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2005 Legislature

1 A bill to be entitled
2 An act relating to funeral and cemetery industry
3 regulation; amending s. 316.1974, F.S.; authorizing the
4 use of purple lights on certain funeral escort vehicles
5 and funeral lead vehicles; amending s. 497.005, F.S.;
6 revising definitions; amending s. 497.101, F.S.;
7 clarifying eligibility for Board of Funeral, Cemetery, and
8 Consumer Services membership; requiring the Department of
9 Financial Services to adopt rules regarding application
10 for board membership; amending s. 497.103, F.S.; revising
11 authority of the department to take emergency action;
12 limiting the authority of the Chief Financial Officer;
13 amending s. 497.140, F.S.; revising the time period for
14 board reaction to department revenue projections;
15 providing for future termination of certain assessments;
16 providing for delinquency fees to be charged and collected
17 from certain licensees; providing a default delinquency
18 fee; amending s. 497.141, F.S.; requiring licensure
19 applications to include tax identification numbers of
20 applicants that are not natural persons; authorizing the
21 licensing authority to require certain applicants to
22 provide a photograph; clarifying when licenses may be
23 issued to entities and to natural persons; clarifying the
24 types of entities to which licenses may be issued;
25 providing signature requirements; authorizing the
26 licensing authority to adopt rules; restricting assignment
27 or transfer of licenses; amending s. 497.142, F.S.;
28 revising fingerprinting requirements; clarifying

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29 requirements as to disclosure of previous criminal
30 records; revising which members of an entity applying for
31 licensure are required to disclose their criminal records;
32 providing for waiver of the fingerprint requirements in
33 certain circumstances; providing for the cost for
34 fingerprinting processing; amending s. 497.143, F.S.;
35 prohibiting preneed sales under a limited license;
36 amending s. 497.144, F.S.; requiring a challenger to pay
37 the costs for failure to appear at a challenge hearing;
38 amending s. 497.147, F.S.; revising provisions relating to
39 the licensing authority's rules regulating prelicensure
40 training and continuing education providers; amending s.
41 497.149, F.S.; revising terminology; amending s. 497.151,
42 F.S.; revising applicability; specifying what is not
43 deemed to be a complaint; amending s. 497.152, F.S.;
44 revising disciplinary provisions; revising certain grounds
45 for disciplinary action; specifying what is not deemed to
46 be a complaint; authorizing the board to adopt rules
47 providing criteria for identifying minor and nonwillful
48 remittance deficiencies; amending s. 497.153, F.S.;
49 providing for the use of consent orders in certain
50 circumstances; amending s. 497.158, F.S.; revising fine
51 amounts; amending s. 497.159, F.S.; revising provisions
52 relating to criminal penalties for violations involving
53 prelicensure examinations, willful obstruction, and trust
54 funds and other specified violations; revising what
55 constitutes improper discrimination; amending s. 497.161,
56 F.S.; removing a provision allowing board members to serve

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57 | as experts in investigations; specifying standing of
58 | licensees to challenge rules; amending s. 497.165, F.S.;
59 | stipulating that intentional or gross negligence renders
60 | owners, directors, and officers jointly and severally
61 | liable for certain trust fund deficiencies; amending s.
62 | 497.166, F.S.; specifying who may act as a preneed sales
63 | agent; providing responsibility of certain licensees;
64 | amending s. 497.169, F.S.; revising provisions for award
65 | of attorney's fees and costs in certain actions; creating
66 | s. 497.171, F.S.; providing requirements for the
67 | identification of human remains; amending s. 497.260,
68 | F.S.; revising what constitutes improper discrimination by
69 | cemeteries; amending s. 497.263, F.S.; revising the
70 | applicability of certain application procedures for
71 | licensure of cemetery companies; amending s. 497.264,
72 | F.S.; revising requirements relating to applicants seeking
73 | to acquire control of a licensed cemetery; amending s.
74 | 497.281, F.S.; revising requirements for licensure of
75 | burial rights brokers; amending s. 497.365, F.S.;
76 | requiring the board to adopt rules prescribing application
77 | and renewal fees for inactive status, a delinquency fee,
78 | and a fee for reactivation of a license; providing a cap
79 | on such fees; providing a limitation on the department's
80 | ability to reactivate a license; amending s. 497.368,
81 | F.S.; revising grounds for issuance of licensure as an
82 | embalmer by examination; amending s. 497.369, F.S.;
83 | revising grounds for issuance of licensure as an embalmer
84 | by endorsement; amending s. 497.373, F.S.; revising

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85 grounds for issuance of licensure as a funeral director by
86 examination; amending s. 497.374, F.S.; revising grounds
87 for issuance of licensure as a funeral director by
88 endorsement; amending s. 497.376, F.S.; revising authority
89 to issue a combination license as a funeral director and
90 embalmer; authorizing the licensing authority to establish
91 certain rules; amending s. 497.378, F.S.; raising the cap
92 on funeral director and embalmer license renewal fees;
93 amending s. 497.380, F.S.; specifying requirements for
94 funeral establishment licensure applicants; raising the
95 cap on funeral establishment license renewal fees;
96 providing requirements for reporting a change in location
97 of the establishment; amending s. 497.385, F.S.; revising
98 application requirements for licensure of a removal
99 service or a refrigeration service; providing requirements
100 for change in location of removal services and
101 refrigeration services; deleting a provision exempting
102 centralized embalming facilities from certain funeral
103 establishment requirements; authorizing the licensing
104 authority to adopt certain rules for centralized embalming
105 facility operations; revising application requirements for
106 licensure of a centralized embalming facility; providing
107 for inspection of centralized embalming facilities;
108 providing for change in ownership and change in location
109 of centralized embalming facilities; amending s. 497.453,
110 F.S.; revising net worth requirements for preneed
111 licensure; specifying authority to accept certain
112 alternative evidence of financial responsibility in lieu

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113 | of net worth regarding preneed licensure applicants;
114 | providing preneed license renewal fees for monument
115 | establishments; revising grounds for issuance of a preneed
116 | branch license; raising the cap on branch license renewal
117 | fees; deleting a provision exempting sponsoring preneed
118 | licensees from responsibility for certain violations of
119 | branch licensees; amending s. 497.456, F.S.; revising use
120 | of the Preneed Funeral Contract Consumer Protection Trust
121 | Fund by the licensing authority; amending s. 497.458,
122 | F.S.; revising requirements to loan or invest trust funds;
123 | amending s. 497.466, F.S.; revising general provisions
124 | applicable to preneed sales agents; revising requirements
125 | and application procedures for preneed sales agent
126 | licensure; providing requirements for the issuance of a
127 | temporary preneed sales agent license; providing
128 | requirements for the conversion of temporary preneed sales
129 | agent licenses to permanent preneed sales agent licenses;
130 | providing requirements for applicants with a criminal or
131 | disciplinary record; providing for termination of a
132 | permanent preneed sales agent license due to lack of
133 | appointments; providing requirements for the appointment
134 | of preneed sales agents; providing for administrative
135 | matters regarding preneed sales agent licensure; creating
136 | s. 497.468, F.S.; providing for disclosure of certain
137 | information to the public; requiring the licensing
138 | authority to establish rules relating to the manner in
139 | which certain written contracts are provided; amending s.
140 | 497.550, F.S.; creating two categories of monument

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141 establishment licensure and providing certain requirements
142 for such categories; revising application procedures for
143 licensure as a monument establishment; requiring
144 inspection of proposed monument establishment facilities;
145 amending s. 497.551, F.S.; revising requirements for
146 renewal of monument establishment licensure; amending s.
147 497.552, F.S.; revising facility requirements for monument
148 establishments; amending s. 497.553, F.S.; requiring the
149 board to set an annual inspection fee for monument
150 establishment licensees; providing a cap for such fee;
151 providing requirements for change of ownership and
152 location of monument establishments; amending s. 497.554,
153 F.S.; revising application procedure and renewal
154 requirements for monument establishment sales
155 representatives; deferring application of section;
156 amending s. 497.555, F.S.; requiring monument
157 establishments to comply with rules establishing minimum
158 standards for access to cemeteries; amending s. 497.602,
159 F.S.; revising application procedures for direct disposer
160 licensure; amending s. 497.603, F.S.; raising the cap on
161 direct disposer license renewal fees; amending s. 497.604,
162 F.S.; revising provisions relating to direct disposal
163 establishment licensure and application for such
164 licensure; revising provisions relating to the regulation
165 of direct disposal establishments; amending s. 497.606,
166 F.S.; revising provisions relating to cinerator facility
167 licensure and application for such licensure; revising
168 provisions relating to the regulation of cinerator

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

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169 facilities; amending s. 497.607, F.S.; providing that the
 170 anatomical board at the University of Florida Health
 171 Science Center is not prohibited from causing the final
 172 disposition of unclaimed human remains under certain
 173 circumstances; amending s. 152, ch. 2004-301, Laws of
 174 Florida; specifying applicability of rules; amending s.
 175 626.785, F.S.; revising a policy coverage limit; repealing
 176 s. 497.275, F.S., relating to identification of human
 177 remains in licensed cemeteries; repealing s. 497.388,
 178 F.S., relating to identification of human remains;
 179 repealing s. 497.556, F.S., relating to requirements
 180 relating to monument establishments; providing an
 181 effective date.

182

183 Be it enacted by the Legislature of the State of Florida:

184

185 Section 1. Paragraph (a) of subsection (2) of section
 186 316.1974, Florida Statutes, is amended to read:

187 316.1974 Funeral procession right-of-way and liability.--

188 (2) EQUIPMENT.--

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

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196 Section 2. Section 497.005, as amended by chapter 2004-
 197 301, Laws of Florida, is amended to read:

198 497.005 Definitions.--As used in this chapter:

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

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

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

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

220 (5) "Board" means the Board of Funeral, Cemetery, and
 221 Consumer Services.

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

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

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

229 (6)-(7) "Burial merchandise," "funeral merchandise," or
 230 "merchandise" means any personal property offered or sold by any
 231 person for use in connection with the final disposition,
 232 memorialization, interment, entombment, or inurnment of human
 233 remains or cremated remains, including, but not limited to,
 234 caskets, outer burial containers, alternative containers,
 235 cremation containers, cremation interment containers, urns,
 236 monuments, private mausoleums, flowers, benches, vases,
 237 acknowledgment cards, register books, memory folders, prayer
 238 cards, and clothing.

239 (7)-(8) "Burial right" means the right to use a grave
 240 space, mausoleum, columbarium, ossuary, or scattering garden for
 241 the interment, entombment, inurnment, or other disposition of
 242 human remains or cremated remains.

243 (8)-(9) "Burial service," ~~"funeral service,"~~ or "service"
 244 means any service offered or provided ~~by any person~~ in
 245 connection with the final disposition, memorialization,
 246 interment, entombment, or inurnment of human remains or cremated
 247 remains.

248 (9)-(10) "Care and maintenance" means the perpetual process
 249 of keeping a cemetery and its lots, graves, grounds,
 250 landscaping, roads, paths, parking lots, fences, mausoleums,

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

271 (10)~~(11)~~ "Casket" means a rigid container that ~~which~~ is
272 designed for the encasement of human remains and that ~~which~~ is
273 usually constructed of wood or metal, ornamented, and lined with
274 fabric.

275 (11)~~(12)~~ "Cemetery" means a place dedicated to and used or
276 intended to be used for the permanent interment of human remains
277 or cremated remains. A cemetery may contain land or earth
278 interment; mausoleum, vault, or crypt interment; a columbarium,

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279 | ossuary, scattering garden, or other structure or place used or
 280 | intended to be used for the interment or disposition of cremated
 281 | remains; or any combination of one or more of such structures or
 282 | places.

283 | (12)~~(13)~~ "Cemetery company" means any legal entity that
 284 | owns or controls cemetery lands or property.

285 | (13)~~(14)~~ "Centralized embalming facility" means a
 286 | facility, ~~not physically connected with a funeral establishment,~~
 287 | in which embalming takes place that operates independently of a
 288 | funeral establishment licensee and that offers embalming
 289 | services to funeral directors for a fee.

290 | (14)~~(15)~~ "Cinerator" means a facility where dead human
 291 | bodies are subjected to cremation. ~~reduced to a residue,~~
 292 | ~~including bone fragments, by direct flame, also known as~~
 293 | ~~"cremation," or by intense heat, also known as "calcination."~~

294 | (15)~~(16)~~ "Closed container" means any container in which
 295 | cremated remains can be placed and closed in a manner so as to
 296 | prevent leakage or spillage of the remains.

297 | (16)~~(17)~~ "Columbarium" means a structure or building that
 298 | ~~which~~ is substantially exposed above the ground and that ~~which~~
 299 | is intended to be used for the inurnment of cremated remains.

300 | (17)~~(18)~~ "Common business enterprise" means a group of two
 301 | or more business entities that share common ownership in excess
 302 | of 50 percent.

303 | (18)~~(19)~~ "Control" means the possession, directly or
 304 | indirectly, through the ownership of voting shares, by contract,
 305 | arrangement, understanding, relationship, or otherwise, of the
 306 | power to direct or cause the direction of the management and

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307 policies of a person or entity. However, a person or entity
308 shall not be deemed to have control if the person or entity
309 holds voting shares, in good faith and not for the purpose of
310 circumventing this definition, as an agent, bank, broker,
311 nominee, custodian, or trustee for one or more beneficial owners
312 who do not individually or as a group have control.

313 ~~(19)-(20)~~ "Cremated remains" means all the remains of the
314 human body recovered after the completion of the cremation
315 process, including processing or pulverization that ~~which~~ leaves
316 only bone fragments reduced to unidentifiable dimensions and may
317 include the residue of any foreign matter, including casket
318 material, bridgework, or eyeglasses that were cremated with the
319 human remains.

320 ~~(20)-(21)~~ "Cremation" means any mechanical or thermal
321 process whereby a dead human body is reduced to ashes and bone
322 fragments. Cremation also includes any other mechanical or
323 thermal process whereby human remains are pulverized, burned,
324 recremated, or otherwise further reduced in size or quantity ~~the~~
325 ~~technical process, using direct flame and heat or chemical~~
326 ~~means, which reduces human remains to bone fragments through~~
327 ~~heat and evaporation. Cremation includes the processing and~~
328 ~~usually includes the pulverization of the bone fragments.~~

329 ~~(21)-(22)~~ "Cremation chamber" means the enclosed space
330 within which the cremation process takes place. Cremation
331 chambers covered by these procedures shall ~~must~~ be used
332 exclusively for the cremation of human remains.

333 ~~(22)-(23)~~ "Cremation container" means the casket or
334 alternative container in which the human remains are transported

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335 to and placed in the cremation chamber for a cremation. A
 336 cremation container should meet substantially all of the
 337 following standards:

338 (a) Be composed of readily combustible materials suitable
 339 for cremation.

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

342 (c) Be resistant to leakage or spillage.

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

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

346 (23)~~(24)~~ "Cremation interment container" means a rigid
 347 outer container that, subject to a cemetery's rules and
 348 regulations, is composed of concrete, steel, fiberglass, or some
 349 similar material in which an urn is placed prior to being
 350 interred in the ground and that is designed to support the earth
 351 above the urn.

352 (24)~~(25)~~ "Department" means the Department of Financial
 353 Services.

354 (25)~~(26)~~ "Direct disposal establishment" means a facility
 355 licensed under this chapter where a direct disposer practices
 356 direct disposition.

357 (26)~~(27)~~ "Direct disposer" means any person licensed under
 358 this chapter to practice direct disposition in this state.

359 (27)~~(28)~~ "Director" means the director of the Division of
 360 Funeral, Cemetery, and Consumer Services.

361 (28)~~(29)~~ "Disinterment" means removal of a dead human body
 362 from earth interment or aboveground interment.

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363 (29)~~(30)~~ "Division" means the Division of Funeral,
 364 Cemetery, and Consumer Services within the Department of
 365 Financial Services.

366 (30)~~(31)~~ "Embalmer" means any person licensed under this
 367 chapter to practice embalming in this state.

368 (31)~~(32)~~ "Final disposition" means the final disposal of a
 369 dead human body by earth interment, aboveground interment,
 370 cremation, burial at sea, or delivery to a medical institution
 371 for lawful dissection if the medical institution assumes
 372 responsibility for disposal. "Final disposition" does not
 373 include the disposal or distribution of cremated remains ~~ashes~~
 374 and residue of cremated remains.

375 (32)~~(33)~~ "Funeral" or "funeral service" means the
 376 observances, services, or ceremonies held to commemorate the
 377 life of a specific deceased human being and at which the human
 378 remains are present.

379 (33)~~(34)~~ "Funeral director" means any person licensed
 380 under this chapter to practice funeral directing in this state.

381 (34)~~(35)~~ "Funeral establishment" means a facility licensed
 382 under this chapter where a funeral director or embalmer
 383 practices funeral directing or embalming.

384 ~~(36) "Funeral merchandise" or "merchandise" means any~~
 385 ~~merchandise commonly sold in connection with the funeral, final~~
 386 ~~disposition, or memorialization of human remains, including, but~~
 387 ~~not limited to, caskets, outer burial containers, alternative~~
 388 ~~containers, cremation containers, cremation interment~~
 389 ~~containers, urns, monuments, private mausoleums, flowers,~~

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390 ~~benches, vases, acknowledgment cards, register books, memory~~
 391 ~~folders, prayer cards, and clothing.~~

392 (35)~~(37)~~ "Grave space" means a space of ground in a
 393 cemetery intended to be used for the interment in the ground of
 394 human remains.

