board or department.

1070 (b) Committing fraud, deceit, negligence, incompetency, or
1071 misconduct in the practice of any of the activities regulated
1072 under this chapter.

1073 (c) Failing while holding a license under this chapter to
1074 maintain one or more of the qualifications for such license.

1075 (d) Refusing to sell or issue a contract or provide
1076 services to any person because of the person's race, color,
1077 creed, marital status, sex, or national origin.

1078 (2) CRIMINAL ACTIVITY.--Being convicted or found guilty
1079 of, or entering a plea of nolo contendere to, regardless of
1080 adjudication, a crime in any jurisdiction that ~~which~~ relates to
1081 the practice of, or the ability to practice, a licensee's
1082 profession or occupation under this chapter.

1083 (3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.--Having a
1084 license or the authority to practice a profession or occupation
1085 revoked, suspended, fined, denied, or otherwise acted against or
1086 disciplined by the licensing authority of another ~~any~~
1087 jurisdiction, including its agencies or subdivisions, for
1088 conduct that would constitute a violation of this chapter if
1089 committed in this state or upon grounds that ~~which~~ directly
1090 relate to the ability to practice under this chapter. The
1091 licensing authority's acceptance of a relinquishment of
1092 licensure, stipulation, consent order, or other settlement
1093 offered in response to or in anticipation of the filing of

1094 | charges against the license shall be construed as action against
1095 | the license.

1096 | (4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT
1097 | AGENCIES.--

1098 | (a) Improperly interfering with an investigation or
1099 | inspection authorized by statute or with any disciplinary
1100 | proceeding.

1101 | (b) Failure to comply with a lawfully issued subpoena of
1102 | the department.

1103 | (c) Refusal to produce records to the department or board
1104 | in connection with any activity regulated pursuant to this
1105 | chapter.

1106 | (d) Failing to report to the department any violation of
1107 | this chapter by another person, which violation is known to the
1108 | licensee to have created or be creating a serious and immediate
1109 | danger to the public health, safety, or welfare ~~person who the~~
1110 | ~~licensee knows is in violation of this chapter.~~

1111 | (e) Knowingly concealing information relative to
1112 | violations of this chapter.

1113 | (f) Attempting to obtain, obtaining, or renewing a license
1114 | under this chapter by bribery, false or forged evidence, or
1115 | misrepresentation or through an error of the department or board
1116 | known to the applicant.

1117 | (g) Making or filing a report or statement to or with any
1118 | government entity that ~~which~~ the licensee knows or has reason to
1119 | know to be false; or intentionally or negligently failing to
1120 | file a report or record required to be filed with any government
1121 | entity, or willfully impeding or obstructing another person to

HB 529 CS

2005
CS

1122 do so, or inducing another person to impede or obstruct such
1123 filing.

1124 (h) Failing to perform any statutory or legal obligation
1125 placed upon a licensee.

1126 (5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED
1127 PRACTICE.--

1128 (a) Practicing or offering to practice beyond the scope
1129 permitted by this chapter and rules adopted under this chapter
1130 for the type of licensure held or accepting and performing
1131 professional responsibilities the licensee knows, or has reason
1132 to know, the licensee is not competent to perform.

1133 (b) Practicing or attempting to practice with a revoked,
1134 suspended, inactive, or delinquent license.

1135 (c) Representing as her or his own the license of another.

1136 (d) Aiding, assisting, procuring, employing, or advising
1137 any person or entity to practice a profession or occupation
1138 regulated by this chapter without required licensure under this
1139 chapter.

1140 (e) Aiding, assisting, procuring, employing, or advising
1141 any person or entity to operate or in operating an establishment
1142 regulated by this chapter without the required licensure under
1143 this chapter.

1144 (f) Delegating to any person the performance of
1145 professional activities, or contracting with any person for the
1146 performance of professional activities by such person, when the
1147 licensee knows or has reason to know the person is not qualified
1148 by training, experience, and authorization to perform such
1149 responsibilities.

1150 (g) Using the name or title "funeral director,"
 1151 "embalmer," "direct disposer," or other title suggesting
 1152 licensure that ~~which~~ the person using such name or title does
 1153 not hold.

1154 (h) Engaging by a direct disposer in the practice of
 1155 direct burial or offering the at-need or preneed service of
 1156 direct burial.

1157 (6) EDUCATIONAL REQUIREMENTS.--

1158 (a) Failing to comply with applicable educational course
 1159 requirements pursuant to this chapter or rules adopted under
 1160 this chapter regarding human immunodeficiency virus and acquired
 1161 immune deficiency syndrome.

1162 (b) Failing to timely comply with applicable continuing
 1163 education requirements of this chapter.

1164 (7) RELATIONS WITH OTHER LICENSEES.--

1165 (a) Having been found liable in a civil proceeding for
 1166 knowingly filing a false report or complaint against another
 1167 licensee with the department or the board.

1168 (b) Making any misleading statements or misrepresentations
 1169 as to the financial condition of any person, or making
 1170 statements that ~~which~~ are falsely and maliciously critical of
 1171 any person for the purpose of damaging that person's business
 1172 regulated under this chapter.

1173 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF
 1174 HUMAN REMAINS.--

1175 (a) Violation of any state law or rule or any municipal or
 1176 county ordinance or regulation affecting the handling, custody,
 1177 care, or transportation of dead human bodies.

HB 529 CS

2005
CS

1178 (b) Refusing to surrender promptly the custody of a dead
1179 human body upon the express order of the person legally
1180 authorized to its custody; however, this provision shall be
1181 subject to any state or local laws or rules governing custody or
1182 transportation of dead human bodies.

1183 (c) Taking possession of a dead human body without first
1184 having obtained written or oral permission from a legally
1185 authorized person. If oral permission is granted, the licensee
1186 shall ~~must~~ obtain written permission within a reasonable time as
1187 established by rule.

1188 (d) Embalming human remains without first having obtained
1189 written or oral permission from a legally authorized person;
1190 however, washing and other public health procedures, such as
1191 closing of the orifices by placing cotton soaked in a
1192 disinfectant in such orifices until authorization to embalm is
1193 received, shall not be precluded. If oral permission is granted,
1194 the licensee shall ~~must~~ obtain written permission within a
1195 reasonable time as established by board rule.

1196 (e) Failing to obtain written authorization from the
1197 family or next of kin of the deceased prior to entombment,
1198 interment, disinterment, disentombment, or disinurnment of the
1199 remains of any human being.

1200 (9) SALES PRACTICES IN GENERAL.--

1201 (a) Soliciting by the licensee, or by her or his agent,
1202 assistant, or employee, through the use of fraud, undue
1203 influence, intimidation, overreaching, or other means that ~~which~~
1204 takes advantage of a customer's ignorance or emotional
1205 vulnerability.

1206 (b) Exercising undue influence on a client for the purpose
1207 of financial gain of the licensee or a third party in connection
1208 with any transaction regulated by this chapter.

1209 (c) Discouraging a customer's purchase of any funeral
1210 merchandise or service that ~~which~~ is advertised or offered for
1211 sale, with the purpose of encouraging the purchase of additional
1212 or more expensive merchandise or service, by disparaging its
1213 quality or appearance, except that true factual statements
1214 concerning features, design, or construction do not constitute
1215 disparagement; by misrepresenting its availability or any delay
1216 involved in obtaining it; or by suggesting directly or by
1217 implication that a customer's concern for price or expressed
1218 interest in inexpensive funeral merchandise or services is
1219 improper, inappropriate, or indicative of diminished respect or
1220 affection for the deceased.

1221 (d) Misrepresenting the benefits, advantages, conditions,
1222 or terms of any contract to provide any services or merchandise
1223 regulated under this chapter.

1224 (e) Advertising goods and services in a manner that is
1225 fraudulent, deceptive, or misleading in form or content.

1226 (f) Directly or indirectly making any deceptive,
1227 misleading, or untrue representations, whether oral or written,
1228 or employing any trick, scheme, or artifice, in or related to
1229 the practice of a profession or occupation regulated under this
1230 chapter, including in the advertising or sale of any merchandise
1231 or services related to the practice of the profession or
1232 occupation.

1233 (10) SPECIFIC MISREPRESENTATIONS.--

HB 529 CS

2005
CS

1234 (a) Making any false or misleading statement of the legal
1235 requirement as to the necessity of any particular burial or
1236 funeral merchandise or services.

1237 (b) Making any oral, written, or visual representations,
1238 directly or indirectly, that any funeral merchandise or service
1239 is offered for sale when such is not a bona fide offer to sell
1240 such merchandise or service.

1241 (c) Making any misrepresentation for the purpose of
1242 inducing, or tending to induce, the lapse, forfeiture, exchange,
1243 conversion, or surrender of any preneed contract or any life
1244 insurance policy pledged or assigned to secure payment for
1245 funeral or burial goods or services.

1246 (d) Misrepresenting pertinent facts or prepaid contract
1247 provisions relating to funeral or burial merchandise or
1248 services.

1249 (e) Misrepresenting the amount advanced on behalf of a
1250 customer for any item of service or merchandise, including, but
1251 not limited to, cemetery or crematory services, pallbearers,
1252 public transportation, clergy honoraria, flowers, musicians or
1253 singers, nurses, obituary notices, gratuities, and death
1254 certificates, described as cash advances, accommodations, or
1255 words of similar import on the contract, final bill, or other
1256 written evidence of agreement or obligation furnished to
1257 customers; however, nothing in this paragraph shall require
1258 disclosure of a discount or rebate that ~~which~~ may accrue to a
1259 licensee subsequent to making a cash advance.

1260 (f) Making any false or misleading statement or claim that
1261 natural decomposition or decay of human remains can be prevented

1262 or substantially delayed by embalming, use of a gasketed or
 1263 ungasketed casket, or use of an adhesive or nonadhesive closure
 1264 on an outer burial container.

1265 (g) Making any false or misleading statement, oral or
 1266 written, directly or indirectly, regarding any law or rule
 1267 pertaining to the preparation for disposition, transportation
 1268 for disposition, or disposition of dead human bodies.

1269 (h) Making any false or misleading statements of the legal
 1270 requirement as to the conditions under which preservation of a
 1271 dead human body is required or as to the necessity of a casket
 1272 or outer burial container.

1273 (11) SPECIFIC SALES PRACTICES.--

1274 (a) Failing to furnish, for retention, to each purchaser
 1275 of burial rights, burial or funeral merchandise, or burial or
 1276 funeral services a written agreement, the form of which has been
 1277 previously approved if and as required by this chapter, that
 1278 ~~which~~ lists in detail the items and services purchased together
 1279 with the prices for the items and services purchased; the name,
 1280 address, and telephone number of the licensee; the signatures of
 1281 the customer and the licensee or her or his representative; and
 1282 the date signed.

1283 (b) Filling in any contract form for use with a particular
 1284 customer using language that ~~Using any name or title in any~~
 1285 ~~contract regulated under this chapter which~~ misrepresents the
 1286 true nature of the contract.

1287 (c) Selling an irrevocable preneed contract to a person
 1288 who is not an applicant for or recipient of Supplemental

HB 529 CS

2005
CS

1289 Security Income or Aid to Families with Dependent Children or
1290 pursuant to s. 497.459(6)(a).

1291 (d) Except as authorized in part IV of this chapter,
1292 guaranteeing the price of goods and services at a future date.

1293 (e) Requiring that a casket be purchased for cremation or
1294 claiming directly or by implication that a casket is required
1295 for cremation.

1296 (f) When displaying any caskets for sale, failing to
1297 display the least expensive casket offered for sale or use in
1298 adult funerals in the same general manner as the funeral service
1299 industry member's other caskets are displayed.

1300 (g) Assessing fees and costs that have not been disclosed
1301 to the customer in connection with any transaction regulated by
1302 this chapter.

1303 (h) Failure by a cemetery licensed under this chapter to
1304 provide to any person, upon request, a copy of the cemetery
1305 bylaws.

1306 (i) Requirements by a cemetery licensee that lot owners or
1307 current customers make unnecessary visits to the cemetery
1308 company office for the purpose of solicitation.

1309 (12) DISCLOSURE REQUIREMENTS.--

1310 (a) Failure to disclose, when such disclosure is desired,
1311 the components of the prices for alternatives offered by the
1312 licensee from whom disclosure is requested, such as graveside
1313 service, direct disposition, and body donation without any rites
1314 or ceremonies prior to the delivery of the body and prices of
1315 service if there are to be such after the residue has been
1316 removed following the use thereof.

1317 (b) Failing to furnish, for retention, to anyone who
 1318 inquires in person about burial rights, burial or funeral
 1319 merchandise, or burial or funeral services, before any
 1320 discussion of selection, a printed or typewritten list
 1321 specifying the range of retail prices for such rights,
 1322 merchandise, or services. At a minimum, the list shall itemize
 1323 the highest and lowest priced product and service regularly
 1324 offered and shall include the name, address, and telephone
 1325 number of the licensee and statements that the customer may
 1326 choose only the items the customer desires, that the customer
 1327 will be charged for only those items selected, and that there
 1328 may be other charges for other items or other services.

1329 (c) Failing to reasonably provide by telephone, upon
 1330 request, accurate information regarding the retail prices of
 1331 funeral merchandise and services offered for sale by that
 1332 licensee.

1333 (d) Failure by a funeral director to make full disclosure
 1334 in the case of a funeral or direct disposition with regard to
 1335 the use of funeral merchandise that ~~which~~ is not to be disposed
 1336 of with the body or failure to obtain written permission from
 1337 the purchaser regarding disposition of such merchandise.

1338 (e) Failure by any funeral director to fully disclose all
 1339 of her or his available services and merchandise prior to the
 1340 selection of a casket offered by a licensee. The full disclosure
 1341 required shall identify what is included in the funeral or
 1342 direct disposition and the prices of all services and
 1343 merchandise provided by the licensee or registrant.

HB 529 CS

2005
CS

1344 (f) Failing to have the price of any casket offered for
 1345 sale clearly marked on or in the casket, whether the casket is
 1346 displayed at a funeral establishment or at any other location,
 1347 regardless of whether the licensee is in control of such
 1348 location. If a licensee uses books, catalogs, brochures, or
 1349 other printed display aids, the price of each casket shall be
 1350 clearly marked.

1351 (g) Failing to disclose all fees and costs the customer
 1352 may incur to use the burial rights or merchandise purchased.

1353 (13) CONTRACT OBLIGATIONS.--

1354 (a) Failing without reasonable justification to timely
 1355 honor contracts entered into by the licensee or under the
 1356 licensee's license for funeral or burial merchandise or
 1357 services.

1358 (b) Failure to honor preneed contract cancellation
 1359 requests and make refunds as required by the chapter.

1360 (14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY
 1361 CUSTOMERS.--

1362 (a) Failing to adopt and implement standards for the
 1363 proper investigation and resolution of claims and complaints
 1364 received by a licensee relating to the licensee's activities
 1365 regulated by this chapter.

1366 (b) Committing or performing with such frequency as to
 1367 indicate a general business practice any of the following:

1368 1. Failing to acknowledge and act promptly upon
 1369 communications from a licensee's customers and their
 1370 representatives with respect to claims or complaints relating to
 1371 the licensee's activities regulated by this chapter.

HB 529 CS

2005
CS

1372 2. Denying claims or rejecting complaints received by a
1373 licensee from a customer or customer's representative, relating
1374 to the licensee's activities regulated by this chapter, without
1375 first conducting reasonable investigation based upon available
1376 information.

1377 3. Attempting to settle a claim or complaint on the basis
1378 of a material document that ~~which~~ was altered without notice to,
1379 or without the knowledge or consent of, the contract purchaser
1380 or her or his representative or legal guardian.