395 (36)~~(38)~~ "Human remains" or "remains," or "dead human
 396 body" or "dead human bodies," means the body of a deceased human
 397 person for which a death certificate or fetal death certificate
 398 is required under chapter 382 and includes the body in any stage
 399 of decomposition ~~and the residue of cremated human bodies.~~

400 (37)~~(39)~~ "Legally authorized person" means, in the
 401 priority listed, the decedent, when written inter vivos
 402 authorizations and directions are provided by the decedent; the
 403 surviving spouse, unless the spouse has been arrested for
 404 committing against the deceased an act of domestic violence as
 405 defined in s. 741.28 that ~~which~~ resulted in or contributed to
 406 the death of the deceased; a son or daughter who is 18 years of
 407 age or older; a parent; a brother or sister who is 18 years of
 408 age or older; a grandchild who is 18 years of age or older; a
 409 grandparent; or any person in the next degree of kinship. In
 410 addition, the term may include, if no family member exists or is
 411 available, the guardian of the dead person at the time of death;
 412 the personal representative of the deceased; the attorney in
 413 fact of the dead person at the time of death; the health
 414 surrogate of the dead person at the time of death; a public
 415 health officer; the medical examiner, county commission, or
 416 administrator acting under part II of chapter 406 or other
 417 public administrator; a representative of a nursing home or

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418 other health care institution in charge of final disposition; or
 419 a friend or other person not listed in this subsection who is
 420 willing to assume the responsibility as the legally authorized
 421 person. Where there is a person in any priority class listed in
 422 this subsection, the funeral establishment shall rely upon the
 423 authorization of any one legally authorized person of that class
 424 if that person ~~individual~~ represents that she or he is not aware
 425 of any objection to the cremation of the deceased's human
 426 remains by others in the same class of the person making the
 427 representation or of any person in a higher priority class.

428 (38) ~~(40)~~ "License" includes all authorizations required or
 429 issued under this chapter, except where expressly indicated
 430 otherwise, and shall be understood to include authorizations
 431 previously referred to as registrations or certificates of
 432 authority in chapters 470 and 497 as those chapters appeared in
 433 the 2004 edition of the Florida Statutes.

434 (39) ~~(41)~~ "Licensee" means the person or entity holding any
 435 license or other authorization issued under this chapter, except
 436 where expressly indicated otherwise.

437 (40) ~~(42)~~ "Mausoleum" means a structure or building that
 438 ~~which~~ is substantially exposed above the ground and that ~~which~~
 439 is intended to be used for the entombment of human remains.

440 (41) ~~(43)~~ "Mausoleum section" means any construction unit
 441 of a mausoleum that ~~which~~ is acceptable to the department and
 442 that ~~which~~ a cemetery uses to initiate its mausoleum program or
 443 to add to its existing mausoleum structures.

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444 ~~(42)-(44)~~ "Monument" means any product used for identifying
445 a grave site and cemetery memorials of all types, including
446 monuments, markers, and vases.

447 ~~(43)-(45)~~ "Monument establishment" means a facility that
448 operates independently of a cemetery or funeral establishment
449 and that offers to sell monuments or monument services to the
450 public for placement in a cemetery.

451 ~~(44)-(46)~~ "Net assets" means the amount by which the total
452 assets of a licensee, excluding goodwill, franchises, customer
453 lists, patents, trademarks, and receivables from or advances to
454 officers, directors, employees, salespersons, and affiliated
455 companies, exceed total liabilities of the licensee. For
456 purposes of this definition, the term "total liabilities" does
457 not include the capital stock, paid-in capital, or retained
458 earnings of the licensee.

459 ~~(45)-(47)~~ "Net worth" means total assets minus total
460 liabilities pursuant to generally accepted accounting
461 principles.

462 ~~(46)-(48)~~ "Niche" means a compartment or cubicle for the
463 memorialization or permanent placement of a container or urn
464 containing cremated remains.

465 ~~(47)-(49)~~ "Ossuary" means a receptacle used for the
466 communal placement of cremated remains without benefit of an urn
467 or any other container in which cremated remains may be
468 commingled with other cremated remains and are nonrecoverable.
469 It may or may not include memorialization.

470 ~~(48)-(50)~~ "Outer burial container" means an enclosure into
471 which a casket is placed and includes, but is not limited to,

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472 vaults made of concrete, steel, fiberglass, or copper; sectional
473 concrete enclosures; crypts; and wooden enclosures.

474 ~~(49)~~(51) "Person," when used without qualification such as
475 "natural" or "individual," includes both natural persons and
476 legal entities.

477 ~~(50)~~(52) "Personal residence" means any residential
478 building in which one temporarily or permanently maintains her
479 or his abode, including, but not limited to, an apartment or a
480 hotel, motel, nursing home, convalescent home, home for the
481 aged, or a public or private institution.

482 ~~(51)~~(53) "Practice of direct disposition" means the
483 cremation of human remains without preparation of the human
484 remains by embalming and without any attendant services or rites
485 such as funeral or graveside services or the making of
486 arrangements for such final disposition.

487 ~~(52)~~(54) "Practice of embalming" means disinfecting or
488 preserving or attempting to disinfect or preserve dead human
489 bodies by replacing certain body fluids with preserving and
490 disinfecting chemicals.

491 ~~(53)~~(55) "Practice of funeral directing" means the
492 performance by a licensed funeral director of any of those
493 functions authorized by s. 497.372.

494 ~~(54)~~(56) "Preneed contract" means any arrangement or
495 method, of which the provider of funeral merchandise or services
496 has actual knowledge, whereby any person agrees to furnish
497 funeral merchandise or service in the future.

498 ~~(55)~~(57) "Preneed sales agent" means any person who is
499 licensed under this chapter to sell preneed burial or funeral

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500 service and merchandise contracts or direct disposition
 501 contracts in this state.

502 (56)~~(58)~~ "Principal" means and includes the sole
 503 proprietor of a sole proprietorship; all partners of a
 504 partnership; all members of a limited liability company;
 505 regarding a corporation, all directors and officers, and all
 506 stockholders controlling more than 10 percent of the voting
 507 stock; and all other persons who can exercise control over the
 508 person or entity.

509 (57)~~(59)~~ "Processing" means the reduction of identifiable
 510 bone fragments after the completion of the cremation process to
 511 unidentifiable bone fragments by manual means.

512 (58)~~(60)~~ "Profession" and "occupation" are used
 513 interchangeably in this chapter. The use of the word
 514 "profession" in this chapter with respect to any activities
 515 regulated under this chapter shall not be deemed to mean that
 516 such activities are not occupations for other purposes in state
 517 or federal law.

518 (59)~~(61)~~ "Pulverization" means the reduction of
 519 identifiable bone fragments after the completion of the
 520 cremation and processing to granulated particles by manual or
 521 mechanical means.

522 (60)~~(62)~~ "Refrigeration facility" means a facility that is
 523 operated independently of ~~not physically connected with~~ a
 524 funeral establishment, crematory, or direct disposal
 525 establishment, that maintains space and equipment for the
 526 storage and refrigeration of dead human bodies, and that offers
 527 its service to funeral directors, and funeral establishments,

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528 direct disposers, direct disposal establishments, or crematories
 529 for a fee.

530 ~~(61)-(63)~~ "Religious institution" means an organization
 531 formed primarily for religious purposes that ~~which~~ has qualified
 532 for exemption from federal income tax as an exempt organization
 533 under the provisions of s. 501(c)(3) of the Internal Revenue
 534 Code of 1986, as amended.

535 ~~(62)-(64)~~ "Removal service" means any service that operates
 536 independently of a funeral establishment or a direct disposal
 537 establishment, that handles the initial removal of dead human
 538 bodies, and that offers its service to funeral establishments
 539 and direct disposal establishments for a fee.

540 ~~(63)-(65)~~ "Rules" refers to rules adopted under this
 541 chapter unless expressly indicated to the contrary.

542 ~~(64)-(66)~~ "Scattering garden" means a location set aside,
 543 within a cemetery, that ~~which~~ is used for the spreading or
 544 broadcasting of cremated remains that have been removed from
 545 their container and can be mixed with or placed on top of the
 546 soil or ground cover or buried in an underground receptacle on a
 547 commingled basis and that are nonrecoverable. It may or may not
 548 include memorialization.

549 ~~(65)-(67)~~ "Servicing agent" means any person acting as an
 550 independent contractor whose fiduciary responsibility is to
 551 assist both the trustee and licensee in administrating their
 552 responsibilities pursuant to this chapter.

553 ~~(66)-(68)~~ "Solicitation" means any communication that ~~which~~
 554 directly or implicitly requests an immediate oral response from
 555 the recipient.

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556 ~~(67)-(69)~~ "Statutory accounting" means generally accepted
557 accounting principles, except as modified by this chapter.

558 ~~(68)-(70)~~ "Temporary container" means a receptacle for
559 cremated remains usually made of cardboard, plastic, or similar
560 material designated to hold the cremated remains until an urn or
561 other permanent container is acquired.

562 ~~(69)-(71)~~ "Urn" means a receptacle designed to permanently
563 encase cremated remains.

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

567 497.101 Board of Funeral, Cemetery, and Consumer Services;
568 membership; appointment; terms.--

569 (2) Two members of the board shall ~~must~~ be funeral
570 directors licensed under part III of this chapter who are
571 associated with a funeral establishment. One member of the board
572 shall ~~must~~ be a funeral director licensed under part III of this
573 chapter who is associated with a funeral establishment licensed
574 under part III of this chapter that ~~which~~ has a valid preneed
575 license issued pursuant to this chapter and who owns or operates
576 a cinerator facility approved under chapter 403 and licensed
577 under part VI of this chapter. Two members of the board shall
578 ~~must~~ be persons whose primary occupation is associated with a
579 cemetery company licensed pursuant to this chapter. Three
580 members of the board shall ~~must~~ be consumers who are residents
581 of the state, have never been licensed as funeral directors or
582 embalmers, are not connected with a cemetery or cemetery company
583 licensed pursuant to this chapter, and are not connected with

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584 the death care industry or the practice of embalming, funeral
 585 directing, or direct disposition. One of the consumer members
 586 shall ~~must~~ be at least 60 years of age, and one shall ~~must~~ be
 587 licensed as a certified public accountant under chapter 473. One
 588 member of the board shall ~~must~~ be a monument establishment
 589 ~~dealer~~ licensed under this chapter as a monument builder or, for
 590 board appointments made before June 1, 2006, a licensed monument
 591 establishment certified by the department to be eligible for
 592 licensure as a monument builder. One member shall ~~must~~ be the
 593 State Health Officer or her or his designee. There shall not be
 594 two or more board members who are principals or directors,
 595 ~~employees, partners, shareholders, or members~~ of the same
 596 company or partnership or group of companies or partnerships
 597 under common control.

598 (8) The department shall adopt rules establishing forms by
 599 which persons may apply for membership on the board and
 600 procedures for applying for such membership. Such forms shall
 601 require disclosure of the existence and nature of all current
 602 and past employments by or contracts with, and direct or
 603 indirect affiliations or interests in, any entity or business
 604 that at any time was licensed by the board or by the former
 605 Board of Funeral and Cemetery Services or the former Board of
 606 Funeral Directors and Embalmers or that is or was otherwise
 607 involved in the death care industry, as specified by department
 608 rule.

609 Section 4. Paragraph (m) of subsection (2) of section
 610 497.103, Florida Statutes, as amended by chapter 2004-301, Laws

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611 of Florida, is amended, and paragraph (e) is added to subsection
 612 (4) of said section, to read:

613 497.103 Rulemaking authority of board and department.--

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

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

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

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

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

638 497.140 Fees.--

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

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

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

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

676 497.141 Licensing; general application procedures.--

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

683 Notwithstanding any other provision of law, the department is
 684 the sole authority for determining the forms and form contents
 685 to be submitted for initial licensure and licensure renewal
 686 application. Such forms and the information and materials
 687 required by such forms may include, as appropriate,
 688 demographics, education, work history, personal background,
 689 criminal history, finances, business information, signature
 690 notarization, performance periods, reciprocity, local government
 691 approvals, supporting documentation, periodic reporting
 692 requirements, fingerprint requirements, continuing education
 693 requirements, business plans, character references, and ongoing
 694 education monitoring. Such forms and the information and

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695 materials required by such forms may also include, to the extent
 696 such information or materials are not already in the possession
 697 of the department or the board, records or information as to
 698 complaints, inspections, investigations, discipline, and
 699 ~~bonding, and photographs~~. The application shall be supplemented
 700 as needed to reflect any material change in any circumstance or
 701 condition stated in the application that ~~which~~ takes place
 702 between the initial filing of the application and the final
 703 grant or denial of the license and that ~~which~~ might affect the
 704 decision of the department or the board. After an application by
 705 a natural person for licensure under this chapter is approved,
 706 the licensing authority may require the successful applicant to
 707 provide a photograph of himself or herself for permanent
 708 lamination onto the license card to be issued to the applicant,
 709 pursuant to rules and fees adopted by the licensing authority.

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

- 712 1. Embalmer apprentice.
- 713 2. Embalmer intern.
- 714 3. Funeral director intern.
- 715 4. Funeral director.
- 716 5. Funeral director and embalmer.
- 717 6. Direct disposer.
- 718 7. Monument establishment sales agent.
- 719 8. Preneed sales agent.

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

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- 723 | 1. Funeral establishment.
- 724 | 2. Centralized embalming facility.
- 725 | 3. Refrigeration facility.
- 726 | 4. Direct disposal establishment.
- 727 | 5. Monument establishment.
- 728 | 6. Cinerator facility.
- 729 | 7. Removal service.
- 730 | 8. Preneed sales business under s. 497.453.
- 731 | (c) A cemetery license may only be applied for and issued
 732 | to a corporation, partnership, or limited liability company.
- 733 | (d) No license shall be issued to any applicant that is a
 734 | corporation, limited liability company, or partnership unless
 735 | the applicant is organized and in good standing under the laws
 736 | of this state or another state of the United States and provides
 737 | written proof thereof issued by the applicable state office or
 738 | official in the state concerned. Each applicant that is a
 739 | corporation, limited liability company, or partnership shall
 740 | file with its application a written statement, signed by the
 741 | same person who signs the application, identifying by name and
 742 | business functional title the following persons, as applicable
 743 | to the type of entity applying: officers, managers, managing
 744 | members, partners, general partners, limited partners, managing
 745 | partners, directors, all stockholders controlling more than 10
 746 | percent of the voting stock, and all other persons who may
 747 | exercise control over the applicant. The licensing authority may
 748 | require the filing of the applicant's articles of incorporation
 749 | or other organizational documents and a resume concerning any
 750 | person identified in this paragraph.

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

752 | Signatures of the applicant shall be as follows:

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

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

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

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

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

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

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

772 | 497.142 Licensing; fingerprinting and criminal background
773 | checks.--

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

777 | (2) The fingerprints shall ~~must~~ be taken by a law
778 | enforcement agency or other agency or entity approved by the

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779 | department and in such a way as to allow their use to obtain a
 780 | criminal history check through the Department of Law
 781 | Enforcement.

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

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

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

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

804 | (6)~~(7)~~ The Department of Law Enforcement shall, upon
 805 | receipt of fingerprints from the department, submit the

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806 fingerprints to the Federal Bureau of Investigation to check
 807 federal criminal history records.

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

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

820 (9)~~(10)~~ If any applicant under this chapter has been,
 821 within the 10 years preceding the application under this
 822 chapter, convicted or found guilty of, or entered a plea of nolo
 823 contendere to, regardless of adjudication, any crime in any
 824 jurisdiction, the application shall not be deemed complete until
 825 such time as the applicant provides such certified true copies
 826 of the court records evidencing the conviction, finding, or
 827 plea, as the licensing authority may by rule require.

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

831 (b) The criminal record required to be disclosed shall be
 832 any crime listed in paragraph (c) of which the person or entity
 833 required to make disclosure has been convicted or to which that

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834 person or entity entered a plea in the nature of no contest.
 835 Disclosure shall be required pursuant to this subsection
 836 regardless of whether adjudication was entered or withheld by
 837 the court in which the case was prosecuted.

838 (c) Crimes to be disclosed are:

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

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

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

852 (d) Criminal records subject to paragraphs (b) and (c)
 853 shall be disclosed regardless of whether the criminal conduct
 854 occurred inside or outside the state and regardless of whether
 855 the criminal prosecution occurred in state court or in the court
 856 of another state, the United States, or a foreign country. As to
 857 crimes prosecuted in courts other than the courts of this state,
 858 the designation of the crime as a felony or misdemeanor by the
 859 law of the jurisdiction prosecuting the crime shall control. If
 860 the prosecuting jurisdiction does not use the term "felony" or
 861 "misdemeanor" in classifying the crime, the crime shall be

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862 deemed a felony for purposes of this subsection if punishable
863 under the law of the prosecuting jurisdiction by a term of
864 imprisonment in excess of 1 year; otherwise, the crime shall be
865 classified as a misdemeanor for purposes of this subsection.
866 Excessive speed in the operation of a motor vehicle and other
867 noncriminal traffic infractions are not required to be reported
868 under this section.

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

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

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

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

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

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

887 (f) In addition to persons identified in paragraph (e) as
888 being required to provide a criminal history in relation to an
889 application for licensure, the department may, during its

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890 prelicensing investigation of the applicant pursuant to
891 subsection (3), on a case-by-case basis, require disclosure of
892 criminal records from any other employee or principal of the
893 applicant if the department has grounds to believe that such
894 employee or principal has committed any crime and that such
895 employee's or principal's relationship to the applicant may
896 render the applicant a danger to the public if the license
897 applied for is issued.

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

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

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

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

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

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

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

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

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

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

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

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

965 497.144 Licensing; examinations, general provisions.--

966 (13) When any licensed applicant under this chapter
 967 requests a hearing to challenge a decision that the applicant's
 968 answer to any licensure test question was not a correct answer,
 969 or to seek a determination that a challenged question should be
 970 stricken, unless the ~~an~~ applicant notifies the department at
 971 least 5 days prior to the ~~an~~ examination hearing of the
 972 applicant's inability to attend or unless the ~~an~~ applicant can
 973 demonstrate an extreme emergency for failing to attend, the

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974 department may require the ~~an~~ applicant who fails to attend to
 975 pay reasonable attorney's fees, costs, and court costs of the
 976 department for the examination hearing.

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

980 497.147 Continuing education; general provisions.--

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

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

989 1. Periodic submission by the provider to the licensing
 990 authority of information and documentation as to course
 991 materials, class locations and schedules, names of scheduled
 992 instructors, resumes of instructors, and descriptions of
 993 facilities.

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

998 3. Requirements for inspection by the licensing authority
 999 of records of the provider related to training or continuing
 1000 education of applicants and licensees under this chapter.

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1001 4. Requirements for announced or unannounced attendance by
 1002 department staff or board members at scheduled classes or
 1003 training, for the purpose of ensuring that the training meets
 1004 the requirements of this chapter and rules adopted under this
 1005 chapter.

1006 ~~5. Requirements for written contracts or agreements~~
 1007 ~~required to be entered into by providers with the licensing~~
 1008 ~~authority as a prerequisite to acceptance of training or~~
 1009 ~~continuing education provided by such provider for credit under~~
 1010 ~~this chapter.~~

1011 5.6. Requirements regarding retention of records by the
 1012 provider regarding training or continuing education for which
 1013 credit has been given to any licensee under this chapter.

1014 ~~6.7.~~ Procedures and criteria for terminating the status of
 1015 any provider as an approved source of training or continuing
 1016 education for credit under this chapter.

1017 ~~7.8.~~ Requirements for fees to accompany applications from
 1018 providers for approval or renewal of approval as a provider, not
 1019 to exceed \$250 per year. The rules may exempt nonprofit entities
 1020 from such fees.

1021 Section 11. Paragraph (c) of subsection (1) of section
 1022 497.149, Florida Statutes, as created by chapter 2004-301, Laws
 1023 of Florida, is amended to read:

1024 497.149 Investigations, hearings, and inspections.--

1025 (1) INVESTIGATIONS.--Investigations shall be conducted by
 1026 the department. The following provisions shall apply concerning
 1027 investigations:

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1028 (c) If the department finds any accounts or records of a
 1029 licensee required by this chapter to be created and maintained
 1030 by the licensee to be inadequate or inadequately kept or posted,
 1031 it may employ experts to reconstruct, rewrite, post, or balance
 1032 them at the expense of the person being investigated, provided
 1033 the person has failed to maintain, complete, or correct such
 1034 records or accounting after the department has given the
 1035 licensee ~~her or him~~ notice and a reasonable opportunity to do
 1036 so.

1037 Section 12. Subsection (1) of section 497.151, Florida
 1038 Statutes, as created by chapter 2004-301, Laws of Florida, is
 1039 amended, and subsection (4) is added to said section, to read:

1040 497.151 Complaints; logs; procedures.--

1041 (1) This section shall be applicable to all entities
 1042 licensed under this chapter ~~licensees under this chapter except~~
 1043 ~~preneed sales agent licensees~~.

1044 (4) For purposes of this section, the response of a
 1045 customer recorded by the customer on a customer satisfaction
 1046 questionnaire or survey form sent to the customer by the
 1047 licensee, and returned by the customer to the licensee, shall
 1048 not be deemed to be a complaint.

1049 Section 13. Section 497.152, Florida Statutes, as created
 1050 by chapter 2004-301, Laws of Florida, is amended to read:

1051 497.152 Disciplinary grounds.--This section sets forth
 1052 conduct that ~~which~~ is prohibited and that ~~which~~ shall constitute
 1053 grounds for denial of any application, imposition of discipline,
 1054 or ~~and~~ other enforcement action against the licensee or other
 1055 person committing such conduct. For purposes of this section,

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1056 the requirements of this chapter include the requirements of
 1057 rules adopted under authority of this chapter. No subsection
 1058 heading in this section shall be interpreted as limiting the
 1059 applicability of any paragraph within the subsection.

1060 (1) GENERAL PROVISIONS.--The generality of the provisions
 1061 of this subsection shall not be deemed to be limited by the
 1062 provisions of any other subsection.

1063 (a) Violating any provision of this chapter or any lawful
 1064 order of the board or department or of the statutory
 1065 predecessors to the board or department.

1066 (b) Committing fraud, deceit, negligence, incompetency, or
 1067 misconduct in the practice of any of the activities regulated
 1068 under this chapter.

1069 (c) Failing while holding a license under this chapter to
 1070 maintain one or more of the qualifications for such license.

1071 (d) Refusing to sell or issue a contract or provide
 1072 services to any person because of the person's race, color,
 1073 creed, marital status, sex, or national origin.

1074 (2) CRIMINAL ACTIVITY.--Being convicted or found guilty
 1075 of, or entering a plea of nolo contendere to, regardless of
 1076 adjudication, a crime in any jurisdiction that ~~which~~ relates to
 1077 the practice of, or the ability to practice, a licensee's
 1078 profession or occupation under this chapter.

1079 (3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.--Having a
 1080 license or the authority to practice a profession or occupation
 1081 revoked, suspended, fined, denied, or otherwise acted against or
 1082 disciplined by the licensing authority of another ~~any~~
 1083 jurisdiction, including its agencies or subdivisions, for

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1084 | conduct that would constitute a violation of this chapter if
 1085 | committed in this state or upon grounds that ~~which~~ directly
 1086 | relate to the ability to practice under this chapter. The
 1087 | licensing authority's acceptance of a relinquishment of
 1088 | licensure, stipulation, consent order, or other settlement
 1089 | offered in response to or in anticipation of the filing of
 1090 | charges against the license shall be construed as action against
 1091 | the license.

1092 | (4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT
 1093 | AGENCIES.--

1094 | (a) Improperly interfering with an investigation or
 1095 | inspection authorized by statute or with any disciplinary
 1096 | proceeding.

1097 | (b) Failure to comply with a lawfully issued subpoena of
 1098 | the department.

1099 | (c) Refusal to produce records to the department or board
 1100 | in connection with any activity regulated pursuant to this
 1101 | chapter.

1102 | (d) Failing to report to the department any violation of
 1103 | this chapter by another person, which violation is known to the
 1104 | licensee to have created or be creating a serious and immediate
 1105 | danger to the public health, safety, or welfare ~~person who the~~
 1106 | ~~licensee knows is in violation of this chapter.~~

1107 | (e) Knowingly concealing information relative to
 1108 | violations of this chapter.

1109 | (f) Attempting to obtain, obtaining, or renewing a license
 1110 | under this chapter by bribery, false or forged evidence, or

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1111 misrepresentation or through an error of the department or board
 1112 known to the applicant.

1113 (g) Making or filing a report or statement to or with any
 1114 government entity that ~~which~~ the licensee knows or has reason to
 1115 know to be false; or intentionally or negligently failing to
 1116 file a report or record required to be filed with any government
 1117 entity, or willfully impeding or obstructing another person to
 1118 do so, or inducing another person to impede or obstruct such
 1119 filing.

1120 (h) Failing to perform any statutory or legal obligation
 1121 placed upon a licensee.

1122 (5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED
 1123 PRACTICE.--

1124 (a) Practicing or offering to practice beyond the scope
 1125 permitted by this chapter and rules adopted under this chapter
 1126 for the type of licensure held or accepting and performing
 1127 professional responsibilities the licensee knows, or has reason
 1128 to know, the licensee is not competent to perform.

1129 (b) Practicing or attempting to practice with a revoked,
 1130 suspended, inactive, or delinquent license.

1131 (c) Representing as her or his own the license of another.

1132 (d) Aiding, assisting, procuring, employing, or advising
 1133 any person or entity to practice a profession or occupation
 1134 regulated by this chapter without required licensure under this
 1135 chapter.

1136 (e) Aiding, assisting, procuring, employing, or advising
 1137 any person or entity to operate or in operating an establishment

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1138 regulated by this chapter without the required licensure under
 1139 this chapter.

1140 (f) Delegating to any person the performance of
 1141 professional activities, or contracting with any person for the
 1142 performance of professional activities by such person, when the
 1143 licensee knows or has reason to know the person is not qualified
 1144 by training, experience, and authorization to perform such
 1145 responsibilities.

1146 (g) Using the name or title "funeral director,"
 1147 "embalmer," "direct disposer," or other title suggesting
 1148 licensure that ~~which~~ the person using such name or title does
 1149 not hold.

1150 (h) Engaging by a direct disposer in the practice of
 1151 direct burial or offering the at-need or preneed service of
 1152 direct burial.

1153 (6) EDUCATIONAL REQUIREMENTS.--

1154 (a) Failing to comply with applicable educational course
 1155 requirements pursuant to this chapter or rules adopted under
 1156 this chapter regarding human immunodeficiency virus and acquired
 1157 immune deficiency syndrome.

1158 (b) Failing to timely comply with applicable continuing
 1159 education requirements of this chapter.

1160 (7) RELATIONS WITH OTHER LICENSEES.--

1161 (a) Having been found liable in a civil proceeding for
 1162 knowingly filing a false report or complaint against another
 1163 licensee with the department or the board.

1164 (b) Making any misleading statements or misrepresentations
 1165 as to the financial condition of any person, or making

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1166 statements that ~~which~~ are falsely and maliciously critical of
 1167 any person for the purpose of damaging that person's business
 1168 regulated under this chapter.

1169 (8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF
 1170 HUMAN REMAINS.--

1171 (a) Violation of any state law or rule or any municipal or
 1172 county ordinance or regulation affecting the handling, custody,
 1173 care, or transportation of dead human bodies.

1174 (b) Refusing to surrender promptly the custody of a dead
 1175 human body upon the express order of the person legally
 1176 authorized to its custody; however, this provision shall be
 1177 subject to any state or local laws or rules governing custody or
 1178 transportation of dead human bodies.

1179 (c) Taking possession of a dead human body without first
 1180 having obtained written or oral permission from a legally
 1181 authorized person. If oral permission is granted, the licensee
 1182 shall ~~must~~ obtain written permission within a reasonable time as
 1183 established by rule.

1184 (d) Embalming human remains without first having obtained
 1185 written or oral permission from a legally authorized person;
 1186 however, washing and other public health procedures, such as
 1187 closing of the orifices by placing cotton soaked in a
 1188 disinfectant in such orifices until authorization to embalm is
 1189 received, shall not be precluded. If oral permission is granted,
 1190 the licensee shall ~~must~~ obtain written permission within a
 1191 reasonable time as established by board rule.

1192 (e) Failing to obtain written authorization from the
 1193 family or next of kin of the deceased prior to entombment,

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1194 interment, disinterment, disentombment, or disinurnment of the
 1195 remains of any human being.

1196 (9) SALES PRACTICES IN GENERAL.--

1197 (a) Soliciting by the licensee, or by her or his agent,
 1198 assistant, or employee, through the use of fraud, undue
 1199 influence, intimidation, overreaching, or other means that ~~which~~
 1200 takes advantage of a customer's ignorance or emotional
 1201 vulnerability.

1202 (b) Exercising undue influence on a client for the purpose
 1203 of financial gain of the licensee or a third party in connection
 1204 with any transaction regulated by this chapter.

1205 (c) Discouraging a customer's purchase of any funeral
 1206 merchandise or service that ~~which~~ is advertised or offered for
 1207 sale, with the purpose of encouraging the purchase of additional
 1208 or more expensive merchandise or service, by disparaging its
 1209 quality or appearance, except that true factual statements
 1210 concerning features, design, or construction do not constitute
 1211 disparagement; by misrepresenting its availability or any delay
 1212 involved in obtaining it; or by suggesting directly or by
 1213 implication that a customer's concern for price or expressed
 1214 interest in inexpensive funeral merchandise or services is
 1215 improper, inappropriate, or indicative of diminished respect or
 1216 affection for the deceased.

1217 (d) Misrepresenting the benefits, advantages, conditions,
 1218 or terms of any contract to provide any services or merchandise
 1219 regulated under this chapter.

1220 (e) Advertising goods and services in a manner that is
 1221 fraudulent, deceptive, or misleading in form or content.

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1222 (f) Directly or indirectly making any deceptive,
 1223 misleading, or untrue representations, whether oral or written,
 1224 or employing any trick, scheme, or artifice, in or related to
 1225 the practice of a profession or occupation regulated under this
 1226 chapter, including in the advertising or sale of any merchandise
 1227 or services related to the practice of the profession or
 1228 occupation.

1229 (10) SPECIFIC MISREPRESENTATIONS.--

1230 (a) Making any false or misleading statement of the legal
 1231 requirement as to the necessity of any particular burial or
 1232 funeral merchandise or services.

1233 (b) Making any oral, written, or visual representations,
 1234 directly or indirectly, that any funeral merchandise or service
 1235 is offered for sale when such is not a bona fide offer to sell
 1236 such merchandise or service.

1237 (c) Making any misrepresentation for the purpose of
 1238 inducing, or tending to induce, the lapse, forfeiture, exchange,
 1239 conversion, or surrender of any preneed contract or any life
 1240 insurance policy pledged or assigned to secure payment for
 1241 funeral or burial goods or services.

1242 (d) Misrepresenting pertinent facts or prepaid contract
 1243 provisions relating to funeral or burial merchandise or
 1244 services.

1245 (e) Misrepresenting the amount advanced on behalf of a
 1246 customer for any item of service or merchandise, including, but
 1247 not limited to, cemetery or crematory services, pallbearers,
 1248 public transportation, clergy honoraria, flowers, musicians or
 1249 singers, nurses, obituary notices, gratuities, and death

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1250 certificates, described as cash advances, accommodations, or
 1251 words of similar import on the contract, final bill, or other
 1252 written evidence of agreement or obligation furnished to
 1253 customers; however, nothing in this paragraph shall require
 1254 disclosure of a discount or rebate that ~~which~~ may accrue to a
 1255 licensee subsequent to making a cash advance.

1256 (f) Making any false or misleading statement or claim that
 1257 natural decomposition or decay of human remains can be prevented
 1258 or substantially delayed by embalming, use of a gasketed or
 1259 ungasketed casket, or use of an adhesive or nonadhesive closure
 1260 on an outer burial container.

1261 (g) Making any false or misleading statement, oral or
 1262 written, directly or indirectly, regarding any law or rule
 1263 pertaining to the preparation for disposition, transportation
 1264 for disposition, or disposition of dead human bodies.

1265 (h) Making any false or misleading statements of the legal
 1266 requirement as to the conditions under which preservation of a
 1267 dead human body is required or as to the necessity of a casket
 1268 or outer burial container.

1269 (11) SPECIFIC SALES PRACTICES.--

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

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1277 the customer and the licensee or her or his representative; and
 1278 the date signed.

1279 (b) Filling in any contract form for use with a particular
 1280 customer using language that ~~Using any name or title in any~~
 1281 ~~contract regulated under this chapter which~~ misrepresents the
 1282 true nature of the contract.

1283 (c) Selling an irrevocable preneed contract to a person
 1284 who is not an applicant for or recipient of Supplemental
 1285 Security Income or Aid to Families with Dependent Children or
 1286 pursuant to s. 497.459(6)(a).

1287 (d) Except as authorized in part IV of this chapter,
 1288 guaranteeing the price of goods and services at a future date.

1289 (e) Requiring that a casket be purchased for cremation or
 1290 claiming directly or by implication that a casket is required
 1291 for cremation.

1292 (f) When displaying any caskets for sale, failing to
 1293 display the least expensive casket offered for sale or use in
 1294 adult funerals in the same general manner as the funeral service
 1295 industry member's other caskets are displayed.

1296 (g) Assessing fees and costs that have not been disclosed
 1297 to the customer in connection with any transaction regulated by
 1298 this chapter.

1299 (h) Failure by a cemetery licensed under this chapter to
 1300 provide to any person, upon request, a copy of the cemetery
 1301 bylaws.

1302 (i) Requirements by a cemetery licensee that lot owners or
 1303 current customers make unnecessary visits to the cemetery
 1304 company office for the purpose of solicitation.

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1305 (12) DISCLOSURE REQUIREMENTS.--

1306 (a) Failure to disclose, when such disclosure is desired,

1307 the components of the prices for alternatives offered by the

1308 licensee from whom disclosure is requested, such as graveside

1309 service, direct disposition, and body donation without any rites

1310 or ceremonies prior to the delivery of the body and prices of

1311 service if there are to be such after the residue has been

1312 removed following the use thereof.

1313 (b) Failing to furnish, for retention, to anyone who

1314 inquires in person about burial rights, burial or funeral

1315 merchandise, or burial or funeral services, before any

1316 discussion of selection, a printed or typewritten list

1317 specifying the range of retail prices for such rights,

1318 merchandise, or services. At a minimum, the list shall itemize

1319 the highest and lowest priced product and service regularly

1320 offered and shall include the name, address, and telephone

1321 number of the licensee and statements that the customer may

1322 choose only the items the customer desires, that the customer

1323 will be charged for only those items selected, and that there

1324 may be other charges for other items or other services.

1325 (c) Failing to reasonably provide by telephone, upon

1326 request, accurate information regarding the retail prices of

1327 funeral merchandise and services offered for sale by that

1328 licensee.

1329 (d) Failure by a funeral director to make full disclosure

1330 in the case of a funeral or direct disposition with regard to

1331 the use of funeral merchandise that ~~which~~ is not to be disposed

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1332 of with the body or failure to obtain written permission from
 1333 the purchaser regarding disposition of such merchandise.

1334 (e) Failure by any funeral director to fully disclose all
 1335 of her or his available services and merchandise prior to the
 1336 selection of a casket offered by a licensee. The full disclosure
 1337 required shall identify what is included in the funeral or
 1338 direct disposition and the prices of all services and
 1339 merchandise provided by the licensee or registrant.

1340 (f) Failing to have the price of any casket offered for
 1341 sale clearly marked on or in the casket, whether the casket is
 1342 displayed at a funeral establishment or at any other location,
 1343 regardless of whether the licensee is in control of such
 1344 location. If a licensee uses books, catalogs, brochures, or
 1345 other printed display aids, the price of each casket shall be
 1346 clearly marked.

1347 (g) Failing to disclose all fees and costs the customer
 1348 may incur to use the burial rights or merchandise purchased.

1349 (13) CONTRACT OBLIGATIONS.--

1350 (a) Failing without reasonable justification to timely
 1351 honor contracts entered into by the licensee or under the
 1352 licensee's license for funeral or burial merchandise or
 1353 services.

1354 (b) Failure to honor preneed contract cancellation
 1355 requests and make refunds as required by the chapter.

1356 (14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY
 1357 CUSTOMERS.--

1358 (a) Failing to adopt and implement standards for the
 1359 proper investigation and resolution of claims and complaints

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1360 received by a licensee relating to the licensee's activities
 1361 regulated by this chapter.

1362 (b) Committing or performing with such frequency as to
 1363 indicate a general business practice any of the following:

1364 1. Failing to acknowledge and act promptly upon
 1365 communications from a licensee's customers and their
 1366 representatives with respect to claims or complaints relating to
 1367 the licensee's activities regulated by this chapter.

1368 2. Denying claims or rejecting complaints received by a
 1369 licensee from a customer or customer's representative, relating
 1370 to the licensee's activities regulated by this chapter, without
 1371 first conducting reasonable investigation based upon available
 1372 information.

1373 3. Attempting to settle a claim or complaint on the basis
 1374 of a material document that ~~which~~ was altered without notice to,
 1375 or without the knowledge or consent of, the contract purchaser
 1376 or her or his representative or legal guardian.