1381 4. Failing within a reasonable time to affirm or deny
1382 coverage of specified services or merchandise under a contract
1383 entered into by a licensee upon written request of the contract
1384 purchaser or her or his representative or legal guardian.

1385 5. Failing to promptly provide, in relation to a contract
1386 for funeral or burial merchandise or services entered into by
1387 the licensee or under the licensee's license, a reasonable
1388 explanation to the contract purchaser or her or his
1389 representative or legal guardian of the licensee's basis for
1390 denying or rejecting all or any part of a claim or complaint
1391 submitted.

1392 (c) Making a material misrepresentation to a contract
1393 purchaser or her or his representative or legal guardian for the
1394 purpose and with the intent of effecting settlement of a claim
1395 or complaint or loss under a prepaid contract on less favorable
1396 terms than those provided in, and contemplated by, the prepaid
1397 contract.

1398 (d) Failing to maintain a complete copy of every complaint
1399 received by the licensee since the date of the last examination

HB 529 CS

2005
CS

1400 of the licensee by the department. For purposes of this
 1401 subsection, the term "complaint" means any written communication
 1402 primarily expressing a grievance and which communication is
 1403 from:

1404 1. A representative or family member of a deceased person
 1405 interred at the licensee's facilities or using the licensee's
 1406 services, or which deceased's remains were the subject of any
 1407 service provided by the licensee or licensee's business; or

1408 2. A person, or such person's family member or
 1409 representative, who inquired of the licensee or licensee's
 1410 business concerning the purchase of, or who purchased or
 1411 contracted to purchase, any funeral or burial merchandise or
 1412 services from the licensee or licensee's business.

1413
 1414 For purposes of this subsection, the response of a customer
 1415 recorded by the customer on a customer satisfaction
 1416 questionnaire or survey form sent to the customer by the
 1417 licensee, and returned by the customer to the licensee, shall
 1418 not be deemed to be a complaint.

1419 (15) MISCELLANEOUS FINANCIAL MATTERS.--

1420 (a) Failing to timely pay any fee required by this
 1421 chapter.

1422 (b) Failing to timely remit as required by this chapter
 1423 the required amounts to any trust fund required by this chapter.

1424 The board may by rule provide criteria for identifying minor,
 1425 nonwillful trust remittance deficiencies; and remittance
 1426 deficiencies falling within such criteria, if fully corrected

1427 within 30 days after notice to the licensee by the department,
 1428 shall not constitute grounds for disciplinary action.

1429 (c) Paying to or receiving from any organization, agency,
 1430 or person, either directly or indirectly, any commission, bonus,
 1431 kickback, or rebate in any form whatsoever for any business
 1432 regulated under this chapter, whether such payments are made or
 1433 received by the licensee, or her or his agent, assistant, or
 1434 employee; however, this provision shall not prohibit the payment
 1435 of commissions by a funeral director, funeral establishment,
 1436 cemetery, or monument establishment to its preneed agents
 1437 licensed pursuant to this chapter or to licensees under this
 1438 chapter.

1439 Section 14. Subsection (1), paragraph (b) of subsection
 1440 (2), and paragraph (c) of subsection (4) of section 497.153,
 1441 Florida Statutes, as created by chapter 2004-301, Laws of
 1442 Florida, are amended to read:

1443 497.153 Disciplinary procedures and penalties.--

1444 (1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE AND
 1445 PROSECUTE.--The expiration, nonrenewal, or surrender of
 1446 licensure under this chapter shall not eliminate jurisdiction in
 1447 the licensing authority to investigate and prosecute for
 1448 violations committed by a licensee while licensed under this
 1449 chapter. The prosecution of any matter may be initiated or
 1450 continued notwithstanding the withdrawal of any complaint.

1451 (2) DETERMINATION OF PROBABLE CAUSE.--

1452 (b) Prior to submitting a matter to the probable cause
 1453 panel, the licensee who is the subject of the matter shall be
 1454 provided by the department with a copy of any written complaint

HB 529 CS

2005
CS

1455 received by the department in the matter and shall be advised
 1456 that the licensee ~~she or he~~ may, within 20 days after receipt of
 1457 a copy of such complaint from the department, submit to the
 1458 department a written response. Any response timely received by
 1459 the department shall be provided by the department to the
 1460 probable cause panel. Licensees may not appear in person or
 1461 through a representative at any probable cause panel proceeding.
 1462 This paragraph shall not apply to emergency action.

1463 (4) ACTION AFTER PROBABLE CAUSE FOUND.--

1464 (c) The department may at any time present to the board a
 1465 proposed settlement by consent order or otherwise of any matter
 1466 as to which probable cause has been found. If the board accepts
 1467 the proposed settlement, it may execute and file the consent
 1468 order as its final order in the matter or may otherwise issue
 1469 its final order in the matter ~~shall issue its final order~~
 1470 ~~adopting the settlement~~. If the board does not accept such
 1471 settlement, the prosecution of the matter shall be resumed. No
 1472 settlement of any disciplinary matter as to which probable cause
 1473 has been found may be entered into by the board prior to receipt
 1474 of a recommended order of an administrative law judge without
 1475 the department's concurrence.

1476 Section 15. Subsection (1) of section 497.158, Florida
 1477 Statutes, as renumbered and amended by section 28 of chapter
 1478 2004-301, Laws of Florida, is amended to read:

1479 497.158 Court enforcement actions; powers; abatement of
 1480 nuisances.--

1481 (1) In addition to or in lieu of other actions authorized
 1482 by this chapter, the department may petition the courts of this

HB 529 CS

2005
CS

1483 state for injunctive or other relief against any licensed or
 1484 unlicensed person for the enforcement of this chapter and orders
 1485 issued under this chapter. The court shall be authorized to
 1486 impose a fine of up to \$5,000 per violation on any licensee
 1487 under this chapter and up to \$10,000 on any person not licensed
 1488 under this chapter, payable to the department, upon any person
 1489 determined by the court to have violated this chapter, and may
 1490 order payment to the department of the department's attorney's
 1491 fees and litigation costs, by any person found to have violated
 1492 this chapter.

1493 Section 16. Subsections (1), (3), and (4) and paragraph
 1494 (a) of subsection (5) of section 497.159, Florida Statutes, as
 1495 created by chapter 2004-301, Laws of Florida, are amended to
 1496 read:

1497 497.159 Crimes.--

1498 (1) The theft ~~of an examination~~ in whole or in part or the
 1499 act of unauthorized reproducing, circulating, or copying of any
 1500 questions or answers on, from, or for any prelicensure
 1501 examination administered by the department or the board, whether
 1502 such examination is reproduced or copied in part or in whole and
 1503 by any means, constitutes a felony of the third degree,
 1504 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1505 (3) Any person individual who willfully obstructs the
 1506 department or its examiner in any examination or investigation
 1507 authorized by this chapter commits ~~is guilty of~~ a misdemeanor of
 1508 the second degree and is, in addition to any disciplinary action
 1509 under this chapter, punishable as provided in s. 775.082 or s.
 1510 775.083. The initiation of action in any court by or on behalf

HB 529 CS

2005
CS

1511 of any licensee to terminate or limit any examination or
 1512 investigation under this chapter shall not constitute a
 1513 violation under this subsection.

1514 (4) Any officer or director, or person occupying similar
 1515 status or performing similar functions, of a preneed licensee
 1516 ~~who fails under this chapter who knowingly directs or causes the~~
 1517 ~~failure~~ to make required deposits to any trust fund required by
 1518 this chapter; any director, officer, agent, or employee of a
 1519 preneed licensee who makes any unlawful withdrawal of funds from
 1520 any such account or who knowingly discloses to the department or
 1521 an employee thereof any false report made pursuant to this
 1522 chapter; or any person who willfully violates any of the
 1523 provisions of part II, part IV or part V, ~~or with knowledge that~~
 1524 ~~such required deposits are not being made as required by law~~
 1525 ~~fails to report such failure to the department, or who knowingly~~
 1526 ~~directs or causes the unlawful withdrawal of funds from any~~
 1527 ~~trust fund required by this chapter,~~ commits a felony of the
 1528 third degree, punishable as provided in s. 775.082, s. 775.083,
 1529 or s. 775.084.

1530 (5)(a) No cemetery company or other legal entity
 1531 conducting or maintaining any public or private cemetery may
 1532 deny burial space to any person because of race, creed, marital
 1533 status, sex, national origin, or color. A cemetery company or
 1534 other entity operating any cemetery may designate parts of
 1535 cemeteries or burial grounds for the specific use of persons
 1536 whose religious code requires isolation. Religious institution
 1537 cemeteries may limit burials to members of the religious
 1538 institution and their families.

HB 529 CS

2005
CS

1539 Section 17. Paragraphs (g) and (h) of subsection (1) and
1540 subsection (3) of section 497.161, Florida Statutes, as created
1541 by chapter 2004-301, Laws of Florida, are amended to read:

1542 497.161 Other rulemaking provisions.--

1543 (1) In addition to such other rules as are authorized or
1544 required under this chapter, the following additional rules, not
1545 inconsistent with this chapter, shall be authorized by the
1546 licensing authority.

1547 ~~(g) Rules establishing procedures by which the department~~
1548 ~~may use the expert or technical advice of the board or members~~
1549 ~~of the board for the purposes of any investigation, inspection,~~
1550 ~~or financial examination, without thereby disqualifying the~~
1551 ~~board member from voting on final action in the matter.~~

1552 (g)(h) In connection with the statutory revisions by the
1553 2004 ~~2005~~ Regular Session of the Legislature merging chapters
1554 470 and 497 as those chapters appeared in the 2003 ~~2004~~ edition
1555 of the Florida Statutes and the elimination of the former boards
1556 under those chapters and the movement of regulation out of the
1557 Department of Business and Professional Regulation, the
1558 licensing authority shall through July 1, 2006, be deemed to
1559 have extraordinary rulemaking authority to adopt any and all
1560 rules jointly agreed by the board and the department to be
1561 necessary for the protection of the public concerning the
1562 regulation of the professions and occupations regulated under
1563 this chapter, or for the relief of licensees regulated under
1564 this chapter concerning any impacts that ~~which~~ the department
1565 and the board jointly agree were unintended or not contemplated
1566 in the enactment of the 2004 ~~2005~~ legislative changes. The

HB 529 CS

2005
CS

1567 authority under this paragraph and any rules adopted under
1568 authority of this paragraph shall expire July 1, 2006.

1569 (3) The department and the board shall each have standing
1570 under chapter 120 for the purposes of challenging rules or
1571 proposed rules under this chapter. This subsection shall not be
1572 interpreted to deny standing to a licensee to challenge any rule
1573 under this chapter if the licensee would otherwise have
1574 standing.

1575 Section 18. Section 497.165, Florida Statutes, as
1576 renumbered and amended by section 35 of chapter 2004-301, Laws
1577 of Florida, is amended to read:

1578 497.165 Liability of owners, directors, and officers
1579 regarding trust funds.--The owners, officers, and directors of
1580 any licensee under this chapter may be held jointly and
1581 severally liable for any deficiency in any trust fund required
1582 by this chapter, to the extent the deficiency arose during the
1583 period they were owners, officers, or directors of the licensee,
1584 if they intentionally or through gross ~~their conduct, or their~~
1585 negligence in the performance of their duties, caused the
1586 deficiency or substantially contributed to conditions that
1587 allowed the deficiency to arise or increase.

1588 Section 19. Subsections (1) and (3) of section 497.166,
1589 Florida Statutes, as created by chapter 2004-301, Laws of
1590 Florida, are amended to read:

1591 497.166 Preneed sales.--

1592 (1) Regulation of preneed sales shall be as set forth in
1593 part IV of this chapter. No person may act as an agent for a
1594 preneed licensee ~~funeral establishment or direct disposal~~

HB 529 CS

2005
CS

1595 | ~~establishment~~ with respect to preneed contracts unless such
 1596 | person is licensed as a preneed sales agent pursuant to part IV
 1597 | of this chapter or is a licensed funeral director acting as a
 1598 | preneed sales agent.

1599 | (3)(a) The funeral director in charge of a funeral
 1600 | establishment shall be responsible for the control and
 1601 | activities of the establishment's preneed sales agents.

1602 | (b) The direct disposer in charge or a funeral director
 1603 | acting as a direct disposer in charge of a direct disposal
 1604 | establishment shall be responsible for the control and
 1605 | activities of the establishment's preneed sales agents.

1606 | (c) The responsibility imposed by this subsection on the
 1607 | funeral director and direct disposer in charge is a duty of
 1608 | reasonable supervision and not absolute liability. The
 1609 | responsibility of the funeral director or direct disposer in
 1610 | charge shall be in addition to the responsibility of the preneed
 1611 | licensee for the conduct of the preneed sales agents it employs.

1612 | Section 20. Subsection (2) of section 497.169, Florida
 1613 | Statutes, as renumbered and amended by section 39 of chapter
 1614 | 2004-301, Laws of Florida, is amended to read:

1615 | 497.169 Private actions; actions on behalf of consumers;
 1616 | attorney's fee.--

1617 | (2) In any civil litigation resulting from a transaction
 1618 | involving a violation of this chapter by a cemetery company or
 1619 | burial rights broker licensed under part II, a monument
 1620 | establishment licensed under part V, or a preneed entity or
 1621 | preneed sales agent licensed under part IV, the court may award
 1622 | to the prevailing party and against such cemetery company,

HB 529 CS

2005
CS

1623 burial rights broker, monument establishment, or preneed entity
 1624 or sales agent, after judgment in the trial court and exhaustion
 1625 of any appeal, reasonable attorney's fees and costs from the
 1626 nonprevailing party in an amount to be determined by the trial
 1627 court. Any award of attorney's fees or costs shall become a part
 1628 of the judgment and shall be subject to execution as the law
 1629 allows. This subsection does not apply to licensees licensed
 1630 under part III or part VI.

1631 Section 21. Section 497.171, Florida Statutes, is created
 1632 to read:

1633 497.171 Identification of human remains.--

1634 (1) PRIOR TO FINAL DISPOSITION.--

1635 (a) This subsection shall apply to licensees under parts
 1636 III and VI.

1637 (b) The licensee in charge of the final disposition of
 1638 dead human remains shall, prior to final disposition of such
 1639 dead human remains, affix to the ankle or wrist of the deceased,
 1640 and on the casket, alternative container, or cremation
 1641 container, a tag providing proper identification of the dead
 1642 human remains. The identification tag shall be encased in or
 1643 consist of durable and long-lasting material and shall list the
 1644 name, date of birth, and date of death of the deceased, if
 1645 available. The board may adopt rules specifying acceptable
 1646 materials for such identification tag, acceptable locations for
 1647 the tag on the casket, alternative container, or cremation
 1648 container, and acceptable methods of affixing the tag.

1649 (c) If the dead human remains are cremated, proper
 1650 identification shall be placed in the container or urn
 1651 containing the cremated remains.

1652 (d) Any licensee responsible for removal of dead human
 1653 remains to any establishment, facility, or location shall ensure
 1654 that the remains are identified by a tag or other means of
 1655 identification that is affixed to the ankle or wrist of the
 1656 deceased at the time the remains are removed from the place of
 1657 death or other location.

1658 (2) INTERMENT IN UNLICENSED CEMETERIES.--The
 1659 identification of human remains interred in an unlicensed
 1660 cemetery shall be the responsibility of the licensed funeral
 1661 establishment in charge of the funeral arrangements for the
 1662 deceased person. The licensed funeral establishment in charge of
 1663 the funeral arrangements for the interment of human remains in
 1664 an unlicensed cemetery shall place on the outer burial
 1665 container, cremation interment container, or other container or
 1666 on the inside of a crypt or niche a tag or permanent identifying
 1667 mark listing the name of the decedent and the date of death, if
 1668 available. The materials and locations of the tag or mark shall
 1669 be more specifically described by rule of the licensing
 1670 authority.