1377 4. Failing within a reasonable time to affirm or deny
 1378 coverage of specified services or merchandise under a contract
 1379 entered into by a licensee upon written request of the contract
 1380 purchaser or her or his representative or legal guardian.

1381 5. Failing to promptly provide, in relation to a contract
 1382 for funeral or burial merchandise or services entered into by
 1383 the licensee or under the licensee's license, a reasonable
 1384 explanation to the contract purchaser or her or his
 1385 representative or legal guardian of the licensee's basis for
 1386 denying or rejecting all or any part of a claim or complaint
 1387 submitted.

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1388 (c) Making a material misrepresentation to a contract
 1389 purchaser or her or his representative or legal guardian for the
 1390 purpose and with the intent of effecting settlement of a claim
 1391 or complaint or loss under a prepaid contract on less favorable
 1392 terms than those provided in, and contemplated by, the prepaid
 1393 contract.

1394 (d) Failing to maintain a complete copy of every complaint
 1395 received by the licensee since the date of the last examination
 1396 of the licensee by the department. For purposes of this
 1397 subsection, the term "complaint" means any written communication
 1398 primarily expressing a grievance and which communication is
 1399 from:

1400 1. A representative or family member of a deceased person
 1401 interred at the licensee's facilities or using the licensee's
 1402 services, or which deceased's remains were the subject of any
 1403 service provided by the licensee or licensee's business; or

1404 2. A person, or such person's family member or
 1405 representative, who inquired of the licensee or licensee's
 1406 business concerning the purchase of, or who purchased or
 1407 contracted to purchase, any funeral or burial merchandise or
 1408 services from the licensee or licensee's business.

1409
 1410 For purposes of this subsection, the response of a customer
 1411 recorded by the customer on a customer satisfaction
 1412 questionnaire or survey form sent to the customer by the
 1413 licensee, and returned by the customer to the licensee, shall
 1414 not be deemed to be a complaint.

1415 (15) MISCELLANEOUS FINANCIAL MATTERS.--

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1416 (a) Failing to timely pay any fee required by this
1417 chapter.

1418 (b) Failing to timely remit as required by this chapter
1419 the required amounts to any trust fund required by this chapter.
1420 The board may by rule provide criteria for identifying minor,
1421 nonwillful trust remittance deficiencies; and remittance
1422 deficiencies falling within such criteria, if fully corrected
1423 within 30 days after notice to the licensee by the department,
1424 shall not constitute grounds for disciplinary action.

1425 (c) Paying to or receiving from any organization, agency,
1426 or person, either directly or indirectly, any commission, bonus,
1427 kickback, or rebate in any form whatsoever for any business
1428 regulated under this chapter, whether such payments are made or
1429 received by the licensee, or her or his agent, assistant, or
1430 employee; however, this provision shall not prohibit the payment
1431 of commissions by a funeral director, funeral establishment,
1432 cemetery, or monument establishment to its preneed agents
1433 licensed pursuant to this chapter or to licensees under this
1434 chapter.

1435 Section 14. Subsection (1), paragraph (b) of subsection
1436 (2), and paragraph (c) of subsection (4) of section 497.153,
1437 Florida Statutes, as created by chapter 2004-301, Laws of
1438 Florida, are amended to read:

1439 497.153 Disciplinary procedures and penalties.--

1440 (1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE AND
1441 PROSECUTE.--The expiration, nonrenewal, or surrender of
1442 licensure under this chapter shall not eliminate jurisdiction in
1443 the licensing authority to investigate and prosecute for

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1444 | violations committed by a licensee while licensed under this
 1445 | chapter. The prosecution of any matter may be initiated or
 1446 | continued notwithstanding the withdrawal of any complaint.

1447 | (2) DETERMINATION OF PROBABLE CAUSE.--

1448 | (b) Prior to submitting a matter to the probable cause
 1449 | panel, the licensee who is the subject of the matter shall be
 1450 | provided by the department with a copy of any written complaint
 1451 | received by the department in the matter and shall be advised
 1452 | that the licensee ~~she or he~~ may, within 20 days after receipt of
 1453 | a copy of such complaint from the department, submit to the
 1454 | department a written response. Any response timely received by
 1455 | the department shall be provided by the department to the
 1456 | probable cause panel. Licensees may not appear in person or
 1457 | through a representative at any probable cause panel proceeding.
 1458 | This paragraph shall not apply to emergency action.

1459 | (4) ACTION AFTER PROBABLE CAUSE FOUND.--

1460 | (c) The department may at any time present to the board a
 1461 | proposed settlement by consent order or otherwise of any matter
 1462 | as to which probable cause has been found. If the board accepts
 1463 | the proposed settlement, it may execute and file the consent
 1464 | order as its final order in the matter or may otherwise issue
 1465 | its final order in the matter ~~shall issue its final order~~
 1466 | ~~adopting the settlement~~. If the board does not accept such
 1467 | settlement, the prosecution of the matter shall be resumed. No
 1468 | settlement of any disciplinary matter as to which probable cause
 1469 | has been found may be entered into by the board prior to receipt
 1470 | of a recommended order of an administrative law judge without
 1471 | the department's concurrence.

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1472 Section 15. Subsection (1) of section 497.158, Florida
 1473 Statutes, as renumbered and amended by section 28 of chapter
 1474 2004-301, Laws of Florida, is amended to read:

1475 497.158 Court enforcement actions; powers; abatement of
 1476 nuisances.--

1477 (1) In addition to or in lieu of other actions authorized
 1478 by this chapter, the department may petition the courts of this
 1479 state for injunctive or other relief against any licensed or
 1480 unlicensed person for the enforcement of this chapter and orders
 1481 issued under this chapter. The court shall be authorized to
 1482 impose a fine of up to \$5,000 per violation on any licensee
 1483 under this chapter and up to \$10,000 on any person not licensed
 1484 under this chapter, payable to the department, upon any person
 1485 determined by the court to have violated this chapter, and may
 1486 order payment to the department of the department's attorney's
 1487 fees and litigation costs, by any person found to have violated
 1488 this chapter.

1489 Section 16. Subsections (1), (3), and (4) and paragraph
 1490 (a) of subsection (5) of section 497.159, Florida Statutes, as
 1491 created by chapter 2004-301, Laws of Florida, are amended to
 1492 read:

1493 497.159 Crimes.--

1494 (1) The theft ~~of an examination~~ in whole or in part or the
 1495 act of unauthorized reproducing, circulating, or copying of any
 1496 questions or answers on, from, or for any prelicensure
 1497 examination administered by the department or the board, whether
 1498 such examination is reproduced or copied in part or in whole and

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1499 by any means, constitutes a felony of the third degree,
 1500 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1501 (3) Any person ~~individual~~ who willfully obstructs the
 1502 department or its examiner in any examination or investigation
 1503 authorized by this chapter commits ~~is guilty of~~ a misdemeanor of
 1504 the second degree and is, in addition to any disciplinary action
 1505 under this chapter, punishable as provided in s. 775.082 or s.
 1506 775.083. The initiation of action in any court by or on behalf
 1507 of any licensee to terminate or limit any examination or
 1508 investigation under this chapter shall not constitute a
 1509 violation under this subsection.

1510 (4) Any officer or director, or person occupying similar
 1511 status or performing similar functions, of a preneed licensee
 1512 who fails ~~under this chapter who knowingly directs or causes the~~
 1513 ~~failure~~ to make required deposits to any trust fund required by
 1514 this chapter; any director, officer, agent, or employee of a
 1515 preneed licensee who makes any unlawful withdrawal of funds from
 1516 any such account or who knowingly discloses to the department or
 1517 an employee thereof any false report made pursuant to this
 1518 chapter; or any person who willfully violates any of the
 1519 provisions of part II, part IV or part V, ~~or with knowledge that~~
 1520 ~~such required deposits are not being made as required by law~~
 1521 ~~fails to report such failure to the department, or who knowingly~~
 1522 ~~directs or causes the unlawful withdrawal of funds from any~~
 1523 ~~trust fund required by this chapter,~~ commits a felony of the
 1524 third degree, punishable as provided in s. 775.082, s. 775.083,
 1525 or s. 775.084.

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1526 (5) (a) No cemetery company or other legal entity
 1527 conducting or maintaining any public or private cemetery may
 1528 deny burial space to any person because of race, creed, marital
 1529 status, sex, national origin, or color. A cemetery company or
 1530 other entity operating any cemetery may designate parts of
 1531 cemeteries or burial grounds for the specific use of persons
 1532 whose religious code requires isolation. Religious institution
 1533 cemeteries may limit burials to members of the religious
 1534 institution and their families.

1535 Section 17. Paragraphs (g) and (h) of subsection (1) and
 1536 subsection (3) of section 497.161, Florida Statutes, as created
 1537 by chapter 2004-301, Laws of Florida, are amended to read:

1538 497.161 Other rulemaking provisions.--

1539 (1) In addition to such other rules as are authorized or
 1540 required under this chapter, the following additional rules, not
 1541 inconsistent with this chapter, shall be authorized by the
 1542 licensing authority.

1543 ~~(g) Rules establishing procedures by which the department~~
 1544 ~~may use the expert or technical advice of the board or members~~
 1545 ~~of the board for the purposes of any investigation, inspection,~~
 1546 ~~or financial examination, without thereby disqualifying the~~
 1547 ~~board member from voting on final action in the matter.~~

1548 (g) ~~(h)~~ In connection with the statutory revisions by the
 1549 2004 ~~2005~~ Regular Session of the Legislature merging chapters
 1550 470 and 497 as those chapters appeared in the 2003 ~~2004~~ edition
 1551 of the Florida Statutes and the elimination of the former boards
 1552 under those chapters and the movement of regulation out of the
 1553 Department of Business and Professional Regulation, the

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1554 | licensing authority shall through July 1, 2006, be deemed to
 1555 | have extraordinary rulemaking authority to adopt any and all
 1556 | rules jointly agreed by the board and the department to be
 1557 | necessary for the protection of the public concerning the
 1558 | regulation of the professions and occupations regulated under
 1559 | this chapter, or for the relief of licensees regulated under
 1560 | this chapter concerning any impacts that ~~which~~ the department
 1561 | and the board jointly agree were unintended or not contemplated
 1562 | in the enactment of the 2004 ~~2005~~ legislative changes. The
 1563 | authority under this paragraph and any rules adopted under
 1564 | authority of this paragraph shall expire July 1, 2006.

1565 | (3) The department and the board shall each have standing
 1566 | under chapter 120 for the purposes of challenging rules or
 1567 | proposed rules under this chapter. This subsection shall not be
 1568 | interpreted to deny standing to a licensee to challenge any rule
 1569 | under this chapter if the licensee would otherwise have
 1570 | standing.

1571 | Section 18. Section 497.165, Florida Statutes, as
 1572 | renumbered and amended by section 35 of chapter 2004-301, Laws
 1573 | of Florida, is amended to read:

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

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1582 deficiency or substantially contributed to conditions that
 1583 allowed the deficiency to arise or increase.

1584 Section 19. Subsections (1) and (3) of section 497.166,
 1585 Florida Statutes, as created by chapter 2004-301, Laws of
 1586 Florida, are amended to read:

1587 497.166 Preneed sales.--

1588 (1) Regulation of preneed sales shall be as set forth in
 1589 part IV of this chapter. No person may act as an agent for a
 1590 preneed licensee ~~funeral establishment or direct disposal~~
 1591 ~~establishment~~ with respect to preneed contracts unless such
 1592 person is licensed as a preneed sales agent pursuant to part IV
 1593 of this chapter or is a licensed funeral director acting as a
 1594 preneed sales agent.

1595 (3)(a) The funeral director in charge of a funeral
 1596 establishment shall be responsible for the control and
 1597 activities of the establishment's preneed sales agents.

1598 (b) The direct disposer in charge or a funeral director
 1599 acting as a direct disposer in charge of a direct disposal
 1600 establishment shall be responsible for the control and
 1601 activities of the establishment's preneed sales agents.

1602 (c) The responsibility imposed by this subsection on the
 1603 funeral director and direct disposer in charge is a duty of
 1604 reasonable supervision and not absolute liability. The
 1605 responsibility of the funeral director or direct disposer in
 1606 charge shall be in addition to the responsibility of the preneed
 1607 licensee for the conduct of the preneed sales agents it employs.

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1608 Section 20. Subsection (2) of section 497.169, Florida
 1609 Statutes, as renumbered and amended by section 39 of chapter
 1610 2004-301, Laws of Florida, is amended to read:

1611 497.169 Private actions; actions on behalf of consumers;
 1612 attorney's fee.--

1613 (2) In any civil litigation resulting from a transaction
 1614 involving a violation of this chapter by a cemetery company or
 1615 burial rights broker licensed under part II, a monument
 1616 establishment licensed under part V, or a preneed entity or
 1617 preneed sales agent licensed under part IV, the court may award
 1618 to the prevailing party and against such cemetery company,
 1619 burial rights broker, monument establishment, or preneed entity
 1620 or sales agent, after judgment in the trial court and exhaustion
 1621 of any appeal, reasonable attorney's fees and costs from the
 1622 nonprevailing party in an amount to be determined by the trial
 1623 court. Any award of attorney's fees or costs shall become a part
 1624 of the judgment and shall be subject to execution as the law
 1625 allows. This subsection does not apply to licensees licensed
 1626 under part III or part VI.

1627 Section 21. Section 497.171, Florida Statutes, is created
 1628 to read:

1629 497.171 Identification of human remains.--

1630 (1) PRIOR TO FINAL DISPOSITION.--

1631 (a) This subsection shall apply to licensees under parts
 1632 III and VI.

1633 (b) The licensee in charge of the final disposition of
 1634 dead human remains shall, prior to final disposition of such
 1635 dead human remains, affix to the ankle or wrist of the deceased,

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1636 and on the casket, alternative container, or cremation
 1637 container, a tag providing proper identification of the dead
 1638 human remains. The identification tag shall be encased in or
 1639 consist of durable and long-lasting material and shall list the
 1640 name, date of birth, and date of death of the deceased, if
 1641 available. The board may adopt rules specifying acceptable
 1642 materials for such identification tag, acceptable locations for
 1643 the tag on the casket, alternative container, or cremation
 1644 container, and acceptable methods of affixing the tag.

1645 (c) If the dead human remains are cremated, proper
 1646 identification shall be placed in the container or urn
 1647 containing the cremated remains.

1648 (d) Any licensee responsible for removal of dead human
 1649 remains to any establishment, facility, or location shall ensure
 1650 that the remains are identified by a tag or other means of
 1651 identification that is affixed to the ankle or wrist of the
 1652 deceased at the time the remains are removed from the place of
 1653 death or other location.

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

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1664 available. The materials and locations of the tag or mark shall
 1665 be more specifically described by rule of the licensing
 1666 authority.

1667 (3) INTERMENT IN LICENSED CEMETERIES.--

1668 (a) This subsection shall apply to cemetery licensees
 1669 under part II.

1670 (b) As to interments in a licensed cemetery, each licensed
 1671 cemetery shall place on the outer burial container, cremation
 1672 interment container, or other container or on the inside of a
 1673 crypt or niche a tag or permanent identifying marker listing the
 1674 name of the decedent and the date of death, if available. The
 1675 materials and the location of the tag or marker shall be more
 1676 specifically described by rule of the licensing authority.

1677 (c) Each licensed cemetery may rely entirely on the
 1678 identity stated on the burial transit permit or on the
 1679 identification supplied by a person licensed under this chapter
 1680 to establish the identity of the dead human remains delivered by
 1681 such person for burial and shall not be liable for any
 1682 differences between the identity shown on the burial transit
 1683 permit or identification and the actual identity of the dead
 1684 human remains delivered by such person and buried in the
 1685 cemetery.

1686 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
 1687 establishments shall establish a system of identification of
 1688 human remains received that shall be designed to track the
 1689 identity of the remains from the time of receipt until delivery
 1690 of the remains to the authorized persons. This is in addition to
 1691 the requirements for identification of human remains set forth

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1692 | in subsection (1). A copy of the identification procedures shall
 1693 | be available, upon request, to the department and legally
 1694 | authorized persons.

1695 | (5) RELIANCE ON LEGALLY AUTHORIZED PERSON.--Any licensee
 1696 | charged with responsibility under this section may rely on the
 1697 | representation of a legally authorized person to establish the
 1698 | identity of dead human remains.

1699 | Section 22. Paragraph (b) of subsection (6) of section
 1700 | 497.260, Florida Statutes, as renumbered and amended by section
 1701 | 42 of chapter 2004-301, Laws of Florida, is amended to read:

1702 | 497.260 Cemeteries; exemption; investigation and
 1703 | mediation.--

1704 | (6)

1705 | (b) No cemetery company or other legal entity conducting
 1706 | or maintaining any public or private cemetery may deny burial
 1707 | space to any person because of race, creed, marital status, sex,
 1708 | national origin, or color. A cemetery company or other entity
 1709 | operating any cemetery may designate parts of cemeteries or
 1710 | burial grounds for the specific use of persons whose religious
 1711 | code requires isolation. Religious institution cemeteries may
 1712 | limit burials to members of the religious institution and their
 1713 | families.

1714 | Section 23. Paragraphs (b), (m), (o), and (q) of
 1715 | subsection (2) of section 497.263, Florida Statutes, as
 1716 | renumbered and amended by section 45 of chapter 2004-301, Laws
 1717 | of Florida, are amended to read:

1718 | 497.263 Cemetery companies; license required; licensure
 1719 | requirements and procedures.--

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1720 (2) APPLICATION PROCEDURES.--
 1721 (b) The applicant shall be a corporation, ~~or~~ a
 1722 partnership, or a limited liability company ~~formed prior to~~
 1723 ~~January 1, 2005, which limited liability company already holds a~~
 1724 ~~license under this chapter.~~

1725 (m) The applicant shall be required to make disclosure of
 1726 the applicant's criminal records, if any, as required by s.
 1727 497.142. ~~The application shall require the applicant to disclose~~
 1728 ~~whether the applicant or any principal of the applicant has ever~~
 1729 ~~been convicted or found guilty of, or entered a plea of no~~
 1730 ~~contest to, regardless of adjudication, any crime in any~~
 1731 ~~jurisdiction. The licensing authority may require by rule~~
 1732 ~~additional information to be provided concerning any affirmative~~
 1733 ~~answers.~~

1734 (o) The applicant shall submit fingerprints in accordance
 1735 with s. 497.142. ~~The application shall require the applicant and~~
 1736 ~~applicant's principals to provide fingerprints in accordance~~
 1737 ~~with part I of this chapter.~~

1738 (q) The application shall be signed in accordance with s.
 1739 497.141(12) ~~by the president of the applicant.~~

1740 Section 24. Paragraphs (h), (j), and (l) of subsection (2)
 1741 of section 497.264, Florida Statutes, as renumbered and amended
 1742 by section 46 of chapter 2004-301, Laws of Florida, are amended
 1743 to read:

1744 497.264 License not assignable or transferable.--

1745 (2) Any person or entity that seeks to purchase or
 1746 otherwise acquire control of any cemetery licensed under this

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1747 chapter shall first apply to the licensing authority and obtain
 1748 approval of such purchase or change in control.

1749 (h) The applicant shall be required to make disclosure of
 1750 the applicant's criminal records, if any, as required by s.
 1751 497.142. ~~The application shall require the applicant to disclose~~
 1752 ~~whether the applicant or any principal of the applicant has ever~~
 1753 ~~been convicted or found guilty of, or entered a plea of no~~
 1754 ~~contest to, regardless of adjudication, any crime in any~~
 1755 ~~jurisdiction. The licensing authority may require by rule~~
 1756 ~~additional information to be provided concerning any affirmative~~
 1757 ~~answers.~~

1758 (j) The applicant shall submit fingerprints in accordance
 1759 with s. 497.142. ~~The application shall require the applicant and~~
 1760 ~~the applicant's principals to provide fingerprints in accordance~~
 1761 ~~with part I of this chapter.~~

1762 (l) The application shall be signed in accordance with s.
 1763 497.141(12) ~~by the applicant if a natural person, otherwise by~~
 1764 ~~the president of the applicant.~~

1765 Section 25. Section 497.281, Florida Statutes, as
 1766 renumbered and amended by section 62 of chapter 2004-301, Laws
 1767 of Florida, is amended to read:

1768 497.281 Licensure of brokers of burial rights.--

1769 (1) No person shall receive compensation to act as a third
 1770 party to the sale or transfer of three or more burial rights in
 1771 a 12-month period unless the person pays a license fee as
 1772 determined by licensing authority rule but not to exceed \$250
 1773 and is licensed with the department as a burial rights broker in
 1774 accordance with this section.

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1775 (2) (a) The applicant shall be required to make disclosure
 1776 of the applicant's criminal records, if any, as required by s.
 1777 497.142.

1778 (b) The application shall require the applicant to
 1779 disclose whether the applicant or any principal of the applicant
 1780 has ever had a license or the authority to practice a profession
 1781 or occupation refused, suspended, fined, denied, or otherwise
 1782 acted against or disciplined by the licensing authority of any
 1783 jurisdiction. The licensing authority may require by rule
 1784 additional information to be provided concerning any affirmative
 1785 answers. A licensing authority's acceptance of a relinquishment
 1786 of licensure, stipulation, consent order, or other settlement,
 1787 offered in response to or in anticipation of the filing of
 1788 charges against the license, shall be construed as action
 1789 against the license. The licensing authority may require by rule
 1790 additional information to be provided concerning any affirmative
 1791 answers.

1792 (c) The applicant shall submit fingerprints in accordance
 1793 with s. 497.142. The application shall be signed in accordance
 1794 with s. 497.141(12).

1795 (d) The applicant shall demonstrate by clear and
 1796 convincing evidence that the applicant has the ability,
 1797 experience, and integrity to act as a burial broker and, if the
 1798 applicant is an entity, that the applicant's principals are of
 1799 good character.

1800 (3) For the purpose of preventing confusion and error by
 1801 the licensee or by the cemeteries in which the burial rights are
 1802 located as to the status as sold or unsold, and as to the

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1803 identity of the owner, of the burial rights and related
 1804 interment spaces in the cemetery, the licensing authority shall
 1805 by rule establish requirements for minimum records to be
 1806 maintained by licensees under this section.

1807 (4) The licensing authority may by rule require
 1808 inspections of the records of licensees under this section.

1809 (5)-(2) The department, by rule, shall provide for the
 1810 biennial renewal of licenses under this section and a renewal
 1811 fee as determined by licensing authority rule but not to exceed
 1812 \$250.

1813 (6)-(3) The licensure requirements of this section shall
 1814 not apply to persons otherwise licensed pursuant to this
 1815 chapter, but such persons, if they engage in activity as burial
 1816 rights brokers, shall be subject to rules relating to required
 1817 records and inspections.

1818 ~~(4) The licensing authority may by rule specify records of~~
 1819 ~~brokerage transactions which shall be required to be maintained~~
 1820 ~~by burial rights brokers licensed under this subsection, and~~
 1821 ~~which shall be subject to inspection by the department.~~

1822 Section 26. Subsection (12) is added to section 497.365,
 1823 Florida Statutes, as created by chapter 2004-301, Laws of
 1824 Florida, to read:

1825 497.365 Licensure; inactive and delinquent status.--

1826 (12) The board shall prescribe by rule an application fee
 1827 for inactive status, a renewal fee for inactive status, a
 1828 delinquency fee, and a fee for reactivation of a license. None
 1829 of these fees may exceed the biennial renewal fee established by
 1830 the board for an active license. The department may not

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1831 reactivate a license unless the inactive or delinquent licensee
 1832 has paid any applicable biennial renewal or delinquency fee, or
 1833 both, and a reactivation fee.

1834 Section 27. Paragraph (c) of subsection (1) of section
 1835 497.368, Florida Statutes, as renumbered and amended by section
 1836 73 of chapter 2004-301, Laws of Florida, is amended to read:

1837 497.368 Embalmers; licensure as an embalmer by
 1838 examination; provisional license.--

1839 (1) Any person desiring to be licensed as an embalmer
 1840 shall apply to the licensing authority to take the licensure
 1841 examination. The licensing authority shall examine each
 1842 applicant who has remitted an examination fee set by rule of the
 1843 licensing authority not to exceed \$200 plus the actual per
 1844 applicant cost to the licensing authority for portions of the
 1845 examination and who has:

1846 (c) Made disclosure of the applicant's criminal records,
 1847 if any, as required by s. 497.142. The applicant shall submit
 1848 fingerprints in accordance with s. 497.142. The applicant may
 1849 not be licensed under this section unless the licensing
 1850 authority determines the applicant is of good character and has
 1851 no demonstrated history of lack of trustworthiness or integrity
 1852 in business or professional matters. ~~Had no conviction or~~
 1853 ~~finding of guilt, regardless of adjudication, for a crime which~~
 1854 ~~directly relates to the ability to practice embalming or the~~
 1855 ~~practice of embalming.~~

1856 Section 28. Paragraph (d) is added to subsection (1) of
 1857 section 497.369, Florida Statutes, as renumbered and amended by
 1858 section 74 of chapter 2004-301, Laws of Florida, to read:

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1859 | 497.369 Embalmers; licensure as an embalmer by
 1860 | endorsement; licensure of a temporary embalmer.--

1861 | (1) The licensing authority shall issue a license by
 1862 | endorsement to practice embalming to an applicant who has
 1863 | remitted an examination fee set by rule of the licensing
 1864 | authority not to exceed \$200 and who the licensing authority
 1865 | certifies:

1866 | (d) Has made disclosure of the applicant's criminal
 1867 | records, if any, as required by s. 497.142. The applicant shall
 1868 | submit fingerprints in accordance with s. 497.142. The applicant
 1869 | may not be licensed under this section unless the licensing
 1870 | authority determines the applicant is of good character and has
 1871 | no demonstrated history of lack of trustworthiness or integrity
 1872 | in business or professional matters.

1873 | Section 29. Paragraph (c) of subsection (1) of section
 1874 | 497.373, Florida Statutes, as renumbered and amended by section
 1875 | 78 of chapter 2004-301, Laws of Florida, is amended to read:

1876 | 497.373 Funeral directing; licensure as a funeral director
 1877 | by examination; provisional license.--

1878 | (1) Any person desiring to be licensed as a funeral
 1879 | director shall apply to the licensing authority to take the
 1880 | licensure examination. The licensing authority shall examine
 1881 | each applicant who has remitted an examination fee set by rule
 1882 | of the licensing authority not to exceed \$200 plus the actual
 1883 | per applicant cost to the licensing authority for portions of
 1884 | the examination and who the licensing authority certifies has:

1885 | (c) Made disclosure of the applicant's criminal records,
 1886 | if any, as required by s. 497.142. The applicant shall submit

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1887 fingerprints in accordance with s. 497.142. The applicant may
 1888 not be licensed under this section unless the licensing
 1889 authority determines the applicant is of good character and has
 1890 no demonstrated history of lack of trustworthiness or integrity
 1891 in business or professional matters. ~~Had no conviction or~~
 1892 ~~finding of guilt, regardless of adjudication, for a crime which~~
 1893 ~~directly relates to the ability to practice funeral directing or~~
 1894 ~~the practice of funeral directing.~~

1895 Section 30. Paragraph (d) is added to subsection (1) of
 1896 section 497.374, Florida Statutes, as renumbered and amended by
 1897 section 79 of chapter 2004-301, Laws of Florida, to read:

1898 497.374 Funeral directing; licensure as a funeral director
 1899 by endorsement; licensure of a temporary funeral director.--

1900 (1) The licensing authority shall issue a license by
 1901 endorsement to practice funeral directing to an applicant who
 1902 has remitted a fee set by rule of the licensing authority not to
 1903 exceed \$200 and who:

1904 (d) Has made disclosure of the applicant's criminal
 1905 records, if any, as required by s. 497.142. The applicant shall
 1906 submit fingerprints in accordance with s. 497.142. The applicant
 1907 may not be licensed under this section unless the licensing
 1908 authority determines the applicant is of good character and has
 1909 no demonstrated history of lack of trustworthiness or integrity
 1910 in business or professional matters.

1911 Section 31. Subsection (1) of section 497.376, Florida
 1912 Statutes, as renumbered and amended by section 81 of chapter
 1913 2004-301, Laws of Florida, is amended to read:

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1914 497.376 License as funeral director and embalmer
 1915 permitted; display of license.--

1916 (1) Nothing in this chapter may be construed to prohibit a
 1917 person from holding a license as an embalmer and a license as a
 1918 funeral director at the same time. There may be issued and
 1919 renewed by the licensing authority a combination license as both
 1920 funeral director and embalmer to persons meeting the separate
 1921 requirements for both licenses as set forth in this chapter. The
 1922 licensing authority may adopt rules providing procedures for
 1923 applying for and renewing such combination license. The
 1924 licensing authority may by rule establish application, renewal,
 1925 and other fees for such combination license, which fees shall
 1926 not exceed the sum of the maximum fees for the separate funeral
 1927 director and embalmer license categories as provided in this
 1928 chapter. Persons holding a combination license as a funeral
 1929 director and an embalmer shall be subject to regulation under
 1930 this chapter both as a funeral director and an embalmer.

1931 Section 32. Subsection (1) of section 497.378, Florida
 1932 Statutes, as amended and renumbered by section 83 of chapter
 1933 2004-301, Laws of Florida, is amended to read:

1934 497.378 Renewal of funeral director and embalmer
 1935 licenses.--

1936 (1) There shall be renewed a funeral director or embalmer
 1937 license upon receipt of the renewal application and fee set by
 1938 the licensing authority not to exceed \$500 ~~\$250~~. The licensing
 1939 authority may prescribe by rule continuing education
 1940 requirements of up to 12 classroom hours and may by rule
 1941 establish criteria for accepting alternative nonclassroom

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1942 continuing education on an hour-for-hour basis, in addition to a
 1943 licensing authority-approved course on communicable diseases
 1944 that includes the course on human immunodeficiency virus and
 1945 acquired immune deficiency syndrome required by s. 497.367, for
 1946 the renewal of a funeral director or embalmer license. The rule
 1947 may provide for the waiver of continuing education requirements
 1948 in circumstances that would justify the waiver, such as
 1949 hardship, disability, or illness. The continuing education
 1950 requirement is not required ~~after July 1, 1996,~~ for a licensee
 1951 who is over the age of 75 years if the licensee does not qualify
 1952 as the sole person in charge of an establishment or facility.

1953 Section 33. Subsections (1), (4), (5), and (12) of section
 1954 497.380, Florida Statutes, as renumbered and amended by section
 1955 85 of chapter 2004-301, Laws of Florida, are amended to read:

1956 497.380 Funeral establishment; licensure.--

1957 (1) A funeral establishment shall be a place at a specific
 1958 street address or location consisting of at least 1,250
 1959 contiguous interior square feet and shall ~~must~~ maintain or make
 1960 arrangements for ~~either~~ capacity for the refrigeration and
 1961 storage of dead human bodies handled and stored by the
 1962 establishment and a preparation room equipped with necessary
 1963 ventilation and drainage and containing necessary instruments
 1964 for embalming dead human bodies or shall ~~must~~ make arrangements
 1965 for a preparation room as established by rule.

1966 (4) Application for a funeral establishment license shall
 1967 be made on forms and pursuant to procedures specified by rule,
 1968 shall be accompanied by a nonrefundable fee not to exceed \$300
 1969 as set by licensing authority rule, and shall include the name

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1970 of the licensed funeral director who is in charge of that
 1971 establishment. The applicant shall be required to make
 1972 disclosure of the applicant's criminal records, if any, as
 1973 required by s. 497.142. The applicant shall submit fingerprints
 1974 in accordance with s. 497.142. A duly completed application
 1975 accompanied by the required fees shall be approved and the
 1976 license issued if the proposed funeral establishment has passed
 1977 an inspection pursuant to rule of the licensing authority, the
 1978 licensing authority determines the applicant is of good
 1979 character and has no demonstrated history of lack of
 1980 trustworthiness or integrity in business or professional
 1981 matters, and the applicant otherwise is in compliance with all
 1982 applicable requirements of this chapter.

1983 (5) A funeral establishment license shall be renewable
 1984 biennially pursuant to procedures, and upon payment of a
 1985 nonrefundable fee not to exceed \$500 ~~\$300~~, as set by licensing
 1986 authority rule. The licensing authority may also establish by
 1987 rule a delinquency fee not to exceed \$50 per day.

1988 (12) (a) A change in ownership of a funeral establishment
 1989 shall be promptly reported pursuant to procedures established by
 1990 rule and shall require the relicensure of the funeral
 1991 establishment, including reinspection and payment of applicable
 1992 fees.

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

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1998 | licensing authority, has been conducted and passed at the new
 1999 | location.

2000 | Section 34. Paragraphs (a) and (g) of subsection (1) and
 2001 | paragraphs (a), (f), and (g) of subsection (2) of section
 2002 | 497.385, Florida Statutes, as renumbered and amended by section
 2003 | 90 of chapter 2004-301, Laws of Florida, are amended, and
 2004 | paragraph (i) is added to subsection (2) of said section, to
 2005 | read:

2006 | 497.385 Removal services; refrigeration facilities;
 2007 | centralized embalming facilities.--In order to ensure that the
 2008 | removal, refrigeration, and embalming of all dead human bodies
 2009 | is conducted in a manner that properly protects the public's
 2010 | health and safety, the licensing authority shall adopt rules to
 2011 | provide for the licensure of removal services, refrigeration
 2012 | facilities, and centralized embalming facilities operated
 2013 | independently of funeral establishments, direct disposal
 2014 | establishments, and cinerator facilities.

2015 | (1) REMOVAL SERVICES AND REFRIGERATION SERVICES.--

2016 | (a) Application for licensure of a removal service or a
 2017 | refrigeration service shall be made using forms and procedures
 2018 | as specified by rule, shall be accompanied by a nonrefundable
 2019 | fee not to exceed \$300 as set by licensing authority rule, and
 2020 | shall include the name of the business owner, manager in charge,
 2021 | business address, and copies of occupational and other local
 2022 | permits. The applicant shall be required to make disclosure of
 2023 | the applicant's criminal records, if any, as required by s.
 2024 | 497.142. The applicant shall submit fingerprints in accordance
 2025 | with s. 497.142. A duly completed application accompanied by the

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2026 required fees shall be approved and the license issued if the
 2027 applicant has passed an inspection pursuant to rule of the
 2028 licensing authority, the licensing authority determines the
 2029 applicant is of good character and has no demonstrated history
 2030 of lack of trustworthiness or integrity in business or
 2031 professional matters, and the applicant otherwise is in
 2032 compliance with all applicable requirements of this chapter.

2033 (g) 1. A change in ownership shall be promptly reported
 2034 using forms and procedures specified by rule and may require the
 2035 relicensure of the licensee, including reinspection and payment
 2036 of applicable fees, as required by rule.

2037 2. A change in location shall be promptly reported to the
 2038 licensing authority pursuant to procedures established by rule.
 2039 Operations by the licensee at a new location may not commence
 2040 until an inspection by the licensing authority of the
 2041 facilities, pursuant to rules of the licensing authority, has
 2042 been conducted and passed at the new location.

2043 (2) CENTRALIZED EMBALMING FACILITIES.--In order to ensure
 2044 that all funeral establishments have access to embalming
 2045 facilities that comply with all applicable health and safety
 2046 requirements, the licensing authority shall adopt rules to
 2047 provide for the licensure and operation of centralized embalming
 2048 facilities and shall require, at a minimum, the following:

2049 (a) All centralized embalming facilities shall contain all
 2050 of the equipment and meet all of the requirements that a
 2051 preparation room located in a funeral establishment is required
 2052 to meet, ~~but such facilities shall not be required to comply~~
 2053 ~~with any of the other requirements for funeral establishments,~~

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2054 ~~as set forth in s. 497.380.~~ The licensing authority may adopt
 2055 rules establishing the equipment and other requirements for
 2056 operation of a centralized embalming facility consistent with
 2057 this paragraph.