1671 (3) INTERMENT IN LICENSED CEMETERIES.--

1672 (a) This subsection shall apply to cemetery licensees
 1673 under part II.

1674 (b) As to interments in a licensed cemetery, each licensed
 1675 cemetery shall place on the outer burial container, cremation
 1676 interment container, or other container or on the inside of a

1677 crypt or niche a tag or permanent identifying marker listing the
 1678 name of the decedent and the date of death, if available. The
 1679 materials and the location of the tag or marker shall be more
 1680 specifically described by rule of the licensing authority.

1681 (c) Each licensed cemetery may rely entirely on the
 1682 identity stated on the burial transit permit or on the
 1683 identification supplied by a person licensed under this chapter
 1684 to establish the identity of the dead human remains delivered by
 1685 such person for burial and shall not be liable for any
 1686 differences between the identity shown on the burial transit
 1687 permit or identification and the actual identity of the dead
 1688 human remains delivered by such person and buried in the
 1689 cemetery.

1690 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
 1691 establishments shall establish a system of identification of
 1692 human remains received that shall be designed to track the
 1693 identity of the remains from the time of receipt until delivery
 1694 of the remains to the authorized persons. This is in addition to
 1695 the requirements for identification of human remains set forth
 1696 in subsection (1). A copy of the identification procedures shall
 1697 be available, upon request, to the department and legally
 1698 authorized persons.

1699 (5) RELIANCE ON LEGALLY AUTHORIZED PERSON.--Any licensee
 1700 charged with responsibility under this section may rely on the
 1701 representation of a legally authorized person to establish the
 1702 identity of dead human remains.

HB 529 CS

2005
CS

1703 Section 22. Paragraph (b) of subsection (6) of section
1704 497.260, Florida Statutes, as renumbered and amended by section
1705 42 of chapter 2004-301, Laws of Florida, is amended to read:

1706 497.260 Cemeteries; exemption; investigation and
1707 mediation.--

1708 (6)

1709 (b) No cemetery company or other legal entity conducting
1710 or maintaining any public or private cemetery may deny burial
1711 space to any person because of race, creed, marital status, sex,
1712 national origin, or color. A cemetery company or other entity
1713 operating any cemetery may designate parts of cemeteries or
1714 burial grounds for the specific use of persons whose religious
1715 code requires isolation. Religious institution cemeteries may
1716 limit burials to members of the religious institution and their
1717 families.

1718 Section 23. Paragraphs (b), (m), (o), and (q) of
1719 subsection (2) of section 497.263, Florida Statutes, as
1720 renumbered and amended by section 45 of chapter 2004-301, Laws
1721 of Florida, are amended to read:

1722 497.263 Cemetery companies; license required; licensure
1723 requirements and procedures.--

1724 (2) APPLICATION PROCEDURES.--

1725 (b) The applicant shall be a corporation, or a
1726 partnership, or a limited liability company ~~formed prior to~~
1727 ~~January 1, 2005, which limited liability company already holds a~~
1728 ~~license under this chapter.~~

1729 (m) The applicant shall be required to make disclosure of
1730 the applicant's criminal records, if any, as required by s.

HB 529 CS

2005
CS

1731 ~~497.142. The application shall require the applicant to disclose~~
 1732 ~~whether the applicant or any principal of the applicant has ever~~
 1733 ~~been convicted or found guilty of, or entered a plea of no~~
 1734 ~~contest to, regardless of adjudication, any crime in any~~
 1735 ~~jurisdiction. The licensing authority may require by rule~~
 1736 ~~additional information to be provided concerning any affirmative~~
 1737 ~~answers.~~

1738 (o) The applicant shall submit fingerprints in accordance
 1739 ~~with s. 497.142. The application shall require the applicant and~~
 1740 ~~applicant's principals to provide fingerprints in accordance~~
 1741 ~~with part I of this chapter.~~

1742 (q) The application shall be signed in accordance with s.
 1743 ~~497.141(12) by the president of the applicant.~~

1744 Section 24. Paragraphs (h), (j), and (l) of subsection (2)
 1745 of section 497.264, Florida Statutes, as renumbered and amended
 1746 by section 46 of chapter 2004-301, Laws of Florida, are amended
 1747 to read:

1748 497.264 License not assignable or transferable.--

1749 (2) Any person or entity that seeks to purchase or
 1750 otherwise acquire control of any cemetery licensed under this
 1751 chapter shall first apply to the licensing authority and obtain
 1752 approval of such purchase or change in control.

1753 (h) The applicant shall be required to make disclosure of
 1754 the applicant's criminal records, if any, as required by s.
 1755 ~~497.142. The application shall require the applicant to disclose~~
 1756 ~~whether the applicant or any principal of the applicant has ever~~
 1757 ~~been convicted or found guilty of, or entered a plea of no~~
 1758 ~~contest to, regardless of adjudication, any crime in any~~

HB 529 CS

2005
CS

1759 ~~jurisdiction. The licensing authority may require by rule~~
 1760 ~~additional information to be provided concerning any affirmative~~
 1761 ~~answers.~~

1762 (j) The applicant shall submit fingerprints in accordance
 1763 with s. 497.142. ~~The application shall require the applicant and~~
 1764 ~~the applicant's principals to provide fingerprints in accordance~~
 1765 ~~with part I of this chapter.~~

1766 (l) The application shall be signed in accordance with s.
 1767 497.141(12) ~~by the applicant if a natural person, otherwise by~~
 1768 ~~the president of the applicant.~~

1769 Section 25. Section 497.281, Florida Statutes, as
 1770 renumbered and amended by section 62 of chapter 2004-301, Laws
 1771 of Florida, is amended to read:

1772 497.281 Licensure of brokers of burial rights.--

1773 (1) No person shall receive compensation to act as a third
 1774 party to the sale or transfer of three or more burial rights in
 1775 a 12-month period unless the person pays a license fee as
 1776 determined by licensing authority rule but not to exceed \$250
 1777 and is licensed with the department as a burial rights broker in
 1778 accordance with this section.

1779 (2)(a) The applicant shall be required to make disclosure
 1780 of the applicant's criminal records, if any, as required by s.
 1781 497.142.

1782 (b) The application shall require the applicant to
 1783 disclose whether the applicant or any principal of the applicant
 1784 has ever had a license or the authority to practice a profession
 1785 or occupation refused, suspended, fined, denied, or otherwise
 1786 acted against or disciplined by the licensing authority of any

HB 529 CS

2005
CS

1787 jurisdiction. The licensing authority may require by rule
 1788 additional information to be provided concerning any affirmative
 1789 answers. A licensing authority's acceptance of a relinquishment
 1790 of licensure, stipulation, consent order, or other settlement,
 1791 offered in response to or in anticipation of the filing of
 1792 charges against the license, shall be construed as action
 1793 against the license. The licensing authority may require by rule
 1794 additional information to be provided concerning any affirmative
 1795 answers.

1796 (c) The applicant shall submit fingerprints in accordance
 1797 with s. 497.142. The application shall be signed in accordance
 1798 with s. 497.141(12).

1799 (d) The applicant shall demonstrate by clear and
 1800 convincing evidence that the applicant has the ability,
 1801 experience, and integrity to act as a burial broker and, if the
 1802 applicant is an entity, that the applicant's principals are of
 1803 good character.

1804 (3) For the purpose of preventing confusion and error by
 1805 the licensee or by the cemeteries in which the burial rights are
 1806 located as to the status as sold or unsold, and as to the
 1807 identity of the owner, of the burial rights and related
 1808 interment spaces in the cemetery, the licensing authority shall
 1809 by rule establish requirements for minimum records to be
 1810 maintained by licensees under this section.

1811 (4) The licensing authority may by rule require
 1812 inspections of the records of licensees under this section.

1813 (5)~~(2)~~ The department, by rule, shall provide for the
 1814 biennial renewal of licenses under this section and a renewal

HB 529 CS

2005
CS

1815 fee as determined by licensing authority rule but not to exceed
1816 \$250.

1817 (6)(3) The licensure requirements of this section shall
1818 not apply to persons otherwise licensed pursuant to this
1819 chapter, but such persons, if they engage in activity as burial
1820 rights brokers, shall be subject to rules relating to required
1821 records and inspections.

1822 ~~(4) The licensing authority may by rule specify records of~~
1823 ~~brokerage transactions which shall be required to be maintained~~
1824 ~~by burial rights brokers licensed under this subsection, and~~
1825 ~~which shall be subject to inspection by the department.~~

1826 Section 26. Subsection (12) is added to section 497.365,
1827 Florida Statutes, as created by chapter 2004-301, Laws of
1828 Florida, to read:

1829 497.365 Licensure; inactive and delinquent status.--

1830 (12) The board shall prescribe by rule an application fee
1831 for inactive status, a renewal fee for inactive status, a
1832 delinquency fee, and a fee for reactivation of a license. None
1833 of these fees may exceed the biennial renewal fee established by
1834 the board for an active license. The department may not
1835 reactivate a license unless the inactive or delinquent licensee
1836 has paid any applicable biennial renewal or delinquency fee, or
1837 both, and a reactivation fee.

1838 Section 27. Paragraph (c) of subsection (1) of section
1839 497.368, Florida Statutes, as renumbered and amended by section
1840 73 of chapter 2004-301, Laws of Florida, is amended to read:

1841 497.368 Embalmers; licensure as an embalmer by
1842 examination; provisional license.--

HB 529 CS

2005
CS

1843 (1) Any person desiring to be licensed as an embalmer
 1844 shall apply to the licensing authority to take the licensure
 1845 examination. The licensing authority shall examine each
 1846 applicant who has remitted an examination fee set by rule of the
 1847 licensing authority not to exceed \$200 plus the actual per
 1848 applicant cost to the licensing authority for portions of the
 1849 examination and who has:

1850 (c) Made disclosure of the applicant's criminal records,
 1851 if any, as required by s. 497.142. The applicant shall submit
 1852 fingerprints in accordance with s. 497.142. The applicant may
 1853 not be licensed under this section unless the licensing
 1854 authority determines the applicant is of good character and has
 1855 no demonstrated history of lack of trustworthiness or integrity
 1856 in business or professional matters. ~~Had no conviction or~~
 1857 ~~finding of guilt, regardless of adjudication, for a crime which~~
 1858 ~~directly relates to the ability to practice embalming or the~~
 1859 ~~practice of embalming.~~

1860 Section 28. Paragraph (d) is added to subsection (1) of
 1861 section 497.369, Florida Statutes, as renumbered and amended by
 1862 section 74 of chapter 2004-301, Laws of Florida, to read:

1863 497.369 Embalmers; licensure as an embalmer by
 1864 endorsement; licensure of a temporary embalmer.--

1865 (1) The licensing authority shall issue a license by
 1866 endorsement to practice embalming to an applicant who has
 1867 remitted an examination fee set by rule of the licensing
 1868 authority not to exceed \$200 and who the licensing authority
 1869 certifies:

1870 (d) Has made disclosure of the applicant's criminal
 1871 records, if any, as required by s. 497.142. The applicant shall
 1872 submit fingerprints in accordance with s. 497.142. The applicant
 1873 may not be licensed under this section unless the licensing
 1874 authority determines the applicant is of good character and has
 1875 no demonstrated history of lack of trustworthiness or integrity
 1876 in business or professional matters.

1877 Section 29. Paragraph (c) of subsection (1) of section
 1878 497.373, Florida Statutes, as renumbered and amended by section
 1879 78 of chapter 2004-301, Laws of Florida, is amended to read:

1880 497.373 Funeral directing; licensure as a funeral director
 1881 by examination; provisional license.--

1882 (1) Any person desiring to be licensed as a funeral
 1883 director shall apply to the licensing authority to take the
 1884 licensure examination. The licensing authority shall examine
 1885 each applicant who has remitted an examination fee set by rule
 1886 of the licensing authority not to exceed \$200 plus the actual
 1887 per applicant cost to the licensing authority for portions of
 1888 the examination and who the licensing authority certifies has:

1889 (c) Made disclosure of the applicant's criminal records,
 1890 if any, as required by s. 497.142. The applicant shall submit
 1891 fingerprints in accordance with s. 497.142. The applicant may
 1892 not be licensed under this section unless the licensing
 1893 authority determines the applicant is of good character and has
 1894 no demonstrated history of lack of trustworthiness or integrity
 1895 in business or professional matters. ~~Had no conviction or~~
 1896 ~~finding of guilt, regardless of adjudication, for a crime which~~

HB 529 CS

2005
CS

1897 ~~directly relates to the ability to practice funeral directing or~~
 1898 ~~the practice of funeral directing.~~

1899 Section 30. Paragraph (d) is added to subsection (1) of
 1900 section 497.374, Florida Statutes, as renumbered and amended by
 1901 section 79 of chapter 2004-301, Laws of Florida, to read:

1902 497.374 Funeral directing; licensure as a funeral director
 1903 by endorsement; licensure of a temporary funeral director.--

1904 (1) The licensing authority shall issue a license by
 1905 endorsement to practice funeral directing to an applicant who
 1906 has remitted a fee set by rule of the licensing authority not to
 1907 exceed \$200 and who:

1908 (d) Has made disclosure of the applicant's criminal
 1909 records, if any, as required by s. 497.142. The applicant shall
 1910 submit fingerprints in accordance with s. 497.142. The applicant
 1911 may not be licensed under this section unless the licensing
 1912 authority determines the applicant is of good character and has
 1913 no demonstrated history of lack of trustworthiness or integrity
 1914 in business or professional matters.

1915 Section 31. Subsection (1) of section 497.376, Florida
 1916 Statutes, as renumbered and amended by section 81 of chapter
 1917 2004-301, Laws of Florida, is amended to read:

1918 497.376 License as funeral director and embalmer
 1919 permitted; display of license.--

1920 (1) Nothing in this chapter may be construed to prohibit a
 1921 person from holding a license as an embalmer and a license as a
 1922 funeral director at the same time. There may be issued and
 1923 renewed by the licensing authority a combination license as both
 1924 funeral director and embalmer to persons meeting the separate

HB 529 CS

2005
CS

1925 requirements for both licenses as set forth in this chapter. The
 1926 licensing authority may adopt rules providing procedures for
 1927 applying for and renewing such combination license. The
 1928 licensing authority may by rule establish application, renewal,
 1929 and other fees for such combination license, which fees shall
 1930 not exceed the sum of the maximum fees for the separate funeral
 1931 director and embalmer license categories as provided in this
 1932 chapter. Persons holding a combination license as a funeral
 1933 director and an embalmer shall be subject to regulation under
 1934 this chapter both as a funeral director and an embalmer.

1935 Section 32. Subsection (1) of section 497.378, Florida
 1936 Statutes, as amended and renumbered by section 83 of chapter
 1937 2004-301, Laws of Florida, is amended to read:

1938 497.378 Renewal of funeral director and embalmer
 1939 licenses.--

1940 (1) There shall be renewed a funeral director or embalmer
 1941 license upon receipt of the renewal application and fee set by
 1942 the licensing authority not to exceed \$500 ~~\$250~~. The licensing
 1943 authority may prescribe by rule continuing education
 1944 requirements of up to 12 classroom hours and may by rule
 1945 establish criteria for accepting alternative nonclassroom
 1946 continuing education on an hour-for-hour basis, in addition to a
 1947 licensing authority-approved course on communicable diseases
 1948 that includes the course on human immunodeficiency virus and
 1949 acquired immune deficiency syndrome required by s. 497.367, for
 1950 the renewal of a funeral director or embalmer license. The rule
 1951 may provide for the waiver of continuing education requirements
 1952 in circumstances that would justify the waiver, such as

HB 529 CS

2005
CS

1953 | hardship, disability, or illness. The continuing education
1954 | requirement is not required ~~after July 1, 1996,~~ for a licensee
1955 | who is over the age of 75 years if the licensee does not qualify
1956 | as the sole person in charge of an establishment or facility.