2058 (f) Application for licensure of a centralized embalming
 2059 facility shall be made utilizing forms and procedures prescribed
 2060 by rule and shall be accompanied by a nonrefundable fee not to
 2061 exceed \$300 as set by licensing authority rule, and licensure
 2062 shall be renewed biennially pursuant to procedures and upon
 2063 payment of a nonrefundable fee not to exceed \$300 as set by
 2064 licensing authority rule. The licensing authority may also
 2065 establish by rule a late fee not to exceed \$50 per day. Any
 2066 licensure not renewed within 30 days after the renewal date
 2067 shall expire without further action by the department. The
 2068 applicant shall be required to make disclosure of the
 2069 applicant's criminal records, if any, as required by s. 497.142.
 2070 The applicant shall submit fingerprints in accordance with s.
 2071 497.142. A duly completed application accompanied by the
 2072 required fees shall be approved and the license issued if the
 2073 applicant has passed an inspection pursuant to rule of the
 2074 licensing authority, the licensing authority determines the
 2075 applicant is of good character and has no demonstrated history
 2076 of lack of trustworthiness or integrity in business or
 2077 professional matters, and the applicant otherwise is in
 2078 compliance with all applicable requirements of this chapter.

2079 (g) The licensing authority shall set by rule an annual
 2080 inspection fee not to exceed \$300, payable upon application for
 2081 licensure and upon renewal of such licensure. Centralized

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2082 embalming facilities shall be subject to inspection before
 2083 issuance of license and annually thereafter and also upon change
 2084 of location and during investigation of any complaint. A
 2085 centralized embalming facility shall notify the licensing
 2086 authority of any change in location. A change in ownership shall
 2087 be promptly reported to the licensing authority using forms and
 2088 procedures specified by rule and may require the relicensure of
 2089 the licensee, including reinspection and payment of applicable
 2090 fees, as required by rule. The licensing authority shall adopt
 2091 rules establishing inspection criteria and otherwise
 2092 establishing forms and procedures for the implementation of this
 2093 paragraph.

2094 (i) A change in location shall be promptly reported to the
 2095 licensing authority pursuant to procedures established by rule.
 2096 Operations by the licensee at a new location may not commence
 2097 until an inspection by the licensing authority of the
 2098 facilities, pursuant to rules of the licensing authority, has
 2099 been conducted and passed at the new location.

2100 Section 35. Section 497.453, Florida Statutes, as
 2101 renumbered and amended by section 102 of chapter 2004-301, Laws
 2102 of Florida, is amended to read:

2103 497.453 Application for preneed license, procedures and
 2104 criteria; renewal; reports.--

2105 (1) PRENEED LICENSE APPLICATION PROCEDURES.--

2106 (a) A person seeking a license to enter into preneed
 2107 contracts shall apply for such licensure using forms prescribed
 2108 by rule.

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2109 (b) The application shall require the name, business
 2110 address, residence address, date and place of birth or
 2111 incorporation, and business phone number of the applicant and
 2112 all principals of the applicant. The application shall require
 2113 the applicant's social security number, or, if the applicant is
 2114 an entity, its federal tax identification number.

2115 (c) The application may require information as to the
 2116 applicant's financial resources.

2117 (d) The application may require information as to the
 2118 educational and employment history of an individual applicant;
 2119 and as to applicants that are not natural persons, the business
 2120 and employment history of the applicant and principals of the
 2121 applicant.

2122 (e) The applicant shall be required to make disclosure of
 2123 the applicant's criminal records, if any, as required by s.
 2124 497.142. ~~The application shall require the applicant to disclose~~
 2125 ~~whether the applicant or any of the applicant's principals have~~
 2126 ~~ever been convicted or found guilty of, or entered a plea of no~~
 2127 ~~contest to, regardless of adjudication, any crime in any~~
 2128 ~~jurisdiction.~~

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

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2137 anticipation of the filing of charges against the license, shall
 2138 be construed as action against the license.

2139 (g) The applicant shall submit fingerprints in accordance
 2140 with s. 497.142. ~~The application shall require the applicant and~~
 2141 ~~its principals to provide fingerprints in accordance with part I~~
 2142 ~~of this chapter.~~

2143 (h) The application shall state the name and license
 2144 number of the funeral establishment, cemetery company, direct
 2145 disposal establishment, or monument establishment, under whose
 2146 license the preneed application is made.

2147 (i) The application shall state the types of preneed
 2148 contracts proposed to be written.

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

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2165 required to liquidate the account if such account was
 2166 established before July 1, 1965. Information disclosed may be
 2167 used by the licensing authority to notify the contract purchaser
 2168 and the institution in which such funds are deposited should the
 2169 holder of a preneed license be unable to fulfill the
 2170 requirements of the contract.

2171 (k) The application shall require the applicant to
 2172 demonstrate that the applicant complies and will comply with all
 2173 requirements for preneed contract licensure under this chapter.

2174 (l) The application may require any other information
 2175 considered necessary by the department or board to meet its
 2176 responsibilities under this chapter.

2177 (m) The application shall be sworn to and signed in
 2178 accordance with s. 497.141(12) ~~by the applicant if a natural~~
 2179 ~~person, or by the president of an applicant that is not a~~
 2180 ~~natural person.~~

2181 (n) The application shall be accompanied by a
 2182 nonrefundable fee as determined by licensing authority rule but
 2183 not to exceed \$500.

2184 (2) ACTION CONCERNING APPLICATIONS.--A duly completed
 2185 application for licensure under this section, accompanied by the
 2186 required fees, shall be approved and a license issued, if the
 2187 licensing authority determines that the following conditions are
 2188 met:

2189 (a) The application is made by a funeral establishment,
 2190 cemetery company, direct disposal establishment, or monument
 2191 establishment, or on behalf of one of the preceding licensees by

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2192 | its agent in the case of a corporate entity, licensed and in
 2193 | good standing under this chapter.

2194 | (b) The applicant meets net worth requirements specified
 2195 | by rule of the licensing authority.

2196 | 1. The net worth required by rule to obtain or renew a
 2197 | preneed license and write and carry up to \$100,000 in total
 2198 | retail value of outstanding preneed contracts shall not exceed
 2199 | \$20,000. The board may specify higher net worth requirements by
 2200 | increments, for total retail value of outstanding preneed
 2201 | contracts carried in excess of \$100,000, as the board determines
 2202 | necessary for the protection of the public.

2203 | 2. An applicant to obtain or renew a preneed license who
 2204 | cannot demonstrate the required initial minimum net worth may
 2205 | voluntarily submit to the licensing authority, and request
 2206 | acceptance of, alternative evidence of financial stability and
 2207 | resources or agree to additional oversight in lieu of the
 2208 | required net worth. Such additional evidence or oversight may
 2209 | include, as appropriate, one or more of the following:

2210 | a. An agreement to submit monthly financial statements of
 2211 | the entity.

2212 | b. An agreement to submit quarterly financial statements
 2213 | of the entity.

2214 | c. An appraisal of the entity's property or broker's
 2215 | opinion of the entity's assets.

2216 | d. A credit report of the entity or its principals.

2217 | e. A subordination-of-debt agreement from the entity's
 2218 | principals.

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2219 | f. An indemnification or subrogation agreement binding the
 2220 | entity and its principals.

2221 | g. A guarantee agreement for the entity from its
 2222 | principals.

2223 | h. A written explanation of past financial activity.

2224 | i. Submission of a 12-month projected business plan that
 2225 | includes:

2226 | (I) A statement of cash flows.

2227 | (II) Pro forma income statements, with sources of revenues
 2228 | identified.

2229 | (III) Marketing initiatives.

2230 | j. Submission of previous department examination reports.

2231 | k. An agreement of 100 percent voluntary trust by the
 2232 | entity.

2233 | 3. The licensing authority may accept such alternative
 2234 | evidence or arrangements in lieu of the required net worth only
 2235 | if the licensing authority determines such alternative evidence
 2236 | or arrangements are an adequate substitute for required net
 2237 | worth and that acceptance would not substantially increase the
 2238 | risk to existing or future customers of nonperformance by the
 2239 | applicant or licensee on its retail sales agreements.

2240 | (c) The applicant has and will have the ability to
 2241 | discharge her or his liabilities as they become due in the
 2242 | normal course of business, and has and will have sufficient
 2243 | funds available during the calendar year to perform her or his
 2244 | obligations under her or his contracts.

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2245 (d) If the applicant or any entity under common control
 2246 with the applicant has entered into preneed contracts prior to
 2247 being authorized to do so under the laws of this state:

2248 1. The licensing authority determines that adequate
 2249 provision has been made to ensure the performance of such
 2250 contracts.

2251 2. The licensing authority determines that the improper
 2252 sale of such preneed contracts prior to authorization under this
 2253 chapter does not indicate, under the facts of the particular
 2254 application in issue, that the applicant has a disregard of the
 2255 laws of this state such as would expose the public to
 2256 unreasonable risk if the applicant were issued a preneed
 2257 license.

2258 3. Nothing in this section shall imply any authorization
 2259 to enter into preneed contracts without authorization under this
 2260 chapter.

2261 (e) Neither the applicant nor the applicant's principals
 2262 have a demonstrated history of conducting their business affairs
 2263 to the detriment of the public.

2264 (f) The applicant and the applicant's principals are of
 2265 good character and have no demonstrated history of lack of
 2266 trustworthiness or integrity in business or professional
 2267 matters.

2268 (g) The applicant does and will comply with all other
 2269 requirements of this chapter relating to preneed licensure.

2270 (3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.--It is
 2271 the policy of this state to encourage competition for the public
 2272 benefit in the preneed contract business by, among other means,

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2273 | the entry of new licensees into that business. To facilitate
 2274 | issuance of licenses concerning applications judged by the
 2275 | licensing authority to be borderline as to qualification for
 2276 | licensure, the licensing authority may issue a new license under
 2277 | this section on a probationary basis, subject to conditions
 2278 | specified by the licensing authority on a case-by-case basis,
 2279 | which conditions may impose special monitoring, reporting, and
 2280 | restrictions on operations for up to the first 12 months of
 2281 | licensure, to ensure the licensee's responsibility, competency,
 2282 | financial stability, and compliance with this chapter. Provided,
 2283 | no such probationary license shall be issued unless the
 2284 | licensing authority determines that issuance would not pose an
 2285 | unreasonable risk to the public, and the licensing authority
 2286 | shall ~~must~~ within 12 months after issuance of the license either
 2287 | remove the probationary status or determine that the licensee is
 2288 | not qualified for licensure under this chapter and institute
 2289 | proceedings for revocation of licensure.

2290 | (4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.--

2291 | (a) Each licensee under this section shall ~~must~~ provide
 2292 | notice as required by rule prior to any change in control of the
 2293 | licensee. Any such change is subject to disapproval or to
 2294 | reasonable conditions imposed by the licensing authority, for
 2295 | the protection of the public to ensure compliance with this
 2296 | chapter, based upon criteria established by rule, which criteria
 2297 | shall promote the purposes of this part in protecting the
 2298 | consumer.

2299 | (b) The licensing authority may authorize the transfer of
 2300 | a preneed license and establish by rule a fee for the transfer

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2301 | in an amount not to exceed \$500. Upon receipt of an application
2302 | for transfer, the executive director may grant a temporary
2303 | preneed license to the proposed transferee, based upon criteria
2304 | established by the licensing authority by rule, which criteria
2305 | shall promote the purposes of this chapter in protecting the
2306 | consumer. Such a temporary preneed license shall expire at the
2307 | conclusion of the next regular meeting of the board unless
2308 | renewed by the board. The licensing authority may by rule
2309 | establish forms and procedures for the implementation of this
2310 | paragraph.

2311 | (5) RENEWAL OF LICENSES.--

2312 | (a) A preneed license shall expire annually on June 1,
2313 | unless renewed, or at such other time or times as may be
2314 | provided by rule. The application for renewal of the license
2315 | shall be on forms prescribed by rule and shall be accompanied by
2316 | a renewal fee as specified in paragraph (c).

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

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2328 authorized by paragraph (2) (b), shall be applicable to the
 2329 renewal of preneed licenses.

2330 (c)1. Each annual application for renewal of a preneed
 2331 license that is not held by a monument establishment shall be
 2332 accompanied by the appropriate fee as follows:

2333 a.1- For a preneed licensee with no preneed contract sales
 2334 during the immediately preceding year....\$300.

2335 b.2- For a preneed licensee with at least 1 but fewer than
 2336 50 preneed contract sales during the immediately preceding
 2337 year....\$400.

2338 c.3- For a preneed licensee with at least 50 but fewer
 2339 than 250 preneed contract sales during the immediately preceding
 2340 year....\$500.

2341 d.4- For a preneed licensee with at least 250 but fewer
 2342 than 1,000 preneed contract sales during the immediately
 2343 preceding year....\$850.

2344 e.5- For a preneed licensee with at least 1,000 but fewer
 2345 than 2,500 preneed contract sales during the immediately
 2346 preceding year....\$1,500.

2347 f.6- For a preneed licensee with at least 2,500 but fewer
 2348 than 5,000 preneed contract sales during the immediately
 2349 preceding year....\$2,500.

2350 g.7- For a preneed licensee with at least 5,000 but fewer
 2351 than 15,000 preneed contract sales during the immediately
 2352 preceding year....\$6,000.

2353 h.8- For a preneed licensee with at least 15,000 but fewer
 2354 than 30,000 preneed contract sales during the immediately
 2355 preceding year....\$12,500.

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2356 ~~i.9.~~ For a preneed licensee with 30,000 preneed contract
 2357 sales or more during the immediately preceding year....\$18,500.

2358 2. Each annual application for renewal of a preneed
 2359 license that is held by a monument establishment shall be
 2360 accompanied by the appropriate fee determined by its total gross
 2361 aggregate at-need and preneed retail sales for the 12-month
 2362 period ending 2 full calendar months prior to the month in which
 2363 the renewal is required, as follows:

2364 a. Total sales of \$1 to \$50,000: \$1,000 renewal fee.

2365 b. Total sales of \$50,001 to \$250,000: \$1,500 renewal
 2366 fee.

2367 c. Total sales of \$250,001 to \$500,000: \$2,000 renewal
 2368 fee.

2369 d. Total sales over \$500,000: \$2,500 renewal fee.

2370 (d) An application for renewal shall disclose the
 2371 existence of all preneed contracts for service or merchandise
 2372 funded by any method other than a method permitted by this
 2373 chapter, which contracts are known to the applicant and were
 2374 entered into by the applicant, or any other entity under common
 2375 control with the applicant, during the annual license period
 2376 then ending. Such disclosure shall include the name and address
 2377 of the contract purchaser, the name and address of the
 2378 institution where such funds are deposited, and the number used
 2379 by the institution to identify the account.

2380 (e) In addition to any other penalty that may be provided
 2381 for under this chapter, there may be levied a late fee as
 2382 determined by licensing authority rule but not to exceed \$50 a
 2383 day for each day the preneed licensee fails to file its annual

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2384 statement, and there may be levied a late fee as determined by
 2385 licensing authority rule but not to exceed \$50 a day for each
 2386 day the preneed licensee fails to file the statement of
 2387 activities of the trust. Upon notice to the preneed licensee by
 2388 the department that the preneed licensee has failed to file the
 2389 annual statement or the statement of activities of the trust,
 2390 the preneed licensee's authority to sell preneed contracts shall
 2391 cease while such default continues.

2392 (6) QUARTERLY PAYMENTS.--In addition to other amounts
 2393 required to be paid by this section, each preneed licensee shall
 2394 pay to the Regulatory Trust Fund an amount established by rule
 2395 not to exceed \$10 for each preneed contract entered into. This
 2396 amount shall ~~must~~ be paid within 60 days after the end of each
 2397 quarter. These funds shall ~~must~~ be used to defray the cost of
 2398 administering the provisions of this chapter ~~part~~.

2399 (7) BRANCH OPERATIONS AND LICENSURE.--

2400 (a) Any person or entity that is part of a common business
 2401 enterprise that has a preneed license issued pursuant to this
 2402 section and desires to operate under a name other than that of
 2403 the common business enterprise, may submit an application on a
 2404 form adopted by rule to become a branch licensee. The
 2405 application shall be accompanied by an application fee as
 2406 determined by licensing authority rule but not to exceed \$300.

2407 (b) Upon a determination that such branch applicant
 2408 qualifies to sell preneed contracts under this part except for
 2409 the requirements of paragraph (2)(c), and if the sponsoring
 2410 preneed licensee under whose preneed license the branch
 2411 applicant seeks branch status meets the requirements of such

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2412 paragraph and is in compliance with all requirements of this
 2413 part regarding its preneed license and operations thereunder, a
 2414 branch license shall be issued.

2415 (c) Branch licenses shall be renewed annually by payment
 2416 of a renewal fee set by licensing authority rule and not to
 2417 exceed \$500 ~~\$300~~. Branch licenses may be renewed only so long as
 2418 the preneed license of the sponsoring preneed licensee remains
 2419 in good standing.

2420 ~~(d) Violations of this part by the branch shall be deemed~~
 2421 ~~to be violations of this part by its sponsoring preneed~~
 2422 ~~licensee, unless the licensing authority determines that~~
 2423 ~~extenuating circumstances indicate that it would be unjust to~~
 2424 ~~attribute the branch's misconduct to the sponsoring preneed~~
 2425 ~~licensee.~~ Preneed sales of the branch shall be deemed to be
 2426 sales of the sponsoring licensee for purposes of renewal fees
 2427 and trust requirements under this chapter.

2428 (e) The sponsoring preneed licensee shall be responsible
 2429 for performance of preneed contracts entered into by its branch
 2430 if the branch does not timely fulfill any such contract.

2431 (8) ANNUAL TRUST REPORTS.--On or before April 1 of each
 2432 year, the preneed licensee shall file in the form prescribed by
 2433 rule a full and true statement as to the activities of any trust
 2434 established by it pursuant to this part for the preceding
 2435 calendar year.

2436 (9) DEPOSIT OF FUNDS.--All sums collected under this
 2437 section shall be deposited to the credit of the Regulatory Trust
 2438 Fund.

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2439 Section 36. Subsection (6) of section 497.456, Florida
 2440 Statutes, as renumbered and amended by section 105 of chapter
 2441 2004-301, Laws of Florida, is amended to read:

2442 497.456 Preneed Funeral Contract Consumer Protection Trust
 2443 Fund.--

2444 (6) Upon the commencement of a delinquency proceeding
 2445 pursuant to this chapter against a preneed licensee, the
 2446 licensing authority may use up to 50 percent of the balance of
 2447 the trust fund not already committed to a prior delinquency
 2448 proceeding ~~solely~~ for the purpose of establishing a receivership
 2449 and providing restitution to preneed contract purchasers and
 2450 their estates due to a preneed licensee's failure to provide the
 2451 benefits of a preneed contract or failure to refund the
 2452 appropriate principal amount by reason of cancellation thereof.
 2453 The balance of the trust fund shall be determined as of the date
 2454 of the delinquency proceeding.