1957 | Section 33. Subsections (1), (4), (5), and (12) of section
1958 | 497.380, Florida Statutes, as renumbered and amended by section
1959 | 85 of chapter 2004-301, Laws of Florida, are amended to read:

1960 | 497.380 Funeral establishment; licensure.--

1961 | (1) A funeral establishment shall be a place at a specific
1962 | street address or location consisting of at least 1,250
1963 | contiguous interior square feet and shall ~~must~~ maintain or make
1964 | arrangements for ~~either~~ capacity for the refrigeration and
1965 | storage of dead human bodies handled and stored by the
1966 | establishment and a preparation room equipped with necessary
1967 | ventilation and drainage and containing necessary instruments
1968 | for embalming dead human bodies or shall ~~must~~ make arrangements
1969 | for a preparation room as established by rule.

1970 | (4) Application for a funeral establishment license shall
1971 | be made on forms and pursuant to procedures specified by rule,
1972 | shall be accompanied by a nonrefundable fee not to exceed \$300
1973 | as set by licensing authority rule, and shall include the name
1974 | of the licensed funeral director who is in charge of that
1975 | establishment. The applicant shall be required to make
1976 | disclosure of the applicant's criminal records, if any, as
1977 | required by s. 497.142. The applicant shall submit fingerprints
1978 | in accordance with s. 497.142. A duly completed application
1979 | accompanied by the required fees shall be approved and the
1980 | license issued if the proposed funeral establishment has passed

1981 an inspection pursuant to rule of the licensing authority, the
 1982 licensing authority determines the applicant is of good
 1983 character and has no demonstrated history of lack of
 1984 trustworthiness or integrity in business or professional
 1985 matters, and the applicant otherwise is in compliance with all
 1986 applicable requirements of this chapter.

1987 (5) A funeral establishment license shall be renewable
 1988 biennially pursuant to procedures, and upon payment of a
 1989 nonrefundable fee not to exceed \$500 ~~\$300~~, as set by licensing
 1990 authority rule. The licensing authority may also establish by
 1991 rule a delinquency fee not to exceed \$50 per day.

1992 (12)(a) A change in ownership of a funeral establishment
 1993 shall be promptly reported pursuant to procedures established by
 1994 rule and shall require the relicensure of the funeral
 1995 establishment, including reinspection and payment of applicable
 1996 fees.

1997 (b) A change in location of a funeral establishment shall
 1998 be promptly reported to the licensing authority pursuant to
 1999 procedures established by rule. Operations by the licensee at a
 2000 new location may not commence until an inspection by the
 2001 licensing authority of the facilities, pursuant to rules of the
 2002 licensing authority, has been conducted and passed at the new
 2003 location.

2004 Section 34. Paragraphs (a) and (g) of subsection (1) and
 2005 paragraphs (a), (f), and (g) of subsection (2) of section
 2006 497.385, Florida Statutes, as renumbered and amended by section
 2007 90 of chapter 2004-301, Laws of Florida, are amended, and

HB 529 CS

2005
CS

2008 paragraph (i) is added to subsection (2) of said section, to
2009 read:

2010 497.385 Removal services; refrigeration facilities;
2011 centralized embalming facilities.--In order to ensure that the
2012 removal, refrigeration, and embalming of all dead human bodies
2013 is conducted in a manner that properly protects the public's
2014 health and safety, the licensing authority shall adopt rules to
2015 provide for the licensure of removal services, refrigeration
2016 facilities, and centralized embalming facilities operated
2017 independently of funeral establishments, direct disposal
2018 establishments, and cinerator facilities.

2019 (1) REMOVAL SERVICES AND REFRIGERATION SERVICES.--

2020 (a) Application for licensure of a removal service or a
2021 refrigeration service shall be made using forms and procedures
2022 as specified by rule, shall be accompanied by a nonrefundable
2023 fee not to exceed \$300 as set by licensing authority rule, and
2024 shall include the name of the business owner, manager in charge,
2025 business address, and copies of occupational and other local
2026 permits. The applicant shall be required to make disclosure of
2027 the applicant's criminal records, if any, as required by s.
2028 497.142. The applicant shall submit fingerprints in accordance
2029 with s. 497.142. A duly completed application accompanied by the
2030 required fees shall be approved and the license issued if the
2031 applicant has passed an inspection pursuant to rule of the
2032 licensing authority, the licensing authority determines the
2033 applicant is of good character and has no demonstrated history
2034 of lack of trustworthiness or integrity in business or

HB 529 CS

2005
CS

2035 professional matters, and the applicant otherwise is in
 2036 compliance with all applicable requirements of this chapter.

2037 (g)1. A change in ownership shall be promptly reported
 2038 using forms and procedures specified by rule and may require the
 2039 relicensure of the licensee, including reinspection and payment
 2040 of applicable fees, as required by rule.

2041 2. A change in location shall be promptly reported to the
 2042 licensing authority pursuant to procedures established by rule.
 2043 Operations by the licensee at a new location may not commence
 2044 until an inspection by the licensing authority of the
 2045 facilities, pursuant to rules of the licensing authority, has
 2046 been conducted and passed at the new location.

2047 (2) CENTRALIZED EMBALMING FACILITIES.--In order to ensure
 2048 that all funeral establishments have access to embalming
 2049 facilities that comply with all applicable health and safety
 2050 requirements, the licensing authority shall adopt rules to
 2051 provide for the licensure and operation of centralized embalming
 2052 facilities and shall require, at a minimum, the following:

2053 (a) All centralized embalming facilities shall contain all
 2054 of the equipment and meet all of the requirements that a
 2055 preparation room located in a funeral establishment is required
 2056 to meet, ~~but such facilities shall not be required to comply~~
 2057 ~~with any of the other requirements for funeral establishments,~~
 2058 ~~as set forth in s. 497.380.~~ The licensing authority may adopt
 2059 rules establishing the equipment and other requirements for
 2060 operation of a centralized embalming facility consistent with
 2061 this paragraph.

2062 (f) Application for licensure of a centralized embalming
 2063 facility shall be made utilizing forms and procedures prescribed
 2064 by rule and shall be accompanied by a nonrefundable fee not to
 2065 exceed \$300 as set by licensing authority rule, and licensure
 2066 shall be renewed biennially pursuant to procedures and upon
 2067 payment of a nonrefundable fee not to exceed \$300 as set by
 2068 licensing authority rule. The licensing authority may also
 2069 establish by rule a late fee not to exceed \$50 per day. Any
 2070 licensure not renewed within 30 days after the renewal date
 2071 shall expire without further action by the department. The
 2072 applicant shall be required to make disclosure of the
 2073 applicant's criminal records, if any, as required by s. 497.142.
 2074 The applicant shall submit fingerprints in accordance with s.
 2075 497.142. A duly completed application accompanied by the
 2076 required fees shall be approved and the license issued if the
 2077 applicant has passed an inspection pursuant to rule of the
 2078 licensing authority, the licensing authority determines the
 2079 applicant is of good character and has no demonstrated history
 2080 of lack of trustworthiness or integrity in business or
 2081 professional matters, and the applicant otherwise is in
 2082 compliance with all applicable requirements of this chapter.

2083 (g) The licensing authority shall set by rule an annual
 2084 inspection fee not to exceed \$300, payable upon application for
 2085 licensure and upon renewal of such licensure. Centralized
 2086 embalming facilities shall be subject to inspection before
 2087 issuance of license and annually thereafter and also upon change
 2088 of location and during investigation of any complaint. A
 2089 centralized embalming facility shall notify the licensing

HB 529 CS

2005
CS

2090 authority of any change in location. A change in ownership shall
 2091 be promptly reported to the licensing authority using forms and
 2092 procedures specified by rule and may require the relicensure of
 2093 the licensee, including reinspection and payment of applicable
 2094 fees, as required by rule. The licensing authority shall adopt
 2095 rules establishing inspection criteria and otherwise
 2096 establishing forms and procedures for the implementation of this
 2097 paragraph.

2098 (i) A change in location shall be promptly reported to the
 2099 licensing authority pursuant to procedures established by rule.
 2100 Operations by the licensee at a new location may not commence
 2101 until an inspection by the licensing authority of the
 2102 facilities, pursuant to rules of the licensing authority, has
 2103 been conducted and passed at the new location.

2104 Section 35. Section 497.453, Florida Statutes, as
 2105 renumbered and amended by section 102 of chapter 2004-301, Laws
 2106 of Florida, is amended to read:

2107 497.453 Application for preneed license, procedures and
 2108 criteria; renewal; reports.--

2109 (1) PRENEED LICENSE APPLICATION PROCEDURES.--

2110 (a) A person seeking a license to enter into preneed
 2111 contracts shall apply for such licensure using forms prescribed
 2112 by rule.

2113 (b) The application shall require the name, business
 2114 address, residence address, date and place of birth or
 2115 incorporation, and business phone number of the applicant and
 2116 all principals of the applicant. The application shall require

HB 529 CS

2005
CS

2117 | the applicant's social security number, or, if the applicant is
2118 | an entity, its federal tax identification number.

2119 | (c) The application may require information as to the
2120 | applicant's financial resources.

2121 | (d) The application may require information as to the
2122 | educational and employment history of an individual applicant;
2123 | and as to applicants that are not natural persons, the business
2124 | and employment history of the applicant and principals of the
2125 | applicant.

2126 | (e) The applicant shall be required to make disclosure of
2127 | the applicant's criminal records, if any, as required by s.
2128 | 497.142. ~~The application shall require the applicant to disclose~~
2129 | ~~whether the applicant or any of the applicant's principals have~~
2130 | ~~ever been convicted or found guilty of, or entered a plea of no~~
2131 | ~~contest to, regardless of adjudication, any crime in any~~
2132 | ~~jurisdiction.~~

2133 | (f) The application shall require the applicant to
2134 | disclose whether the applicant or any of the applicant's
2135 | principals have ever had a license or the authority to practice
2136 | a profession or occupation refused, suspended, fined, denied, or
2137 | otherwise acted against or disciplined by the licensing
2138 | authority of any jurisdiction. A licensing authority's
2139 | acceptance of a relinquishment of licensure, stipulation,
2140 | consent order, or other settlement, offered in response to or in
2141 | anticipation of the filing of charges against the license, shall
2142 | be construed as action against the license.

2143 | (g) The applicant shall submit fingerprints in accordance
2144 | with s. 497.142. ~~The application shall require the applicant and~~

2145 | ~~its principals to provide fingerprints in accordance with part I~~
 2146 | ~~of this chapter.~~

2147 | (h) The application shall state the name and license
 2148 | number of the funeral establishment, cemetery company, direct
 2149 | disposal establishment, or monument establishment, under whose
 2150 | license the preneed application is made.

2151 | (i) The application shall state the types of preneed
 2152 | contracts proposed to be written.

2153 | (j) The application shall disclose the existence of all
 2154 | preneed contracts for service or merchandise entered into by the
 2155 | applicant, or by any other entity under common control with the
 2156 | applicant, without or prior to authorization under this section
 2157 | or predecessors to this section. As to each such contract, the
 2158 | applicant shall disclose the name and address of the contract
 2159 | purchaser, the status of the contract, and what steps or
 2160 | measures the applicant has taken to ensure performance of
 2161 | unfulfilled contracts, setting forth the treatment and status of
 2162 | funds received from the customer in regard to the contract, and
 2163 | stating the name and address of any institution where such funds
 2164 | are deposited and the number used by the institution to identify
 2165 | the account. With respect to contracts entered into before
 2166 | January 1, 1983, an application to issue or renew a preneed
 2167 | license may not be denied solely on the basis of such
 2168 | disclosure. The purchaser of any such contract may not be
 2169 | required to liquidate the account if such account was
 2170 | established before July 1, 1965. Information disclosed may be
 2171 | used by the licensing authority to notify the contract purchaser
 2172 | and the institution in which such funds are deposited should the

2173 holder of a preneed license be unable to fulfill the
2174 requirements of the contract.

2175 (k) The application shall require the applicant to
2176 demonstrate that the applicant complies and will comply with all
2177 requirements for preneed contract licensure under this chapter.

2178 (l) The application may require any other information
2179 considered necessary by the department or board to meet its
2180 responsibilities under this chapter.

2181 (m) The application shall be sworn to and signed in
2182 accordance with s. 497.141(12) ~~by the applicant if a natural~~
2183 ~~person, or by the president of an applicant that is not a~~
2184 ~~natural person.~~

2185 (n) The application shall be accompanied by a
2186 nonrefundable fee as determined by licensing authority rule but
2187 not to exceed \$500.

2188 (2) ACTION CONCERNING APPLICATIONS.--A duly completed
2189 application for licensure under this section, accompanied by the
2190 required fees, shall be approved and a license issued, if the
2191 licensing authority determines that the following conditions are
2192 met:

2193 (a) The application is made by a funeral establishment,
2194 cemetery company, direct disposal establishment, or monument
2195 establishment, or on behalf of one of the preceding licensees by
2196 its agent in the case of a corporate entity, licensed and in
2197 good standing under this chapter.

2198 (b) The applicant meets net worth requirements specified
2199 by rule of the licensing authority.

2200 1. The net worth required by rule to obtain or renew a
 2201 preneed license and write and carry up to \$100,000 in total
 2202 retail value of outstanding preneed contracts shall not exceed
 2203 \$20,000. The board may specify higher net worth requirements by
 2204 increments, for total retail value of outstanding preneed
 2205 contracts carried in excess of \$100,000, as the board determines
 2206 necessary for the protection of the public.

2207 2. An applicant to obtain or renew a preneed license who
 2208 cannot demonstrate the required initial minimum net worth may
 2209 voluntarily submit to the licensing authority, and request
 2210 acceptance of, alternative evidence of financial stability and
 2211 resources or agree to additional oversight in lieu of the
 2212 required net worth. Such additional evidence or oversight may
 2213 include, as appropriate, one or more of the following:

2214 a. An agreement to submit monthly financial statements of
 2215 the entity.

2216 b. An agreement to submit quarterly financial statements
 2217 of the entity.

2218 c. An appraisal of the entity's property or broker's
 2219 opinion of the entity's assets.

2220 d. A credit report of the entity or its principals.

2221 e. A subordination-of-debt agreement from the entity's
 2222 principals.

2223 f. An indemnification or subrogation agreement binding the
 2224 entity and its principals.

2225 g. A guarantee agreement for the entity from its
 2226 principals.

2227 h. A written explanation of past financial activity.

2228 i. Submission of a 12-month projected business plan that
 2229 includes:

2230 (I) A statement of cash flows.

2231 (II) Pro forma income statements, with sources of revenues
 2232 identified.

2233 (III) Marketing initiatives.

2234 j. Submission of previous department examination reports.

2235 k. An agreement of 100 percent voluntary trust by the
 2236 entity.

2237 3. The licensing authority may accept such alternative
 2238 evidence or arrangements in lieu of the required net worth only
 2239 if the licensing authority determines such alternative evidence
 2240 or arrangements are an adequate substitute for required net
 2241 worth and that acceptance would not substantially increase the
 2242 risk to existing or future customers of nonperformance by the
 2243 applicant or licensee on its retail sales agreements.

2244 (c) The applicant has and will have the ability to
 2245 discharge her or his liabilities as they become due in the
 2246 normal course of business, and has and will have sufficient
 2247 funds available during the calendar year to perform her or his
 2248 obligations under her or his contracts.

2249 (d) If the applicant or any entity under common control
 2250 with the applicant has entered into preneed contracts prior to
 2251 being authorized to do so under the laws of this state:

2252 1. The licensing authority determines that adequate
 2253 provision has been made to ensure the performance of such
 2254 contracts.

HB 529 CS

2005
CS

2255 2. The licensing authority determines that the improper
2256 sale of such preneed contracts prior to authorization under this
2257 chapter does not indicate, under the facts of the particular
2258 application in issue, that the applicant has a disregard of the
2259 laws of this state such as would expose the public to
2260 unreasonable risk if the applicant were issued a preneed
2261 license.

2262 3. Nothing in this section shall imply any authorization
2263 to enter into preneed contracts without authorization under this
2264 chapter.

2265 (e) Neither the applicant nor the applicant's principals
2266 have a demonstrated history of conducting their business affairs
2267 to the detriment of the public.

2268 (f) The applicant and the applicant's principals are of
2269 good character and have no demonstrated history of lack of
2270 trustworthiness or integrity in business or professional
2271 matters.

2272 (g) The applicant does and will comply with all other
2273 requirements of this chapter relating to preneed licensure.

2274 (3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.--It is
2275 the policy of this state to encourage competition for the public
2276 benefit in the preneed contract business by, among other means,
2277 the entry of new licensees into that business. To facilitate
2278 issuance of licenses concerning applications judged by the
2279 licensing authority to be borderline as to qualification for
2280 licensure, the licensing authority may issue a new license under
2281 this section on a probationary basis, subject to conditions
2282 specified by the licensing authority on a case-by-case basis,

2283 | which conditions may impose special monitoring, reporting, and
 2284 | restrictions on operations for up to the first 12 months of
 2285 | licensure, to ensure the licensee's responsibility, competency,
 2286 | financial stability, and compliance with this chapter. Provided,
 2287 | no such probationary license shall be issued unless the
 2288 | licensing authority determines that issuance would not pose an
 2289 | unreasonable risk to the public, and the licensing authority
 2290 | shall ~~must~~ within 12 months after issuance of the license either
 2291 | remove the probationary status or determine that the licensee is
 2292 | not qualified for licensure under this chapter and institute
 2293 | proceedings for revocation of licensure.

2294 | (4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.--

2295 | (a) Each licensee under this section shall ~~must~~ provide
 2296 | notice as required by rule prior to any change in control of the
 2297 | licensee. Any such change is subject to disapproval or to
 2298 | reasonable conditions imposed by the licensing authority, for
 2299 | the protection of the public to ensure compliance with this
 2300 | chapter, based upon criteria established by rule, which criteria
 2301 | shall promote the purposes of this part in protecting the
 2302 | consumer.

2303 | (b) The licensing authority may authorize the transfer of
 2304 | a preneed license and establish by rule a fee for the transfer
 2305 | in an amount not to exceed \$500. Upon receipt of an application
 2306 | for transfer, the executive director may grant a temporary
 2307 | preneed license to the proposed transferee, based upon criteria
 2308 | established by the licensing authority by rule, which criteria
 2309 | shall promote the purposes of this chapter in protecting the
 2310 | consumer. Such a temporary preneed license shall expire at the

HB 529 CS

2005
CS

2311 conclusion of the next regular meeting of the board unless
 2312 renewed by the board. The licensing authority may by rule
 2313 establish forms and procedures for the implementation of this
 2314 paragraph.

2315 (5) RENEWAL OF LICENSES.--

2316 (a) A preneed license shall expire annually on June 1,
 2317 unless renewed, or at such other time or times as may be
 2318 provided by rule. The application for renewal of the license
 2319 shall be on forms prescribed by rule and shall be accompanied by
 2320 a renewal fee as specified in paragraph (c).

2321 (b) Within 3 months after the end of its fiscal period, or
 2322 within an extension of time therefor, as the department for good
 2323 cause may grant, the licensee shall file with the department a
 2324 full and true statement of her or his financial condition,
 2325 transactions, and affairs, prepared on a basis as adopted by
 2326 rule, as of the end of the preceding fiscal period or at such
 2327 other time or times as may be required by rule, together with
 2328 such other information and data that ~~which~~ may be required by
 2329 rule. To facilitate uniformity in financial statements and to
 2330 facilitate department analysis, there may be adopted by rule a
 2331 form for financial statements. The rules regarding net worth,
 2332 authorized by paragraph (2)(b), shall be applicable to the
 2333 renewal of preneed licenses.

2334 (c)1. Each annual application for renewal of a preneed
 2335 license that is not held by a monument establishment shall be
 2336 accompanied by the appropriate fee as follows:

2337 a.1. For a preneed licensee with no preneed contract sales
 2338 during the immediately preceding year....\$300.

HB 529 CS

2005
CS

2339 ~~b.2.~~ For a preneed licensee with at least 1 but fewer than
2340 50 preneed contract sales during the immediately preceding
2341 year....\$400.

2342 ~~c.3.~~ For a preneed licensee with at least 50 but fewer
2343 than 250 preneed contract sales during the immediately preceding
2344 year....\$500.

2345 ~~d.4.~~ For a preneed licensee with at least 250 but fewer
2346 than 1,000 preneed contract sales during the immediately
2347 preceding year....\$850.

2348 ~~e.5.~~ For a preneed licensee with at least 1,000 but fewer
2349 than 2,500 preneed contract sales during the immediately
2350 preceding year....\$1,500.

2351 ~~f.6.~~ For a preneed licensee with at least 2,500 but fewer
2352 than 5,000 preneed contract sales during the immediately
2353 preceding year....\$2,500.

2354 ~~g.7.~~ For a preneed licensee with at least 5,000 but fewer
2355 than 15,000 preneed contract sales during the immediately
2356 preceding year....\$6,000.

2357 ~~h.8.~~ For a preneed licensee with at least 15,000 but fewer
2358 than 30,000 preneed contract sales during the immediately
2359 preceding year....\$12,500.

2360 ~~i.9.~~ For a preneed licensee with 30,000 preneed contract
2361 sales or more during the immediately preceding year....\$18,500.

2362 2. Each annual application for renewal of a preneed
2363 license that is held by a monument establishment shall be
2364 accompanied by the appropriate fee determined by its total gross
2365 aggregate at-need and preneed retail sales for the 12-month

HB 529 CS

2005
CS

2366 | period ending 2 full calendar months prior to the month in which
 2367 | the renewal is required, as follows:

2368 | a. Total sales of \$1 to \$50,000: \$1,000 renewal fee.

2369 | b. Total sales of \$50,001 to \$250,000: \$1,500 renewal
 2370 | fee.

2371 | c. Total sales of \$250,001 to \$500,000: \$2,000 renewal
 2372 | fee.

2373 | d. Total sales over \$500,000: \$2,500 renewal fee.

2374 | (d) An application for renewal shall disclose the
 2375 | existence of all preneed contracts for service or merchandise
 2376 | funded by any method other than a method permitted by this
 2377 | chapter, which contracts are known to the applicant and were
 2378 | entered into by the applicant, or any other entity under common
 2379 | control with the applicant, during the annual license period
 2380 | then ending. Such disclosure shall include the name and address
 2381 | of the contract purchaser, the name and address of the
 2382 | institution where such funds are deposited, and the number used
 2383 | by the institution to identify the account.

2384 | (e) In addition to any other penalty that may be provided
 2385 | for under this chapter, there may be levied a late fee as
 2386 | determined by licensing authority rule but not to exceed \$50 a
 2387 | day for each day the preneed licensee fails to file its annual
 2388 | statement, and there may be levied a late fee as determined by
 2389 | licensing authority rule but not to exceed \$50 a day for each
 2390 | day the preneed licensee fails to file the statement of
 2391 | activities of the trust. Upon notice to the preneed licensee by
 2392 | the department that the preneed licensee has failed to file the
 2393 | annual statement or the statement of activities of the trust,

HB 529 CS

2005
CS

2394 | the preneed licensee's authority to sell preneed contracts shall
2395 | cease while such default continues.

2396 | (6) QUARTERLY PAYMENTS.--In addition to other amounts
2397 | required to be paid by this section, each preneed licensee shall
2398 | pay to the Regulatory Trust Fund an amount established by rule
2399 | not to exceed \$10 for each preneed contract entered into. This
2400 | amount shall ~~must~~ be paid within 60 days after the end of each
2401 | quarter. These funds shall ~~must~~ be used to defray the cost of
2402 | administering the provisions of this chapter ~~part~~.

2403 | (7) BRANCH OPERATIONS AND LICENSURE.--

2404 | (a) Any person or entity that is part of a common business
2405 | enterprise that has a preneed license issued pursuant to this
2406 | section and desires to operate under a name other than that of
2407 | the common business enterprise, may submit an application on a
2408 | form adopted by rule to become a branch licensee. The
2409 | application shall be accompanied by an application fee as
2410 | determined by licensing authority rule but not to exceed \$300.

2411 | (b) Upon a determination that such branch applicant
2412 | qualifies to sell preneed contracts under this part except for
2413 | the requirements of paragraph (2)(c), and if the sponsoring
2414 | preneur licensee under whose preneed license the branch
2415 | applicant seeks branch status meets the requirements of such
2416 | paragraph and is in compliance with all requirements of this
2417 | part regarding its preneed license and operations thereunder, a
2418 | branch license shall be issued.

2419 | (c) Branch licenses shall be renewed annually by payment
2420 | of a renewal fee set by licensing authority rule and not to
2421 | exceed \$500 ~~\$300~~. Branch licenses may be renewed only so long as

HB 529 CS

2005
CS

2422 the preneed license of the sponsoring preneed licensee remains
2423 in good standing.

2424 ~~(d) Violations of this part by the branch shall be deemed~~
2425 ~~to be violations of this part by its sponsoring preneed~~
2426 ~~licensee, unless the licensing authority determines that~~
2427 ~~extenuating circumstances indicate that it would be unjust to~~
2428 ~~attribute the branch's misconduct to the sponsoring preneed~~
2429 ~~licensee.~~ Preneed sales of the branch shall be deemed to be
2430 sales of the sponsoring licensee for purposes of renewal fees
2431 and trust requirements under this chapter.

2432 (e) The sponsoring preneed licensee shall be responsible
2433 for performance of preneed contracts entered into by its branch
2434 if the branch does not timely fulfill any such contract.

2435 (8) ANNUAL TRUST REPORTS.--On or before April 1 of each
2436 year, the preneed licensee shall file in the form prescribed by
2437 rule a full and true statement as to the activities of any trust
2438 established by it pursuant to this part for the preceding
2439 calendar year.

2440 (9) DEPOSIT OF FUNDS.--All sums collected under this
2441 section shall be deposited to the credit of the Regulatory Trust
2442 Fund.

2443 Section 36. Subsection (6) of section 497.456, Florida
2444 Statutes, as renumbered and amended by section 105 of chapter
2445 2004-301, Laws of Florida, is amended to read:

2446 497.456 Preneed Funeral Contract Consumer Protection Trust
2447 Fund.--

2448 (6) Upon the commencement of a delinquency proceeding
2449 pursuant to this chapter against a preneed licensee, the

HB 529 CS

2005
CS

2450 | licensing authority may use up to 50 percent of the balance of
 2451 | the trust fund not already committed to a prior delinquency
 2452 | proceeding ~~solely~~ for the purpose of establishing a receivership
 2453 | and providing restitution to preneed contract purchasers and
 2454 | their estates due to a preneed licensee's failure to provide the
 2455 | benefits of a preneed contract or failure to refund the
 2456 | appropriate principal amount by reason of cancellation thereof.
 2457 | The balance of the trust fund shall be determined as of the date
 2458 | of the delinquency proceeding.

2459 | Section 37. Paragraph (h) of subsection (1) and subsection
 2460 | (4) of section 497.458, Florida Statutes, as renumbered and
 2461 | amended by section 107 of chapter 2004-301, Laws of Florida, are
 2462 | amended to read:

2463 | 497.458 Disposition of proceeds received on contracts.--

2464 | (1)

2465 | (h) In no event may trust funds be loaned, directly or
 2466 | indirectly, to any of the following persons: the preneed
 2467 | licensee; any entity under any degree of common control with the
 2468 | preneed licensee; any employee, director, full or partial owner,
 2469 | or principal of the preneed licensee; or any person related by
 2470 | blood or marriage to any of those persons. In no event may trust
 2471 | funds, directly or indirectly, be invested in or with, or loaned
 2472 | to, any business or business venture in which any of the
 2473 | following persons have an interest: the preneed licensee; any
 2474 | entity under any degree of common control with the preneed
 2475 | licensee; any employee, director, full or partial owner, or
 2476 | principal of the preneed licensee; or any person related by
 2477 | blood or marriage to any of those persons. ~~In no event may said~~

HB 529 CS

2005
CS

2478 ~~funds be loaned to a preneed licensee, an affiliate of a preneed~~
 2479 ~~licensee, or any person directly or indirectly engaged in the~~
 2480 ~~burial, funeral home, or cemetery business.~~

2481 ~~(4)(a) Trust funds shall not be invested in or loaned to~~
 2482 ~~or for the benefit of any business venture in which the preneed~~
 2483 ~~licensee, its principals, or persons related by blood or~~
 2484 ~~marriage to the licensee or its principals, have a direct or~~
 2485 ~~indirect interest, without the prior approval of the licensing~~
 2486 ~~authority.~~

2487 ~~(b) Trust funds shall not be loaned to or for the benefit~~
 2488 ~~of the preneed licensee, its principals, or persons related by~~
 2489 ~~blood or marriage to the licensee or its principals, without the~~
 2490 ~~prior approval of the licensing authority.~~

2491 ~~(c) No approval of such loans or investments shall be~~
 2492 ~~given unless it be shown by clear and convincing evidence that~~
 2493 ~~such loan or investment would be in the interest of the preneed~~
 2494 ~~contract holders whose contracts are secured by the trust funds.~~

2495 ~~(d) The licensing authority may adopt rules exempting from~~
 2496 ~~the prohibition of paragraph (1)(h) this subsection, pursuant to~~
 2497 ~~criteria established in such rule, the investment of trust funds~~
 2498 ~~in investments, such as widely and publicly traded stocks and~~
 2499 ~~bonds, notwithstanding that the licensee, its principals, or~~
 2500 ~~persons related by blood or marriage to the licensee or its~~
 2501 ~~principals have an interest by investment in the same entity,~~
 2502 ~~where neither the licensee, its principals, or persons related~~
 2503 ~~by blood or marriage to the licensee or its principals have the~~
 2504 ~~ability to control the entity invested in, and it would be in~~

HB 529 CS

2005
CS

2505 | the interest of the preneed contract holders whose contracts are
2506 | secured by the trust funds to allow the investment.

2507 | Section 38. Section 497.466, Florida Statutes, as
2508 | renumbered and amended by section 115 of chapter 2004-301, Laws
2509 | of Florida, is amended to read:

2510 | 497.466 Preneed sales agents, license required;
2511 | application procedures and criteria; appointment of agents;
2512 | responsibility of preneed licensee.--

2513 | (1) GENERAL PROVISIONS APPLICABLE TO PRENEED SALES
2514 | AGENTS.--

2515 | ~~(a)~~ All persons ~~individuals~~ who offer preneed contracts to
2516 | the public, or who execute preneed contracts on behalf of a
2517 | preneed licensee, including all persons ~~individuals~~ who offer,
2518 | sell, or sign contracts for the preneed sale of burial rights,
2519 | shall be licensed as preneed sales agents, pursuant to this
2520 | section. Persons, unless such individuals are licensed as
2521 | funeral directors pursuant to this chapter may engage in preneed
2522 | sales for the preneed licensee with whom they are affiliated
2523 | without preneed sales agent licensure or appointment under this
2524 | section.