2455 Section 37. Paragraph (h) of subsection (1) and subsection
 2456 (4) of section 497.458, Florida Statutes, as renumbered and
 2457 amended by section 107 of chapter 2004-301, Laws of Florida, are
 2458 amended to read:

2459 497.458 Disposition of proceeds received on contracts.--

2460 (1)

2461 (h) In no event may trust funds be loaned, directly or
 2462 indirectly, to any of the following persons: the preneed
 2463 licensee; any entity under any degree of common control with the
 2464 preneed licensee; any employee, director, full or partial owner,
 2465 or principal of the preneed licensee; or any person related by
 2466 blood or marriage to any of those persons. In no event may trust

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2467 funds, directly or indirectly, be invested in or with, or loaned
 2468 to, any business or business venture in which any of the
 2469 following persons have an interest: the preneed licensee; any
 2470 entity under any degree of common control with the preneed
 2471 licensee; any employee, director, full or partial owner, or
 2472 principal of the preneed licensee; or any person related by
 2473 blood or marriage to any of those persons. In no event may said
 2474 funds be loaned to a preneed licensee, an affiliate of a preneed
 2475 licensee, or any person directly or indirectly engaged in the
 2476 burial, funeral home, or cemetery business.

2477 ~~(4) (a) Trust funds shall not be invested in or loaned to~~
 2478 ~~or for the benefit of any business venture in which the preneed~~
 2479 ~~licensee, its principals, or persons related by blood or~~
 2480 ~~marriage to the licensee or its principals, have a direct or~~
 2481 ~~indirect interest, without the prior approval of the licensing~~
 2482 ~~authority.~~

2483 ~~(b) Trust funds shall not be loaned to or for the benefit~~
 2484 ~~of the preneed licensee, its principals, or persons related by~~
 2485 ~~blood or marriage to the licensee or its principals, without the~~
 2486 ~~prior approval of the licensing authority.~~

2487 ~~(c) No approval of such loans or investments shall be~~
 2488 ~~given unless it be shown by clear and convincing evidence that~~
 2489 ~~such loan or investment would be in the interest of the preneed~~
 2490 ~~contract holders whose contracts are secured by the trust funds.~~

2491 ~~(d) The licensing authority may adopt rules exempting from~~
 2492 ~~the prohibition of paragraph (1) (h) this subsection, pursuant to~~
 2493 ~~criteria established in such rule, the investment of trust funds~~
 2494 ~~in investments, such as widely and publicly traded stocks and~~

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2495 | bonds, notwithstanding that the licensee, its principals, or
 2496 | persons related by blood or marriage to the licensee or its
 2497 | principals have an interest by investment in the same entity,
 2498 | where neither the licensee, its principals, or persons related
 2499 | by blood or marriage to the licensee or its principals have the
 2500 | ability to control the entity invested in, and it would be in
 2501 | the interest of the preneed contract holders whose contracts are
 2502 | secured by the trust funds to allow the investment.

2503 | Section 38. Section 497.466, Florida Statutes, as
 2504 | renumbered and amended by section 115 of chapter 2004-301, Laws
 2505 | of Florida, is amended to read:

2506 | 497.466 Preneed sales agents, license required;
 2507 | application procedures and criteria; appointment of agents;
 2508 | responsibility of preneed licensee.--

2509 | (1) GENERAL PROVISIONS APPLICABLE TO PRENEED SALES
 2510 | AGENTS.--

2511 | ~~(a)~~ All persons ~~individuals~~ who offer preneed contracts to
 2512 | the public, or who execute preneed contracts on behalf of a
 2513 | preneed licensee, including all persons ~~individuals~~ who offer,
 2514 | sell, or sign contracts for the preneed sale of burial rights,
 2515 | shall be licensed as preneed sales agents, pursuant to this
 2516 | section. Persons, unless such individuals are licensed as
 2517 | funeral directors pursuant to this chapter may engage in preneed
 2518 | sales for the preneed licensee with whom they are affiliated
 2519 | without preneed sales agent licensure or appointment under this
 2520 | section.

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2521 ~~(b) All preneed sales agents and funeral directors acting~~
 2522 ~~as preneed sales agents must be employed by or under written~~
 2523 ~~contract with the preneed licensee that they are representing.~~

2524 ~~(c) A preneed licensee shall be responsible for the~~
 2525 ~~activities of all preneed sales agents and all funeral directors~~
 2526 ~~acting as preneed sales agents, who are affiliated with the~~
 2527 ~~preneed licensee and who perform any type of preneed related~~
 2528 ~~activity on behalf of the preneed licensee. In addition to the~~
 2529 ~~preneed sales agents and funeral directors acting as preneed~~
 2530 ~~sales agents, each preneed licensee shall also be subject to~~
 2531 ~~discipline if its preneed sales agents or funeral directors~~
 2532 ~~acting as preneed sales agents violate any provision of this~~
 2533 ~~chapter.~~

2534 ~~(d) A preneed sales agent and a funeral director acting as~~
 2535 ~~a preneed sales agent shall be authorized to sell, offer, and~~
 2536 ~~execute preneed contracts on behalf of all entities owned or~~
 2537 ~~operated by its sponsoring preneed licensee.~~

2538 ~~(e) An individual may be licensed as a preneed sales agent~~
 2539 ~~on behalf of more than one preneed licensee, provided that the~~
 2540 ~~individual has received the written consent of all such preneed~~
 2541 ~~licensees and makes separate application under this section for~~
 2542 ~~each such agency.~~

2543 ~~(f) A sponsoring preneed licensee shall notify the~~
 2544 ~~department in writing within 30 days after the sponsored preneed~~
 2545 ~~sales agent's authority to represent that preneed licensee has~~
 2546 ~~terminated.~~

2547 (2) PRENEED SALES AGENT LICENSE; APPLICATION PROCEDURES.---

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2548 (a) A person may hold only one preneed sales agent license
2549 at a time ~~seeking licensure as a preneed sales agent shall apply~~
2550 ~~for such licensure using forms prescribed by rule of the~~
2551 ~~licensing authority.~~

2552 (b) No preneed sales agent license shall be issued to a
2553 person under age 18.

2554 (c) Persons desiring a preneed sales agent license shall
2555 apply to the department for such license. The application shall
2556 require the name, residence address, residence phone number if
2557 any, and date and place of birth of the preneed sales agent
2558 applicant. ~~Applicants shall be at least 18 years of age. The~~
2559 ~~application shall require identification of the name, address,~~
2560 ~~and license number of the sponsoring preneed licensee. The~~
2561 ~~application shall require the preneed sales agent applicant's~~
2562 ~~social security number and the federal tax identification number~~
2563 ~~of the sponsoring preneed licensee.~~

2564 ~~(c) The application shall require information as to the~~
2565 ~~educational and employment history of the preneed sales agent~~
2566 ~~applicant.~~

2567 (d) The application shall require the preneed sales agent
2568 applicant to disclose any criminal record, as required by s.
2569 497.142 ~~whether the preneed sales agent applicant has ever been~~
2570 ~~convicted or found guilty of, or entered a plea of no contest~~
2571 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

2572 (e) The application shall require the preneed sales agent
2573 applicant to disclose whether the preneed sales agent applicant
2574 has ever had a license or the authority to practice a profession
2575 or occupation refused, suspended, fined, denied, or otherwise

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2576 acted against or disciplined by the licensing authority of any
 2577 jurisdiction. A licensing authority's acceptance of a
 2578 relinquishment of licensure, stipulation, consent order, or
 2579 other settlement, offered in response to or in anticipation of
 2580 the filing of charges against the license, shall be construed as
 2581 action against the license.

2582 (f) The application shall require identification by the
 2583 preneed sales agent applicant of the preneed licensee whom the
 2584 preneed sales agent applicant believes will initially appoint
 2585 the preneed sales agent applicant if a preneed sales agent
 2586 license is issued. ~~The application shall require a~~
 2587 ~~representation by the sponsoring preneed licensee, that:~~

2588 1. ~~The sponsoring preneed licensee's license is in good~~
 2589 ~~standing.~~

2590 2. ~~Upon licensure as a preneed sales agent the sponsored~~
 2591 ~~preneed sales agent applicant will be authorized to offer, sell,~~
 2592 ~~and sign preneed contracts on behalf of the preneed licensee.~~

2593 3. ~~The preneed licensee has trained the applicant in the~~
 2594 ~~provisions of this chapter relating to preneed sales, the~~
 2595 ~~provisions of the preneed licensee's preneed contracts, and the~~
 2596 ~~nature of the merchandise, services, or burial rights sold by~~
 2597 ~~the preneed licensee.~~

2598 (g) ~~The application shall require the preneed sales agent~~
 2599 ~~applicant to indicate whether the applicant has any type of~~
 2600 ~~working relationship with any other preneed licensee or~~
 2601 ~~insurance company, and if yes, to identify such other preneed~~
 2602 ~~licensee or insurance company, as the case may be.~~

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2603 ~~(h) The applicant shall be required to submit her or his~~
 2604 ~~fingerprints in accordance with part I of this chapter.~~

2605 (g)(i) The application shall be signed by the applicant
 2606 and by an officer or manager of the sponsoring preneed licensee.
 2607 The licensing authority may accept electronic signatures.

2608 (h)(j) The application shall be accompanied by a
 2609 nonrefundable fee of \$150 if made through the department's on-
 2610 line licensing system or \$175 if made using paper forms. Payment
 2611 of either fee shall entitle the applicant to one initial
 2612 appointment without payment of further fees by the preneed sales
 2613 agent or the appointing preneed licensee if a preneed sales
 2614 agent license is issued \$100. The licensing authority may from
 2615 time to time increase such fees fee but not to exceed \$300 \$200.

2616 (3) ISSUANCE OF A TEMPORARY PRENEED SALES AGENT LICENSE
 2617 ACTION CONCERNING APPLICATIONS; TEMPORARY AND REGULAR
 2618 LICENSURE.--

2619 (a) Upon receipt of a duly completed application and the
 2620 required fee, a temporary preneed sales agent license shall be
 2621 issued to the applicant if:

2622 1. The applicant is at least 18 years of age.

2623 2. The application indicates that the applicant has no
 2624 disciplinary or criminal record and the department has no record
 2625 indicating the applicant has any disciplinary or criminal
 2626 record.

2627 3. The applicant has never previously held a temporary
 2628 preneed sales agent license that lapsed for failure to submit
 2629 fingerprints as required by this section.

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2630 (b) A temporary preneed sales agent license shall be valid
2631 for only 120 days from the date issued and may not be renewed.

2632 (c) An applicant for a preneed sales agent license who has
2633 previously been issued a temporary preneed sales agent license
2634 that for any reason expired without becoming permanent shall not
2635 thereafter be eligible for another temporary preneed sales agent
2636 license. Such person may apply again for a preneed sales agent
2637 license, but no license shall be issued until fingerprints are
2638 provided as required by s. 497.142, a report is received from
2639 the Department of Law Enforcement advising that the applicant
2640 has no criminal record, and the applicant is otherwise
2641 determined by the department and board to qualify for preneed
2642 sales agent licensure.

2643 (4) CONVERSION OF TEMPORARY PRENEED SALES AGENT LICENSE TO
2644 PERMANENT PRENEED SALES AGENT LICENSE.--

2645 (a) A temporary preneed sales agent licensee who desires
2646 to obtain a permanent preneed sales agent license shall, within
2647 90 days after issuance of the temporary preneed sales agent
2648 license, submit his or her fingerprints to the licensing
2649 authority for a criminal background check, in accordance with s.
2650 497.142. Unless the department determines prior to the
2651 expiration of the temporary preneed sales agent license that the
2652 temporary licensee has a criminal or disciplinary record, the
2653 temporary preneed sales agent license shall automatically be
2654 converted to a permanent preneed sales agent license.

2655 (b) The department shall promptly give written notice to
2656 the temporary preneed sales agent licensee, and to all preneed
2657 licensees who have the temporary preneed sales agent under

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2658 appointment, that such preneed sales agent's temporary license
2659 has been converted to a permanent license, or has lapsed, as the
2660 case may be.

2661 (5) APPLICANTS WITH A CRIMINAL OR DISCIPLINARY RECORD.--

2662 (a) A preneed sales agent applicant having a criminal or
2663 disciplinary record shall not be eligible for a temporary
2664 preneed sales agent license. No permanent preneed sales agent
2665 license shall be issued to any person with a criminal or
2666 disciplinary record, except upon approval of the board.

2667 (b) If, while a temporary preneed sales agent license is
2668 in force, the department determines that the temporary licensee
2669 has a criminal or disciplinary record, the temporary license
2670 shall be immediately suspended and shall not automatically
2671 convert to a permanent preneed sales agent license. The
2672 department shall promptly give written notice of the suspension
2673 to the suspended licensee and to all preneed licensees who have
2674 the suspended preneed sales agent licensee under appointment.
2675 The suspended preneed sales agent licensee may, within 21 days
2676 after the date of suspension, petition the board under paragraph

2677 (c) for issuance of a permanent preneed sales agent license
2678 notwithstanding the criminal or disciplinary record. If no
2679 petition for board review is timely received by the department
2680 or board, the temporary preneed sales agent license shall be
2681 revoked.

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

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2686 permanent preneed sales agent license to an applicant with a
 2687 criminal or disciplinary record if the board determines:

2688 1. That there was no inaccuracy in the application for
 2689 license such as indicates the applicant is untrustworthy.

2690 2. That the applicant, if issued a preneed sales agent
 2691 license, would not pose an unreasonable risk to members of the
 2692 public who might deal with the applicant in preneed
 2693 transactions.

2694 (d) The board may issue a preneed sales agent license to
 2695 an applicant with a criminal or disciplinary record on a
 2696 probationary basis and subject to reasonable terms of probation
 2697 not to exceed 24 months in duration.

2698 (6) TERMINATION OF A PERMANENT PRENEED SALES AGENT LICENSE
 2699 DUE TO LACK OF APPOINTMENTS.--A permanent preneed sales agent
 2700 license shall remain in force without a requirement for renewal
 2701 until such time as there have been no appointments of the
 2702 preneed sales agent under the license for 48 consecutive months,
 2703 at which time the permanent preneed sales agent license will
 2704 terminate. The former preneed sales agent licensee may
 2705 thereafter apply for issuance of a new preneed sales agent
 2706 license under this section.

2707 (7) APPOINTMENT OF PRENEED SALES AGENTS.--

2708 (a) A preneed sales agent licensee may be appointed by as
 2709 many preneed licensees as desire to appoint the preneed sales
 2710 agent licensee. When a preneed sales agent licensee is appointed
 2711 by a preneed licensee, the department shall promptly give
 2712 written notice to all other preneed licensees then having that
 2713 same preneed sales agent under appointment.

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2714 (b) A preneed licensee may appoint a preneed sales agent
2715 licensee by identifying to the department the preneed sales
2716 agent licensee to be appointed, requesting appointment, and
2717 paying the required appointment fee. The appointment request
2718 shall be signed by the preneed licensee. The department may
2719 accept electronic signatures.

2720 (c) Appointments shall be effective when made and shall
2721 expire 24 months from the last day of the month in which the
2722 appointment was made unless earlier terminated by the preneed
2723 licensee or the preneed sales agent. No initial appointment of a
2724 preneed sales agent licensee may be made until 24 hours after a
2725 temporary preneed sales agent license is issued to that preneed
2726 sales agent. Appointments are effective only so long as the
2727 preneed sales agent licensee's license is in good standing.

2728 (d) A preneed licensee is responsible for taking
2729 reasonable steps to ensure that the preneed sales agent
2730 licensees it appoints have adequate training regarding preneed
2731 sales.

2732 (e) Appointments may be renewed for additional 24-month
2733 periods by notification by the preneed licensee to the
2734 department that the preneed licensee desires to renew the
2735 appointment, accompanied by payment by the preneed licensee of
2736 the appointment renewal fee.

2737 (f) Initial and renewal appointment fees shall be
2738 nonrefundable and shall be \$150 if made through the department's
2739 on-line licensing system and \$175 if made using paper forms
2740 requiring manual processing by the department. The board may

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2741 from time to time by rule increase said appointment fees but not
2742 to exceed \$300.

2743 (g)1. Appointments may be terminated at any time by the
2744 appointing preneed licensee or by the appointed preneed sales
2745 agent licensee.

2746 2. Termination of appointment shall be accomplished by
2747 notice of termination conveyed to the department and signed by
2748 the person or entity requesting the termination. The department
2749 may accept electronic signatures. There shall be no fee for
2750 termination of appointment accomplished through the department's
2751 on-line licensing system; however, there shall be a fee of \$25
2752 for terminations made using paper forms requiring manual
2753 processing by the department.

2754 3. When an appointment is terminated, whether by the
2755 preneed licensee or the preneed sales agent licensee, the
2756 department shall promptly provide written confirmation of the
2757 termination to both the preneed sales agent licensee and the
2758 preneed licensee at their respective addresses of record with
2759 the department.

2760 4. If a preneed licensee terminates the authority of a
2761 preneed sales agent license to sell for the preneed licensee,
2762 the preneed licensee shall, within 30 days after such
2763 termination, terminate the appointment as indicated in
2764 subparagraph 2.

2765 5. If a preneed sales agent licensee terminates the
2766 preneed sales relationship with a preneed licensee, the preneed
2767 sales agent licensee shall, within 30 days after such

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2768 termination, terminate the appointment as indicated in
 2769 subparagraph 2.

2770 6. If the license of a preneed sales agent is suspended or
 2771 revoked pursuant to disciplinary action by the licensing
 2772 authority against the preneed sales agent, the department shall
 2773 promptly give written notice of such action to all preneed
 2774 licensees then having that preneed sales agent under
 2775 appointment.

2776 (8) ADMINISTRATIVE MATTERS.--

2777 (a) The licensing authority shall have rulemaking
 2778 authority to prescribe forms and procedures for implementation
 2779 of this section.

2780 (b)1. All persons holding one or more preneed sales agent
 2781 licenses in good standing under s. 497.439, as of 11:59 p.m. on
 2782 September 30, 2005, shall be deemed as of October 1, 2005, to
 2783 hold a permanent preneed sales agent license under this statute
 2784 as effective on October 1, 2005.