2525 | ~~(b) All preneed sales agents and funeral directors acting~~
2526 | ~~as preneed sales agents must be employed by or under written~~
2527 | ~~contract with the preneed licensee that they are representing.~~

2528 | ~~(c) A preneed licensee shall be responsible for the~~
2529 | ~~activities of all preneed sales agents and all funeral directors~~
2530 | ~~acting as preneed sales agents, who are affiliated with the~~
2531 | ~~preneed licensee and who perform any type of preneed related~~
2532 | ~~activity on behalf of the preneed licensee. In addition to the~~

HB 529 CS

2005
CS

2533 ~~preneed sales agents and funeral directors acting as preneed~~
 2534 ~~sales agents, each preneed licensee shall also be subject to~~
 2535 ~~discipline if its preneed sales agents or funeral directors~~
 2536 ~~acting as preneed sales agents violate any provision of this~~
 2537 ~~chapter.~~

2538 ~~(d) A preneed sales agent and a funeral director acting as~~
 2539 ~~a preneed sales agent shall be authorized to sell, offer, and~~
 2540 ~~execute preneed contracts on behalf of all entities owned or~~
 2541 ~~operated by its sponsoring preneed licensee.~~

2542 ~~(e) An individual may be licensed as a preneed sales agent~~
 2543 ~~on behalf of more than one preneed licensee, provided that the~~
 2544 ~~individual has received the written consent of all such preneed~~
 2545 ~~licensees and makes separate application under this section for~~
 2546 ~~each such agency.~~

2547 ~~(f) A sponsoring preneed licensee shall notify the~~
 2548 ~~department in writing within 30 days after the sponsored preneed~~
 2549 ~~sales agent's authority to represent that preneed licensee has~~
 2550 ~~terminated.~~

2551 (2) PRENEED SALES AGENT LICENSE; APPLICATION PROCEDURES.--

2552 (a) A person may hold only one preneed sales agent license
 2553 at a time seeking licensure as a preneed sales agent shall apply
 2554 for such licensure using forms prescribed by rule of the
 2555 licensing authority.

2556 (b) No preneed sales agent license shall be issued to a
 2557 person under age 18.

2558 (c) Persons desiring a preneed sales agent license shall
 2559 apply to the department for such license. The application shall
 2560 require the name, residence address, residence phone number if

HB 529 CS

2005
CS

2561 any, and date and place of birth of the preneed sales agent
 2562 applicant. ~~Applicants shall be at least 18 years of age. The~~
 2563 ~~application shall require identification of the name, address,~~
 2564 ~~and license number of the sponsoring preneed licensee. The~~
 2565 ~~application shall require the preneed sales agent applicant's~~
 2566 ~~social security number and the federal tax identification number~~
 2567 ~~of the sponsoring preneed licensee.~~

2568 ~~(c) The application shall require information as to the~~
 2569 ~~educational and employment history of the preneed sales agent~~
 2570 ~~applicant.~~

2571 (d) The application shall require the preneed sales agent
 2572 applicant to disclose any criminal record, as required by s.
 2573 497.142 ~~whether the preneed sales agent applicant has ever been~~
 2574 ~~convicted or found guilty of, or entered a plea of no contest~~
 2575 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

2576 (e) The application shall require the preneed sales agent
 2577 applicant to disclose whether the preneed sales agent applicant
 2578 has ever had a license or the authority to practice a profession
 2579 or occupation refused, suspended, fined, denied, or otherwise
 2580 acted against or disciplined by the licensing authority of any
 2581 jurisdiction. A licensing authority's acceptance of a
 2582 relinquishment of licensure, stipulation, consent order, or
 2583 other settlement, offered in response to or in anticipation of
 2584 the filing of charges against the license, shall be construed as
 2585 action against the license.

2586 (f) The application shall require identification by the
 2587 preneed sales agent applicant of the preneed licensee whom the
 2588 preneed sales agent applicant believes will initially appoint

2589 the preneed sales agent applicant if a preneed sales agent
 2590 license is issued. ~~The application shall require a~~
 2591 ~~representation by the sponsoring preneed licensee, that:~~

2592 1. ~~The sponsoring preneed licensee's license is in good~~
 2593 ~~standing.~~

2594 2. ~~Upon licensure as a preneed sales agent the sponsored~~
 2595 ~~preneed sales agent applicant will be authorized to offer, sell,~~
 2596 ~~and sign preneed contracts on behalf of the preneed licensee.~~

2597 3. ~~The preneed licensee has trained the applicant in the~~
 2598 ~~provisions of this chapter relating to preneed sales, the~~
 2599 ~~provisions of the preneed licensee's preneed contracts, and the~~
 2600 ~~nature of the merchandise, services, or burial rights sold by~~
 2601 ~~the preneed licensee.~~

2602 ~~(g) The application shall require the preneed sales agent~~
 2603 ~~applicant to indicate whether the applicant has any type of~~
 2604 ~~working relationship with any other preneed licensee or~~
 2605 ~~insurance company, and if yes, to identify such other preneed~~
 2606 ~~licensee or insurance company, as the case may be.~~

2607 ~~(h) The applicant shall be required to submit her or his~~
 2608 ~~fingerprints in accordance with part I of this chapter.~~

2609 (g)(i) The application shall be signed by the applicant
 2610 and by an officer or manager of the sponsoring preneed licensee.
 2611 The licensing authority may accept electronic signatures.

2612 (h)(j) The application shall be accompanied by a
 2613 nonrefundable fee of \$150 if made through the department's on-
 2614 line licensing system or \$175 if made using paper forms. Payment
 2615 of either fee shall entitle the applicant to one initial
 2616 appointment without payment of further fees by the preneed sales

2617 agent or the appointing preneed licensee if a preneed sales
 2618 agent license is issued \$100. The licensing authority may from
 2619 time to time increase such fees ~~fee~~ but not to exceed \$300 ~~\$200~~.

2620 (3) ISSUANCE OF A TEMPORARY PRENEED SALES AGENT LICENSE
 2621 ~~ACTION CONCERNING APPLICATIONS; TEMPORARY AND REGULAR~~
 2622 ~~LICENSURE.~~--

2623 (a) Upon receipt of a duly completed application and the
 2624 required fee, a temporary preneed sales agent license shall be
 2625 issued to the applicant if:

- 2626 1. The applicant is at least 18 years of age.
- 2627 2. The application indicates that the applicant has no
 2628 disciplinary or criminal record and the department has no record
 2629 indicating the applicant has any disciplinary or criminal
 2630 record.

2631 3. The applicant has never previously held a temporary
 2632 preneed sales agent license that lapsed for failure to submit
 2633 fingerprints as required by this section.

2634 (b) A temporary preneed sales agent license shall be valid
 2635 for only 120 days from the date issued and may not be renewed.

2636 (c) An applicant for a preneed sales agent license who has
 2637 previously been issued a temporary preneed sales agent license
 2638 that for any reason expired without becoming permanent shall not
 2639 thereafter be eligible for another temporary preneed sales agent
 2640 license. Such person may apply again for a preneed sales agent
 2641 license, but no license shall be issued until fingerprints are
 2642 provided as required by s. 497.142, a report is received from
 2643 the Department of Law Enforcement advising that the applicant
 2644 has no criminal record, and the applicant is otherwise

HB 529 CS

2005
CS

2645 determined by the department and board to qualify for preneed
 2646 sales agent licensure.

2647 (4) CONVERSION OF TEMPORARY PRENEED SALES AGENT LICENSE TO
 2648 PERMANENT PRENEED SALES AGENT LICENSE.--

2649 (a) A temporary preneed sales agent licensee who desires
 2650 to obtain a permanent preneed sales agent license shall, within
 2651 90 days after issuance of the temporary preneed sales agent
 2652 license, submit his or her fingerprints to the licensing
 2653 authority for a criminal background check, in accordance with s.
 2654 497.142. Unless the department determines prior to the
 2655 expiration of the temporary preneed sales agent license that the
 2656 temporary licensee has a criminal or disciplinary record, the
 2657 temporary preneed sales agent license shall automatically be
 2658 converted to a permanent preneed sales agent license.

2659 (b) The department shall promptly give written notice to
 2660 the temporary preneed sales agent licensee, and to all preneed
 2661 licensees who have the temporary preneed sales agent under
 2662 appointment, that such preneed sales agent's temporary license
 2663 has been converted to a permanent license, or has lapsed, as the
 2664 case may be.

2665 (5) APPLICANTS WITH A CRIMINAL OR DISCIPLINARY RECORD.--

2666 (a) A preneed sales agent applicant having a criminal or
 2667 disciplinary record shall not be eligible for a temporary
 2668 preneed sales agent license. No permanent preneed sales agent
 2669 license shall be issued to any person with a criminal or
 2670 disciplinary record, except upon approval of the board.

2671 (b) If, while a temporary preneed sales agent license is
 2672 in force, the department determines that the temporary licensee

2673 has a criminal or disciplinary record, the temporary license
 2674 shall be immediately suspended and shall not automatically
 2675 convert to a permanent preneed sales agent license. The
 2676 department shall promptly give written notice of the suspension
 2677 to the suspended licensee and to all preneed licensees who have
 2678 the suspended preneed sales agent licensee under appointment.
 2679 The suspended preneed sales agent licensee may, within 21 days
 2680 after the date of suspension, petition the board under paragraph
 2681 (c) for issuance of a permanent preneed sales agent license
 2682 notwithstanding the criminal or disciplinary record. If no
 2683 petition for board review is timely received by the department
 2684 or board, the temporary preneed sales agent license shall be
 2685 revoked.

2686 (c) An applicant with a criminal or disciplinary record
 2687 who desires a permanent preneed sales agent license shall
 2688 petition the board for issuance of such license using forms and
 2689 procedures as specified by rule. The board shall issue a
 2690 permanent preneed sales agent license to an applicant with a
 2691 criminal or disciplinary record if the board determines:

2692 1. That there was no inaccuracy in the application for
 2693 license such as indicates the applicant is untrustworthy.

2694 2. That the applicant, if issued a preneed sales agent
 2695 license, would not pose an unreasonable risk to members of the
 2696 public who might deal with the applicant in preneed
 2697 transactions.

2698 (d) The board may issue a preneed sales agent license to
 2699 an applicant with a criminal or disciplinary record on a

2700 probationary basis and subject to reasonable terms of probation
 2701 not to exceed 24 months in duration.

2702 (6) TERMINATION OF A PERMANENT PRENEED SALES AGENT LICENSE
 2703 DUE TO LACK OF APPOINTMENTS.--A permanent preneed sales agent
 2704 license shall remain in force without a requirement for renewal
 2705 until such time as there have been no appointments of the
 2706 preneed sales agent under the license for 48 consecutive months,
 2707 at which time the permanent preneed sales agent license will
 2708 terminate. The former preneed sales agent licensee may
 2709 thereafter apply for issuance of a new preneed sales agent
 2710 license under this section.

2711 (7) APPOINTMENT OF PRENEED SALES AGENTS.--

2712 (a) A preneed sales agent licensee may be appointed by as
 2713 many preneed licensees as desire to appoint the preneed sales
 2714 agent licensee. When a preneed sales agent licensee is appointed
 2715 by a preneed licensee, the department shall promptly give
 2716 written notice to all other preneed licensees then having that
 2717 same preneed sales agent under appointment.

2718 (b) A preneed licensee may appoint a preneed sales agent
 2719 licensee by identifying to the department the preneed sales
 2720 agent licensee to be appointed, requesting appointment, and
 2721 paying the required appointment fee. The appointment request
 2722 shall be signed by the preneed licensee. The department may
 2723 accept electronic signatures.

2724 (c) Appointments shall be effective when made and shall
 2725 expire 24 months from the last day of the month in which the
 2726 appointment was made unless earlier terminated by the preneed
 2727 licensee or the preneed sales agent. No initial appointment of a

HB 529 CS

2005
CS

2728 preneed sales agent licensee may be made until 24 hours after a
 2729 temporary preneed sales agent license is issued to that preneed
 2730 sales agent. Appointments are effective only so long as the
 2731 preneed sales agent licensee's license is in good standing.

2732 (d) A preneed licensee is responsible for taking
 2733 reasonable steps to ensure that the preneed sales agent
 2734 licensees it appoints have adequate training regarding preneed
 2735 sales.

2736 (e) Appointments may be renewed for additional 24-month
 2737 periods by notification by the preneed licensee to the
 2738 department that the preneed licensee desires to renew the
 2739 appointment, accompanied by payment by the preneed licensee of
 2740 the appointment renewal fee.

2741 (f) Initial and renewal appointment fees shall be
 2742 nonrefundable and shall be \$150 if made through the department's
 2743 on-line licensing system and \$175 if made using paper forms
 2744 requiring manual processing by the department. The board may
 2745 from time to time by rule increase said appointment fees but not
 2746 to exceed \$300.

2747 (g)1. Appointments may be terminated at any time by the
 2748 appointing preneed licensee or by the appointed preneed sales
 2749 agent licensee.

2750 2. Termination of appointment shall be accomplished by
 2751 notice of termination conveyed to the department and signed by
 2752 the person or entity requesting the termination. The department
 2753 may accept electronic signatures. There shall be no fee for
 2754 termination of appointment accomplished through the department's
 2755 on-line licensing system; however, there shall be a fee of \$25

2756 | for terminations made using paper forms requiring manual
 2757 | processing by the department.

2758 | 3. When an appointment is terminated, whether by the
 2759 | preneed licensee or the preneed sales agent licensee, the
 2760 | department shall promptly provide written confirmation of the
 2761 | termination to both the preneed sales agent licensee and the
 2762 | preneed licensee at their respective addresses of record with
 2763 | the department.

2764 | 4. If a preneed licensee terminates the authority of a
 2765 | preneed sales agent license to sell for the preneed licensee,
 2766 | the preneed licensee shall, within 30 days after such
 2767 | termination, terminate the appointment as indicated in
 2768 | subparagraph 2.

2769 | 5. If a preneed sales agent licensee terminates the
 2770 | preneed sales relationship with a preneed licensee, the preneed
 2771 | sales agent licensee shall, within 30 days after such
 2772 | termination, terminate the appointment as indicated in
 2773 | subparagraph 2.

2774 | 6. If the license of a preneed sales agent is suspended or
 2775 | revoked pursuant to disciplinary action by the licensing
 2776 | authority against the preneed sales agent, the department shall
 2777 | promptly give written notice of such action to all preneed
 2778 | licensees then having that preneed sales agent under
 2779 | appointment.

2780 | (8) ADMINISTRATIVE MATTERS.--

2781 | (a) The licensing authority shall have rulemaking
 2782 | authority to prescribe forms and procedures for implementation
 2783 | of this section.

HB 529 CS

2005
CS

2784 (b)1. 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
 2787 hold a permanent preneed sales agent license under this statute
 2788 as effective on October 1, 2005.

2789 2. All persons holding one or more preneed sales agent
 2790 licenses in good standing under s. 497.439, as of 11:59 p.m. on
 2791 September 30, 2005, shall be deemed as of October 1, 2005, to be
 2792 appointed by each preneed licensee in regard to whom they hold a
 2793 preneed sales agent license as of 11:59 p.m. on September 30,
 2794 2005. Such appointments shall expire on the same date as the
 2795 preneed sales agent license would have expired under the law in
 2796 effect at 11:59 p.m. on September 30, 2005.

2797 (c) As used in this section, "criminal record" means and
 2798 includes only crimes required to be disclosed under s. 497.142.

2799 (d) As used in this section, "disciplinary record" means
 2800 and includes any instance wherein the applicant has ever had a
 2801 license or the authority to practice a profession or occupation
 2802 refused, suspended, fined, denied, or otherwise acted against or
 2803 disciplined by the licensing authority of any jurisdiction. A
 2804 licensing authority's acceptance of a relinquishment of
 2805 licensure, stipulation, consent order, or other settlement,
 2806 offered in response to or in anticipation of the filing of
 2807 charges against the license, shall be construed as action
 2808 against the license.

2809 (e) A preneed licensee shall be responsible for the
 2810 activities of all preneed sales agents, and all funeral
 2811 directors acting as preneed sales agents, who are affiliated

HB 529 CS

2005
CS

2812 with the preneed licensee and who perform any type of preneed-
 2813 related activity on behalf of the preneed licensee. In addition
 2814 to the preneed sales agents and funeral directors acting as
 2815 preneed sales agents, each preneed licensee shall also be
 2816 subject to discipline if its preneed sales agents or funeral
 2817 directors acting as preneed sales agents violate any provision
 2818 of this chapter.

2819 ~~(a) An applicant shall be deemed to have been issued a~~
 2820 ~~temporary preneed sales agent license and may begin functioning~~
 2821 ~~as a preneed sales agent, immediately upon receipt by the~~
 2822 ~~department of a duly completed application for licensure under~~
 2823 ~~this section, if the application shows an applicant of at least~~
 2824 ~~18 years of age who has answered in the negative regarding~~
 2825 ~~paragraphs (2)(d) and (e) relating to prior criminal and~~
 2826 ~~disciplinary actions, and which application is accompanied by~~
 2827 ~~the required application fee. The temporary preneed sales agent~~
 2828 ~~license shall be valid for 90 days unless earlier suspended by~~
 2829 ~~the licensing authority for cause. If the application is~~
 2830 ~~approved by the board within the 90-day period, the temporary~~
 2831 ~~license shall be deemed converted to a regular biennial license~~
 2832 ~~which shall expire in accordance with the schedule established~~
 2833 ~~by the licensing authority by rule.~~

2834 ~~(b)1. A person who cannot truthfully answer in the~~
 2835 ~~negative regarding paragraphs (2)(d) and (e) relating to prior~~
 2836 ~~criminal and disciplinary actions, may apply to the licensing~~
 2837 ~~authority for issuance of a preneed sales agent license~~
 2838 ~~notwithstanding such criminal or disciplinary record. The~~
 2839 ~~licensing authority may by rule specify forms and procedures for~~

2840 ~~use by such persons in applying for preneed sales agent~~
 2841 ~~licensure, to be used by such persons in lieu of the forms and~~
 2842 ~~procedures specified under paragraph (a). Licensure shall be~~
 2843 ~~granted unless the licensing authority reasonably determines~~
 2844 ~~that the prior criminal or disciplinary record indicates that~~
 2845 ~~the granting of licensure would pose unreasonable risk to the~~
 2846 ~~public.~~

2847 ~~2. To facilitate issuance of licenses concerning~~
 2848 ~~applicants with criminal or disciplinary records which the~~
 2849 ~~licensing authority judges to make the applicant borderline as~~
 2850 ~~to qualification for licensure, the licensing authority may~~
 2851 ~~issue a new license under this section on a probationary basis,~~
 2852 ~~subject to conditions specified by the licensing authority on a~~
 2853 ~~case-by-case basis, which conditions may impose special~~
 2854 ~~monitoring, reporting, and restrictions on operations for up to~~
 2855 ~~the first 24 months of licensure, to ensure the preneed sales~~
 2856 ~~agent licensee's integrity, trustworthiness, and compliance with~~
 2857 ~~this chapter. Provided, no such probationary license shall be~~
 2858 ~~issued unless the licensing authority determines that issuance~~
 2859 ~~would not pose an unreasonable risk to the public, and the~~
 2860 ~~licensing authority must within 24 months after issuance of the~~
 2861 ~~license either remove the probationary status or determine that~~
 2862 ~~the licensee is not qualified for licensure under this chapter~~
 2863 ~~and institute proceedings for revocation of licensure. The~~
 2864 ~~licensing authority may adopt rules prescribing criteria and~~
 2865 ~~procedures for issuance of such probationary licenses.~~

2866 ~~(4) RENEWAL OF LICENSES. Nontemporary preneed sales agent~~
 2867 ~~licenses under this section shall be renewed biennially in~~

2868 | ~~accordance with a schedule, forms, and procedures established by~~
 2869 | ~~rule. The nonrefundable biennial renewal fee shall be as~~
 2870 | ~~determined by licensing authority rule but not to exceed \$200.~~
 2871 | ~~(5) SIMPLIFIED PROCEDURES FOR SUBSEQUENT CHANGE OF~~
 2872 | ~~SPONSORING LICENSEE. The board may by rule establish simplified~~
 2873 | ~~requirements and procedures under which any preneed sales agent,~~
 2874 | ~~who within the 12 months preceding application under this~~
 2875 | ~~subsection held in good standing a preneed sales agent license~~
 2876 | ~~under this section, may obtain a preneed sales agent's license~~
 2877 | ~~under this section to represent a different sponsoring preneed~~
 2878 | ~~licensee. The simplified requirements shall dispense with the~~
 2879 | ~~requirement for submission of fingerprints. The licensing~~
 2880 | ~~authority may by rule prescribe forms to be used by applicants~~
 2881 | ~~under this subsection, which forms may dispense with the~~
 2882 | ~~requirement for any information not deemed by the licensing~~
 2883 | ~~authority to be necessary to tracking the identity of the~~
 2884 | ~~preneed licensee responsible for the activities of the preneed~~
 2885 | ~~sales agent. No preneed sales agent licensee whose sales agent~~
 2886 | ~~license issued by the board was revoked or suspended or~~
 2887 | ~~otherwise terminated while in other than good standing, shall be~~
 2888 | ~~eligible to use the simplified requirements and procedures. The~~
 2889 | ~~issuance of a preneed sales agent license under this subsection~~
 2890 | ~~shall not operate as a bar to any subsequent disciplinary action~~
 2891 | ~~relating to grounds arising prior to obtaining the license under~~
 2892 | ~~this subsection. There shall be a fee payable to the department~~
 2893 | ~~under such simplified procedures, which fee shall be the same as~~
 2894 | ~~the fee paid upon initial application for a preneed sales agent~~

HB 529 CS

2005
CS

2895 ~~license, except that no fingerprint fee shall be required if~~
 2896 ~~such fingerprint fee is required for initial applications.~~

2897 Section 39. Section 497.468, Florida Statutes, is created
 2898 to read:

2899 497.468 Disclosure of information to the public.--A
 2900 preneed licensee offering to provide burial rights, merchandise,
 2901 or services to the public shall:

2902 (1) Provide by telephone, upon request, accurate
 2903 information regarding the retail prices of burial merchandise
 2904 and services offered for sale by the licensee.

2905 (2) Fully disclose all regularly offered services and
 2906 merchandise prior to the customer's selection of burial services
 2907 or merchandise. The full disclosure required shall identify the
 2908 prices of all burial rights, services, and merchandise provided
 2909 by the licensee.

2910 (3) Not make any false or misleading statements of the
 2911 legal requirement as to the necessity of a casket or outer
 2912 burial container.

2913 (4) Provide a good faith estimate of all fees and costs
 2914 the customer will incur to use any burial rights, merchandise,
 2915 or services purchased.

2916 (5) Provide to the customer, upon the purchase of any
 2917 burial right, merchandise, or service, a written contract the
 2918 form of which has been approved by the licensing authority
 2919 pursuant to procedures specified by rule. The written contract
 2920 shall:

2921 (a) Be completed as to all essential provisions prior to
 2922 the signing of the contract by the customer.

HB 529 CS

2005
CS

2923 (b) Provide an itemization of the amounts charged for all
 2924 services, merchandise, and fees, which itemization shall be
 2925 clearly and conspicuously segregated from everything else on the
 2926 written contract.

2927 (c) Provide a description of the merchandise covered by
 2928 the contract to include, when applicable, model, manufacturer,
 2929 and other relevant specifications.

2930 (6) Provide the licensee's policy on cancellation and
 2931 refunds to each customer.

2932 (7) In a manner established by rule of the licensing
 2933 authority, provide on the signature page of the written
 2934 contract, clearly and conspicuously in boldfaced 10-point type
 2935 or larger, the following:

2936 (a) The words "purchase price."

2937 (b) The amount to be trusted.

2938 (c) The amount to be refunded upon contract cancellation.

2939 (d) The amounts allocated to merchandise, services, and
 2940 cash advances.

2941 (e) The toll-free number of the department which is
 2942 available for questions or complaints.

2943 (f) A statement that the customer shall have 30 days from
 2944 the date of execution of contract to cancel the contract and
 2945 receive a total refund of all moneys paid for items not used.

2946 (8) Effective October 1, 2006, display in its offices for
 2947 free distribution to all potential customers, and provide to all
 2948 customers at the time of sale, a brochure explaining how and by
 2949 whom preneed sales are regulated, summarizing consumer rights
 2950 under the law, and providing the name, address, and phone number

HB 529 CS

2005
CS

2951 of the department's consumer affairs division. The format and
 2952 content of the brochure shall be as prescribed by rule. The
 2953 licensing authority may cause the publication of such brochures
 2954 and by rule require that preneed licensees purchase and make
 2955 available such brochures as so published, in the licensee's
 2956 offices, to all potential customers.

2957 (9) Provide to each customer a complete description of any
 2958 monument, marker, or memorialization to be placed at the
 2959 gravesite pursuant to the preneed contract.

2960 Section 40. Subsection (1) and paragraphs (c), (e), (f),
 2961 and (h) of subsection (2) of section 497.550, Florida Statutes,
 2962 as renumbered and amended by section 118 of chapter 2004-301,
 2963 Laws of Florida, are amended, and paragraph (j) is added to said
 2964 subsection, to read:

2965 497.550 Licensure of monument establishments required;
 2966 procedures and criteria.--

2967 (1) LICENSE REQUIRED.--No person shall conduct, maintain,
 2968 manage, or operate a monument establishment in this state unless
 2969 the monument establishment is licensed pursuant to this part.

2970 (a) The two categories of monument establishment licensure
 2971 available in this state are:

2972 1. Monument builder.

2973 2. Monument dealer.

2974 (b) An applicant for licensure as a monument establishment
 2975 shall designate on the application form the category of monument
 2976 establishment licensure for which he or she is applying.

2977 (c) Each monument establishment that is licensed under
 2978 this chapter at 11:59 p.m. on September 30, 2005, is, on and

HB 529 CS

2005
CS

2979 after October 1, 2005, licensed as a monument dealer subject to
 2980 the requirements of this chapter. A person who becomes licensed
 2981 as a monument dealer by operation of this paragraph may apply to
 2982 the board for licensure as a monument builder and, upon payment
 2983 of applicable application fees and the granting of such
 2984 application and licensure as a monument builder, such person's
 2985 licensure as a monument dealer will expire.

2986 (d) The requirements of this chapter apply to both
 2987 monument dealers and monument builders, except as provided in
 2988 this paragraph. Each monument establishment shall be a physical
 2989 structure that is located at a specific street address, in
 2990 compliance with zoning regulations of the appropriate local
 2991 government, and not located on property that is exempt from
 2992 taxation, but a monument dealer may not otherwise be required to
 2993 comply with s. 497.552 or be subject to inspection under this
 2994 chapter.

2995 (e) A monument establishment that is not licensed under
 2996 the monument-builder category is not eligible for a preneed
 2997 sales license.

2998 (2) APPLICATION PROCEDURES.--A person seeking licensure as
 2999 a monument establishment shall apply for such licensure using
 3000 forms prescribed by rule.

3001 (c) The applicant shall be required to make disclosure of
 3002 the applicant's criminal records, if any, as required by s.
 3003 497.142. ~~The application shall require the applicant to disclose~~
 3004 ~~whether the applicant or any of its principals have ever been~~
 3005 ~~convicted or found guilty of, or entered a plea of no contest~~
 3006 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

HB 529 CS

2005
CS

3007 (e) The applicant shall submit fingerprints in accordance
 3008 with s. 497.142. ~~The application shall require the applicant's~~
 3009 ~~principals to provide fingerprints in accordance with part I of~~
 3010 ~~this chapter.~~

3011 (f) The applicant shall be a natural person at least 18
 3012 years of age, a corporation, a partnership, or a limited
 3013 liability company ~~formed prior to January 1, 2005, which limited~~
 3014 ~~liability company already holds a license under this chapter.~~

3015 (h) The application shall be signed in accordance with s.
 3016 497.141(12) ~~by the applicant if a natural person, or by the~~
 3017 ~~president of an applicant that is a corporation.~~

3018 (j) Upon receipt of the application and application fee,
 3019 the licensing authority shall inspect the proposed monument
 3020 establishment facilities in accordance with rules of the
 3021 licensing authority.

3022 Section 41. Section 497.551, Florida Statutes, as created
 3023 by chapter 2004-301, Laws of Florida, is amended to read:

3024 497.551 Renewal of monument establishment licensure.--

3025 (1) A monument establishment license shall ~~must~~ be renewed
 3026 biennially by the licensee.

3027 (2) A monument establishment licensee ~~that does not hold a~~
 3028 ~~preneed sales license as of 90 days prior to the date its~~
 3029 ~~monument establishment license renewal is due,~~ shall renew its
 3030 monument establishment license by payment of a renewal fee
 3031 established by rule not to exceed \$250.

3032 ~~(3) A monument establishment licensee which as of 90 days~~
 3033 ~~prior to its monument establishment license renewal date also~~
 3034 ~~holds a preneed sales license issued under this chapter, shall~~

HB 529 CS

2005
CS

3035 ~~renew its monument establishment license by payment of a renewal~~
 3036 ~~fee determined by its total gross aggregate at need and preneed~~
 3037 ~~retail sales for the 12-month period ending 2 full calendar~~
 3038 ~~months prior to the month in which the renewal is required, as~~
 3039 ~~follows:~~

3040 ~~(a) Total sales of \$1 to \$50,000, renewal fee \$1,000.~~

3041 ~~(b) Total sales of \$50,001 to \$250,000, renewal fee~~
 3042 ~~\$1,500.~~

3043 ~~(c) Total sales of \$250,001 to \$500,000, renewal fee~~
 3044 ~~\$2,000.~~

3045 ~~(d) Total sales over \$500,000, renewal fee \$2,500.~~

3046 (3)~~(4)~~ Rules may be adopted providing procedures, forms,
 3047 and uniform timeframes for monument establishment license
 3048 renewals.

3049 Section 42. Subsection (4) of section 497.552, Florida
 3050 Statutes, as created by chapter 2004-301, Laws of Florida, is
 3051 amended to read:

3052 497.552 Required facilities.--Effective January 1, 2006, a
 3053 monument establishment shall at all times have and maintain a
 3054 full-service place of business at a specific street address or
 3055 location in Florida complying with the following requirements:

3056 (4) It shall have facilities on site for inscribing
 3057 monuments and equipment to deliver and install markers and
 3058 monuments.

3059 Section 43. Subsections (1) and (5) of section 497.553,
 3060 Florida Statutes, as created by chapter 2004-301, Laws of
 3061 Florida, are amended, and subsection (6) is added to said
 3062 section, to read:

HB 529 CS

2005
CS

3063 497.553 Regulation of monument establishments.--
 3064 (1) The Department of Financial Services shall establish
 3065 and implement an inspection program for all monument
 3066 establishments in accordance with the requirements of this act.
 3067 The board shall set by rule an annual inspection fee not to
 3068 exceed \$300, payable upon application for licensure and upon
 3069 each renewal of such license.

3070 (5) Commencing January 1, 2006, the failure of a monument
 3071 establishment to deliver and install a purchased monument or
 3072 marker by the date agreed in the sales agreement shall entitle
 3073 the customer to a full refund of all amounts paid by the
 3074 customer for the monument and its delivery and installation,
 3075 unless the monument establishment has obtained a written
 3076 agreement from the customer extending the delivery date. Such
 3077 refund shall be made within 30 days after receipt by the
 3078 monument establishment of the customer's written request for a
 3079 refund. This subsection does not preclude the purchase and
 3080 installation of a new monument from any other registered
 3081 monument establishment or ~~preneed sales~~ licensee.

3082 (6)(a) A change in ownership shall be promptly reported
 3083 using forms and procedures specified by rule and may require the
 3084 relicensure of the licensee, including reinspection and payment
 3085 of applicable fees, as required by rule.

3086 (b) A change in location shall be promptly reported to the
 3087 licensing authority pursuant to procedures established by rule.
 3088 Operations by the licensee at a new location may not commence
 3089 until an inspection by the licensing authority of the

HB 529 CS

2005
CS

3090 facilities, pursuant to rules of the licensing authority, has
 3091 been conducted and passed at the new location.

3092 Section 44. Paragraph (b) of subsection (2) and subsection
 3093 (4) of section 497.554, Florida Statutes, as created by chapter
 3094 2004-301, Laws of Florida, are amended, and subsection (7) is
 3095 added to said section, to read:

3096 497.554 Monument establishment sales representatives.--

3097 (2) APPLICATION PROCEDURES.--Licensure as a monument
 3098 establishment sales agent shall be by submission of an
 3099 application for licensure to the department on a form prescribed
 3100 by rule.

3101 (b) The applicant shall be required to make disclosure of
 3102 the applicant's criminal records, if any, as required by s.
 3103 497.142. The applicant shall submit fingerprints in accordance
 3104 with s. 497.142. ~~The application shall require the applicant to~~
 3105 ~~disclose whether the applicant has ever been convicted or found~~
 3106 ~~guilty of, or entered a plea of no contest to, regardless of~~
 3107 ~~adjudication, any crime in any jurisdiction.~~

3108 (4) RENEWAL; TERMINATION OF AUTHORITY.--

3109 (a) A monument establishment sales agent license under
 3110 this section shall be renewed upon payment of a fee determined
 3111 by rule of the licensing authority but not to exceed \$250. ~~Once~~
 3112 ~~issued, a monument establishment sales agent license of an agent~~
 3113 ~~not licensed to make preneed sales shall remain in effect~~
 3114 ~~without renewal until surrendered, or the sponsoring monument~~
 3115 ~~establishment terminates the agent's authority to sell on behalf~~
 3116 ~~of that monument establishment, or the license is revoked or~~
 3117 ~~suspended by the licensing authority for cause.~~

HB 529 CS

2005
CS

3118 (b) The monument establishment whose officer signed the
 3119 sales agent application shall terminate that agent's authority
 3120 to sell on behalf of that monument establishment, and the
 3121 monument establishment in writing shall advise the licensing
 3122 authority of such termination within 30 days after the
 3123 termination.

3124 (7) EFFECTIVE DATE.--The provisions of this section shall
 3125 take effect October 1, 2006.

3126 Section 45. Section 497.555, Florida Statutes, as created
 3127 by chapter 2004-301, Laws of Florida, is amended to read:

3128 497.555 Required rules.--Rules shall be adopted
 3129 establishing minimum standards for access to all cemeteries by
 3130 licensed monument establishments for the purpose of delivering
 3131 and installing markers and monuments. In all cases, cemeteries
 3132 and monument establishments shall ~~must~~ comply with these minimum
 3133 standards.

3134 Section 46. Paragraphs (d) and (f) of subsection (2) of
 3135 section 497.602, Florida Statutes, as renumbered and amended by
 3136 section 127 of chapter 2004-301, Laws of Florida, are amended to
 3137 read:

3138 497.602 Direct disposers, license required; licensing
 3139 procedures and criteria; regulation.--

3140 (2) APPLICATION PROCEDURES.--

3141 (d) The applicant shall be required to make disclosure of
 3142 the applicant's criminal records, if any, as required by s.
 3143 497.142. ~~The application shall require the applicant to disclose~~
 3144 ~~whether the applicant has ever been convicted or found guilty~~

3145 ~~of, or entered a plea of no contest to, regardless of~~
 3146 ~~adjudication, any crime in any jurisdiction.~~

3147 (f) The applicant shall submit fingerprints in accordance
 3148 with s. 497.142. ~~The application shall require the applicant to~~
 3149 ~~provide fingerprints in accordance with part I of this chapter.~~

3150 Section 47. Subsection (1) of section 497.603, Florida
 3151 Statutes, as renumbered and amended by section 128 of chapter
 3152 2004-301, Laws of Florida, is amended to read:

3153 497.603 Direct disposers, renewal of license.--

3154 (1) A direct disposer's license shall be renewed upon
 3155 receipt of the renewal application and fee set by rule of the
 3156 licensing authority but not to exceed \$500 ~~\$250~~.

3157 Section 48. Paragraphs (f), (h), and (j) of subsection
 3158 (2), paragraphs (a) and (b) of subsection (3), and subsection
 3159 (7) of section 497.604, Florida Statutes, as renumbered and
 3160 amended by section 129 of chapter 2004-301, Laws of Florida, are
 3161 amended, and paragraph (f) is added to subsection (9) of said
 3162 section, to read:

3163 497.604 Direct disposal establishments, license required;
 3164 licensing procedures and criteria; license renewal;
 3165 regulation.--

3166 (2) APPLICATION PROCEDURES.--

3167 (f) The applicant shall be required to make disclosure of
 3168 the applicant's criminal records, if any, as required by s.
 3169 497.142. ~~The application shall require the applicant to disclose~~
 3170 ~~whether the applicant or any of the applicant's principals~~
 3171 ~~including its proposed supervising licensee has ever been~~

3172 ~~convicted or found guilty of, or entered a plea of no contest~~
 3173 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

3174 (h) The applicant shall submit fingerprints in accordance
 3175 with s. 497.142. ~~The application shall require the applicant and~~
 3176 ~~its principals to provide fingerprints in accordance with part I~~
 3177 ~~of this chapter.~~

3178 (j) The application shall be signed in accordance with s.
 3179 497.141(12) ~~by the applicant if a natural person or by the~~
 3180 ~~president of an applicant that is not a natural person.~~

3181 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
 3182 application for licensure under this section, accompanied by the
 3183 required fee, shall be approved if the licensing authority
 3184 determines that the following conditions are met:

3185 (a) The applicant is a natural person at least 18 years of
 3186 age, a corporation, a partnership, or a limited liability
 3187 company ~~formed prior to January 1, 2006, which limited liability~~
 3188 ~~company already holds a license under this chapter.~~

3189 (b) The applicant does or will prior to commencing
 3190 operations under the license comply with all requirements of
 3191 this chapter relating to the license applied for. The applicant
 3192 shall have passed an inspection prior to issuance of a license
 3193 under this section, in accordance with rules of the licensing
 3194 authority.

3195 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee under
 3196 this section shall ~~must~~ provide notice as required by rule prior
 3197 to any change in location or control of the licensee or licensed
 3198 person in charge of the licensee's operations. A ~~Any such~~ change
 3199 in control is subject to approval by the licensing authority and

HB 529 CS

2005
CS

3200 ~~disapproval or~~ to reasonable conditions imposed by the licensing
 3201 authority, for the protection of the public to ensure compliance
 3202 with this chapter. Operations by the licensee at a new location
 3203 may not commence until an inspection by the licensing authority
 3204 of the facilities at the new location, pursuant to rules of the
 3205 licensing authority, has been conducted and passed.

3206 (9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.--

3207 (f) A direct disposal establishment shall retain all
 3208 signed contracts for a period of at least 2 years.

3209 Section 49. Paragraphs (f), (h), and (j) of subsection
 3210 (2), paragraph (b) of subsection (3), subsection (7), and
 3211 paragraphs (i), (j), and (k) of subsection (9) of section
 3212 497.606, Florida Statutes, as renumbered and amended by section
 3213 131 of chapter 2004-301, Laws of Florida, are amended to read:

3214 497.606 Cinerator facility, licensure required; licensing
 3215 procedures and criteria; license renewal; regulation.--

3216 (2) APPLICATION PROCEDURES.--

3217 (f) The applicant shall be required to make disclosure of
 3218 the applicant's criminal records, if any, as required by s.
 3219 497.142. ~~The application shall require the applicant to disclose~~
 3220 ~~whether the applicant or any of the applicant's principals~~
 3221 ~~including its proposed supervising licensee has ever been~~
 3222 ~~convicted or found guilty of, or entered a plea of no contest~~
 3223 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

3224 (h) The applicant shall submit fingerprints in accordance
 3225 with s. 497.142. ~~The application shall require the applicant and~~
 3226 ~~its principals to provide fingerprints in accordance with part I~~
 3227 ~~of this chapter.~~

HB 529 CS

2005
CS

3228 (j) The application shall be signed in accordance with s.
 3229 497.141(12) ~~by the applicant if a natural person or by the~~
 3230 ~~president of an applicant that is not a natural person.~~

3231 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
 3232 application for licensure under this section, accompanied by the
 3233 required fee, shall be approved if the licensing authority
 3234 determines that the following conditions are met:

3235 (b) The applicant is a natural person at least 18 years of
 3236 age, a corporation, a partnership, or a limited liability
 3237 company ~~formed prior to January 1, 2006, which limited liability~~
 3238 ~~company already holds a license under this chapter.~~

3239 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee under
 3240 this section shall ~~must~~ provide notice as required by rule prior
 3241 to any change in location or ~~7~~ control of the licensee, or
 3242 licensed person in charge of the licensee's operations. A Any
 3243 ~~such~~ change in control is subject to approval by the licensing
 3244 authority and disapproval ~~or~~ to reasonable conditions imposed by
 3245 the licensing authority, for the protection of the public to
 3246 ensure compliance with this chapter. Operations by the licensee
 3247 at a new location may not commence until an inspection by the
 3248 licensing authority of the facilities, pursuant to rules of the
 3249 licensing authority, has been conducted and passed at the new
 3250 location.

3251 (9) REGULATION OF CINERATOR FACILITIES.--

3252 (i) ~~There shall be adopted by rule criteria for acceptable~~
 3253 ~~cremation and alternative containers.~~

3254 (i)~~(j)~~ There shall be rules adopted requiring each
 3255 facility to submit periodic reports to the department that ~~which~~

HB 529 CS

2005
CS

3256 include the names of persons cremated, the date and county of
 3257 death, the name of each person supervising each cremation, the
 3258 name and license number of the establishment requesting
 3259 cremation, and the types of containers used to hold the body
 3260 during cremation.

3261 (j)~~(k)~~ Each cinerator facility shall ~~must~~ be inspected
 3262 prior to the initial issuance ~~and renewal~~ of its license and
 3263 annually thereafter and shall:

3264 1. Maintain one or more retorts for the reduction of dead
 3265 human bodies.

3266 2. Maintain refrigeration that satisfies the standards set
 3267 by the Department of Health and contains a sufficient
 3268 refrigerated space ~~number of shelves~~ for the average daily
 3269 number of bodies stored, if unembalmed bodies are kept at the
 3270 site.

3271 3. Maintain sufficient pollution control equipment to
 3272 comply with requirements of the Department of Environmental
 3273 Protection in order to secure annual approved certification.

3274 4. Either have on site or immediately available sufficient
 3275 gasketed ~~sealed~~ containers of a type required for the
 3276 transportation of bodies as specified in applicable state rules.

3277 5. Maintain the premises in a clean and sanitary
 3278 condition.

3279 6. Have appropriate Department of Environmental Protection
 3280 permits.

3281 ~~7. Retain all signed contracts for a period of at least 2~~
 3282 ~~years.~~

HB 529 CS

2005
CS

3283 Section 50. Subsection (3) of section 497.607, Florida
3284 Statutes, as renumbered and amended by section 132 of chapter
3285 2004-301, Laws of Florida, is amended, and subsection (4) is
3286 added to said section, to read:

3287 497.607 Cremation; procedure required.--

3288 (3) Pursuant to the request of a legally authorized person
3289 and incidental to final disposition, cremation may be performed
3290 on parts of human remains. ~~This subsection does not authorize~~
3291 ~~the cremation of body parts as defined in s. 497.005.~~

3292 (4) In regard to human remains delivered to the control of
3293 the anatomical board of this state headquartered at the
3294 University of Florida Health Science Center, the provisions of
3295 this subsection and chapter shall not be construed to prohibit
3296 the anatomical board from causing the final disposition of such
3297 human remains through cremation or otherwise when performed in
3298 facilities owned and operated by such anatomical board or the
3299 University of Florida Health Science Center pursuant to and
3300 using such processes, equipment, and procedures as said
3301 anatomical board determines to be proper and adequate.

3302 Section 51. Section 152 of chapter 2004-301, Laws of
3303 Florida, is amended to read:

3304 Section 152. (1) The rules of the Board of Funeral
3305 Directors and Embalmers and of the Department of Business and
3306 Professional Regulation relating to the Board of Funeral
3307 Directors and Embalmers or implementation of chapter 470,
3308 Florida Statutes, that ~~which~~ were in effect at 11:59 p.m. on the
3309 day prior to this act taking effect shall become, on the
3310 subjects they address, the rules of the Department of Financial

HB 529 CS

2005
CS

3311 Services and the Board of Funeral, Cemetery, and Consumer
 3312 Services and shall remain in effect until amended or repealed in
 3313 the manner provided by law.

3314 (2) The rules of the Board of Funeral and Cemetery
 3315 Services that ~~which~~ were in effect at 11:59 p.m. on the day
 3316 prior to this act taking effect shall become, on the subjects
 3317 they address, the rules of the Department of Financial Services
 3318 and the Board of Funeral, Cemetery, and Consumer Services and
 3319 shall remain in effect until specifically amended or repealed in
 3320 the manner provided by law.

3321 (3) The rules of the Department of Financial Services
 3322 relating to chapter 497, Florida Statutes, that ~~which~~ were in
 3323 effect at 11:59 p.m. on the day prior to this act taking effect
 3324 shall continue in force until thereafter repealed or amended
 3325 pursuant to chapter 120, Florida Statutes, and this act.

3326 Section 52. Subsection (3) of section 626.785, Florida
 3327 Statutes, is amended to read:

3328 626.785 Qualifications for license.--

3329 (3) Notwithstanding any other provisions of this chapter,
 3330 a funeral director, a direct disposer, or an employee of a
 3331 funeral establishment that ~~which~~ holds a certificate of
 3332 authority pursuant to s. 497.452 ~~497.405~~ may obtain an agent's
 3333 license to sell only policies of life insurance covering the
 3334 expense of a prearrangement for funeral services or merchandise
 3335 so as to provide funds at the time the services and merchandise
 3336 are needed. The face amount of insurance covered by any such
 3337 policy shall not exceed \$12,500, plus an annual percentage
 3338 increase based on the Annual Consumer Price Index compiled by

HB 529 CS

2005
CS

3339 | the United States Department of Labor, beginning with the Annual
 3340 | Consumer Price Index announced by the United States Department
 3341 | of Labor for 2003 ~~\$7,500.~~

3342 | Section 53. Sections 497.275, 497.388, and 497.556,
 3343 | Florida Statutes, are repealed.

3344 | Section 54. This act shall take effect October 1, 2005.