2785 2. All persons holding one or more preneed sales agent
 2786 licenses in good standing under s. 497.439, as of 11:59 p.m. on
 2787 September 30, 2005, shall be deemed as of October 1, 2005, to be
 2788 appointed by each preneed licensee in regard to whom they hold a
 2789 preneed sales agent license as of 11:59 p.m. on September 30,
 2790 2005. Such appointments shall expire on the same date as the
 2791 preneed sales agent license would have expired under the law in
 2792 effect at 11:59 p.m. on September 30, 2005.

2793 (c) As used in this section, "criminal record" means and
 2794 includes only crimes required to be disclosed under s. 497.142.

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2795 (d) As used in this section, "disciplinary record" means
 2796 and includes any instance wherein the applicant has ever had a
 2797 license or the authority to practice a profession or occupation
 2798 refused, suspended, fined, denied, or otherwise acted against or
 2799 disciplined by the licensing authority of any jurisdiction. A
 2800 licensing authority's acceptance of a relinquishment of
 2801 licensure, stipulation, consent order, or other settlement,
 2802 offered in response to or in anticipation of the filing of
 2803 charges against the license, shall be construed as action
 2804 against the license.

2805 (e) A preneed licensee shall be responsible for the
 2806 activities of all preneed sales agents, and all funeral
 2807 directors acting as preneed sales agents, who are affiliated
 2808 with the preneed licensee and who perform any type of preneed-
 2809 related activity on behalf of the preneed licensee. In addition
 2810 to the preneed sales agents and funeral directors acting as
 2811 preneed sales agents, each preneed licensee shall also be
 2812 subject to discipline if its preneed sales agents or funeral
 2813 directors acting as preneed sales agents violate any provision
 2814 of this chapter.

2815 ~~(a) An applicant shall be deemed to have been issued a~~
 2816 ~~temporary preneed sales agent license and may begin functioning~~
 2817 ~~as a preneed sales agent, immediately upon receipt by the~~
 2818 ~~department of a duly completed application for licensure under~~
 2819 ~~this section, if the application shows an applicant of at least~~
 2820 ~~18 years of age who has answered in the negative regarding~~
 2821 ~~paragraphs (2) (d) and (e) relating to prior criminal and~~
 2822 ~~disciplinary actions, and which application is accompanied by~~

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2823 | ~~the required application fee. The temporary preneed sales agent~~
2824 | ~~license shall be valid for 90 days unless earlier suspended by~~
2825 | ~~the licensing authority for cause. If the application is~~
2826 | ~~approved by the board within the 90 day period, the temporary~~
2827 | ~~license shall be deemed converted to a regular biennial license~~
2828 | ~~which shall expire in accordance with the schedule established~~
2829 | ~~by the licensing authority by rule.~~

2830 | ~~(b)1. A person who cannot truthfully answer in the~~
2831 | ~~negative regarding paragraphs (2) (d) and (e) relating to prior~~
2832 | ~~criminal and disciplinary actions, may apply to the licensing~~
2833 | ~~authority for issuance of a preneed sales agent license~~
2834 | ~~notwithstanding such criminal or disciplinary record. The~~
2835 | ~~licensing authority may by rule specify forms and procedures for~~
2836 | ~~use by such persons in applying for preneed sales agent~~
2837 | ~~licensure, to be used by such persons in lieu of the forms and~~
2838 | ~~procedures specified under paragraph (a). Licensure shall be~~
2839 | ~~granted unless the licensing authority reasonably determines~~
2840 | ~~that the prior criminal or disciplinary record indicates that~~
2841 | ~~the granting of licensure would pose unreasonable risk to the~~
2842 | ~~public.~~

2843 | ~~2. To facilitate issuance of licenses concerning~~
2844 | ~~applicants with criminal or disciplinary records which the~~
2845 | ~~licensing authority judges to make the applicant borderline as~~
2846 | ~~to qualification for licensure, the licensing authority may~~
2847 | ~~issue a new license under this section on a probationary basis,~~
2848 | ~~subject to conditions specified by the licensing authority on a~~
2849 | ~~case-by-case basis, which conditions may impose special~~
2850 | ~~monitoring, reporting, and restrictions on operations for up to~~

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2851 ~~the first 24 months of licensure, to ensure the preneed sales~~
2852 ~~agent licensee's integrity, trustworthiness, and compliance with~~
2853 ~~this chapter. Provided, no such probationary license shall be~~
2854 ~~issued unless the licensing authority determines that issuance~~
2855 ~~would not pose an unreasonable risk to the public, and the~~
2856 ~~licensing authority must within 24 months after issuance of the~~
2857 ~~license either remove the probationary status or determine that~~
2858 ~~the licensee is not qualified for licensure under this chapter~~
2859 ~~and institute proceedings for revocation of licensure. The~~
2860 ~~licensing authority may adopt rules prescribing criteria and~~
2861 ~~procedures for issuance of such probationary licenses.~~

2862 ~~(4) RENEWAL OF LICENSES. Nontemporary preneed sales agent~~
2863 ~~licenses under this section shall be renewed biennially in~~
2864 ~~accordance with a schedule, forms, and procedures established by~~
2865 ~~rule. The nonrefundable biennial renewal fee shall be as~~
2866 ~~determined by licensing authority rule but not to exceed \$200.~~

2867 ~~(5) SIMPLIFIED PROCEDURES FOR SUBSEQUENT CHANGE OF~~
2868 ~~SPONSORING LICENSEE. The board may by rule establish simplified~~
2869 ~~requirements and procedures under which any preneed sales agent,~~
2870 ~~who within the 12 months preceding application under this~~
2871 ~~subsection held in good standing a preneed sales agent license~~
2872 ~~under this section, may obtain a preneed sales agent's license~~
2873 ~~under this section to represent a different sponsoring preneed~~
2874 ~~licensee. The simplified requirements shall dispense with the~~
2875 ~~requirement for submission of fingerprints. The licensing~~
2876 ~~authority may by rule prescribe forms to be used by applicants~~
2877 ~~under this subsection, which forms may dispense with the~~
2878 ~~requirement for any information not deemed by the licensing~~

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2879 ~~authority to be necessary to tracking the identity of the~~
 2880 ~~preneed licensee responsible for the activities of the preneed~~
 2881 ~~sales agent. No preneed sales agent licensee whose sales agent~~
 2882 ~~license issued by the board was revoked or suspended or~~
 2883 ~~otherwise terminated while in other than good standing, shall be~~
 2884 ~~eligible to use the simplified requirements and procedures. The~~
 2885 ~~issuance of a preneed sales agent license under this subsection~~
 2886 ~~shall not operate as a bar to any subsequent disciplinary action~~
 2887 ~~relating to grounds arising prior to obtaining the license under~~
 2888 ~~this subsection. There shall be a fee payable to the department~~
 2889 ~~under such simplified procedures, which fee shall be the same as~~
 2890 ~~the fee paid upon initial application for a preneed sales agent~~
 2891 ~~license, except that no fingerprint fee shall be required if~~
 2892 ~~such fingerprint fee is required for initial applications.~~

2893 Section 39. Section 497.468, Florida Statutes, is created
 2894 to read:

2895 497.468 Disclosure of information to the public.--A
 2896 preneed licensee offering to provide burial rights, merchandise,
 2897 or services to the public shall:

2898 (1) Provide by telephone, upon request, accurate
 2899 information regarding the retail prices of burial merchandise
 2900 and services offered for sale by the licensee.

2901 (2) Fully disclose all regularly offered services and
 2902 merchandise prior to the customer's selection of burial services
 2903 or merchandise. The full disclosure required shall identify the
 2904 prices of all burial rights, services, and merchandise provided
 2905 by the licensee.

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2906 (3) Not make any false or misleading statements of the
 2907 legal requirement as to the necessity of a casket or outer
 2908 burial container.

2909 (4) Provide a good faith estimate of all fees and costs
 2910 the customer will incur to use any burial rights, merchandise,
 2911 or services purchased.

2912 (5) Provide to the customer, upon the purchase of any
 2913 burial right, merchandise, or service, a written contract the
 2914 form of which has been approved by the licensing authority
 2915 pursuant to procedures specified by rule. The written contract
 2916 shall:

2917 (a) Be completed as to all essential provisions prior to
 2918 the signing of the contract by the customer.

2919 (b) Provide an itemization of the amounts charged for all
 2920 services, merchandise, and fees, which itemization shall be
 2921 clearly and conspicuously segregated from everything else on the
 2922 written contract.

2923 (c) Provide a description of the merchandise covered by
 2924 the contract to include, when applicable, model, manufacturer,
 2925 and other relevant specifications.

2926 (6) Provide the licensee's policy on cancellation and
 2927 refunds to each customer.

2928 (7) In a manner established by rule of the licensing
 2929 authority, provide on the signature page of the written
 2930 contract, clearly and conspicuously in boldfaced 10-point type
 2931 or larger, the following:

2932 (a) The words "purchase price."

2933 (b) The amount to be trusted.

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2934 (c) The amount to be refunded upon contract cancellation.

2935 (d) The amounts allocated to merchandise, services, and
 2936 cash advances.

2937 (e) The toll-free number of the department which is
 2938 available for questions or complaints.

2939 (f) A statement that the customer shall have 30 days from
 2940 the date of execution of contract to cancel the contract and
 2941 receive a total refund of all moneys paid for items not used.

2942 (8) Effective October 1, 2006, display in its offices for
 2943 free distribution to all potential customers, and provide to all
 2944 customers at the time of sale, a brochure explaining how and by
 2945 whom preneed sales are regulated, summarizing consumer rights
 2946 under the law, and providing the name, address, and phone number
 2947 of the department's consumer affairs division. The format and
 2948 content of the brochure shall be as prescribed by rule. The
 2949 licensing authority may cause the publication of such brochures
 2950 and by rule require that preneed licensees purchase and make
 2951 available such brochures as so published, in the licensee's
 2952 offices, to all potential customers.

2953 (9) Provide to each customer a complete description of any
 2954 monument, marker, or memorialization to be placed at the
 2955 gravesite pursuant to the preneed contract.

2956 Section 40. Subsection (1) and paragraphs (c), (e), (f),
 2957 and (h) of subsection (2) of section 497.550, Florida Statutes,
 2958 as renumbered and amended by section 118 of chapter 2004-301,
 2959 Laws of Florida, are amended, and paragraph (j) is added to said
 2960 subsection, to read:

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2961 | 497.550 Licensure of monument establishments required;
 2962 | procedures and criteria.--
 2963 | (1) LICENSE REQUIRED.--No person shall conduct, maintain,
 2964 | manage, or operate a monument establishment in this state unless
 2965 | the monument establishment is licensed pursuant to this part.
 2966 | (a) The two categories of monument establishment licensure
 2967 | available in this state are:
 2968 | 1. Monument builder.
 2969 | 2. Monument dealer.
 2970 | (b) An applicant for licensure as a monument establishment
 2971 | shall designate on the application form the category of monument
 2972 | establishment licensure for which he or she is applying.
 2973 | (c) Each monument establishment that is licensed under
 2974 | this chapter at 11:59 p.m. on September 30, 2005, is, on and
 2975 | after October 1, 2005, licensed as a monument dealer subject to
 2976 | the requirements of this chapter. A person who becomes licensed
 2977 | as a monument dealer by operation of this paragraph may apply to
 2978 | the board for licensure as a monument builder and, upon payment
 2979 | of applicable application fees and the granting of such
 2980 | application and licensure as a monument builder, such person's
 2981 | licensure as a monument dealer will expire.
 2982 | (d) The requirements of this chapter apply to both
 2983 | monument dealers and monument builders, except as provided in
 2984 | this paragraph. Each monument establishment shall be a physical
 2985 | structure that is located at a specific street address, in
 2986 | compliance with zoning regulations of the appropriate local
 2987 | government, and not located on property that is exempt from
 2988 | taxation, but a monument dealer may not otherwise be required to

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2989 comply with s. 497.552 or be subject to inspection under this
 2990 chapter.

2991 (e) A monument establishment that is not licensed under
 2992 the monument-builder category is not eligible for a preneed
 2993 sales license.

2994 (2) APPLICATION PROCEDURES.--A person seeking licensure as
 2995 a monument establishment shall apply for such licensure using
 2996 forms prescribed by rule.

2997 (c) The applicant shall be required to make disclosure of
 2998 the applicant's criminal records, if any, as required by s.
 2999 497.142. The application shall require the applicant to disclose
 3000 whether the applicant or any of its principals have ever been
 3001 convicted or found guilty of, or entered a plea of no contest
 3002 to, regardless of adjudication, any crime in any jurisdiction.

3003 (e) The applicant shall submit fingerprints in accordance
 3004 with s. 497.142. The application shall require the applicant's
 3005 principals to provide fingerprints in accordance with part I of
 3006 this chapter.

3007 (f) The applicant shall be a natural person at least 18
 3008 years of age, a corporation, a partnership, or a limited
 3009 liability company ~~formed prior to January 1, 2005, which limited~~
 3010 ~~liability company already holds a license under this chapter.~~

3011 (h) The application shall be signed in accordance with s.
 3012 497.141(12) by the applicant if a natural person, or by the
 3013 president of an applicant that is a corporation.

3014 (j) Upon receipt of the application and application fee,
 3015 the licensing authority shall inspect the proposed monument

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3016 establishment facilities in accordance with rules of the
 3017 licensing authority.

3018 Section 41. Section 497.551, Florida Statutes, as created
 3019 by chapter 2004-301, Laws of Florida, is amended to read:

3020 497.551 Renewal of monument establishment licensure.--

3021 (1) A monument establishment license shall ~~must~~ be renewed
 3022 biennially by the licensee.

3023 (2) A monument establishment licensee ~~that does not hold a~~
 3024 ~~preneed sales license as of 90 days prior to the date its~~
 3025 ~~monument establishment license renewal is due,~~ shall renew its
 3026 monument establishment license by payment of a renewal fee
 3027 established by rule not to exceed \$250.

3028 ~~(3) A monument establishment licensee which as of 90 days~~
 3029 ~~prior to its monument establishment license renewal date also~~
 3030 ~~holds a preneed sales license issued under this chapter, shall~~
 3031 ~~renew its monument establishment license by payment of a renewal~~
 3032 ~~fee determined by its total gross aggregate at need and preneed~~
 3033 ~~retail sales for the 12 month period ending 2 full calendar~~
 3034 ~~months prior to the month in which the renewal is required, as~~
 3035 ~~follows:~~

3036 ~~(a) Total sales of \$1 to \$50,000, renewal fee \$1,000.~~

3037 ~~(b) Total sales of \$50,001 to \$250,000, renewal fee~~
 3038 ~~\$1,500.~~

3039 ~~(c) Total sales of \$250,001 to \$500,000, renewal fee~~
 3040 ~~\$2,000.~~

3041 ~~(d) Total sales over \$500,000, renewal fee \$2,500.~~

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3042 ~~(3)~~(4) Rules may be adopted providing procedures, forms,
 3043 and uniform timeframes for monument establishment license
 3044 renewals.

3045 Section 42. Subsection (4) of section 497.552, Florida
 3046 Statutes, as created by chapter 2004-301, Laws of Florida, is
 3047 amended to read:

3048 497.552 Required facilities.--Effective January 1, 2006, a
 3049 monument establishment shall at all times have and maintain a
 3050 full-service place of business at a specific street address or
 3051 location in Florida complying with the following requirements:

3052 (4) It shall have facilities on site for inscribing
 3053 monuments and equipment to deliver and install markers and
 3054 monuments.

3055 Section 43. Subsections (1) and (5) of section 497.553,
 3056 Florida Statutes, as created by chapter 2004-301, Laws of
 3057 Florida, are amended, and subsection (6) is added to said
 3058 section, to read:

3059 497.553 Regulation of monument establishments.--

3060 (1) The Department of Financial Services shall establish
 3061 and implement an inspection program for all monument
 3062 establishments in accordance with the requirements of this act.
 3063 The board shall set by rule an annual inspection fee not to
 3064 exceed \$300, payable upon application for licensure and upon
 3065 each renewal of such license.

3066 (5) Commencing January 1, 2006, the failure of a monument
 3067 establishment to deliver and install a purchased monument or
 3068 marker by the date agreed in the sales agreement shall entitle
 3069 the customer to a full refund of all amounts paid by the

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3070 customer for the monument and its delivery and installation,
 3071 unless the monument establishment has obtained a written
 3072 agreement from the customer extending the delivery date. Such
 3073 refund shall be made within 30 days after receipt by the
 3074 monument establishment of the customer's written request for a
 3075 refund. This subsection does not preclude the purchase and
 3076 installation of a new monument from any other registered
 3077 monument establishment or ~~preneed sales~~ licensee.

3078 (6) (a) A change in ownership shall be promptly reported
 3079 using forms and procedures specified by rule and may require the
 3080 relicensure of the licensee, including reinspection and payment
 3081 of applicable fees, as required by rule.

3082 (b) A change in location shall be promptly reported to the
 3083 licensing authority pursuant to procedures established by rule.
 3084 Operations by the licensee at a new location may not commence
 3085 until an inspection by the licensing authority of the
 3086 facilities, pursuant to rules of the licensing authority, has
 3087 been conducted and passed at the new location.

3088 Section 44. Paragraph (b) of subsection (2) and subsection
 3089 (4) of section 497.554, Florida Statutes, as created by chapter
 3090 2004-301, Laws of Florida, are amended, and subsection (7) is
 3091 added to said section, to read:

3092 497.554 Monument establishment sales representatives.--

3093 (2) APPLICATION PROCEDURES.--Licensure as a monument
 3094 establishment sales agent shall be by submission of an
 3095 application for licensure to the department on a form prescribed
 3096 by rule.

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3097 (b) The applicant shall be required to make disclosure of
 3098 the applicant's criminal records, if any, as required by s.
 3099 497.142. The applicant shall submit fingerprints in accordance
 3100 with s. 497.142. ~~The application shall require the applicant to~~
 3101 ~~disclose whether the applicant has ever been convicted or found~~
 3102 ~~guilty of, or entered a plea of no contest to, regardless of~~
 3103 ~~adjudication, any crime in any jurisdiction.~~

3104 (4) RENEWAL; TERMINATION OF AUTHORITY.--

3105 (a) A monument establishment sales agent license under
 3106 this section shall be renewed upon payment of a fee determined
 3107 by rule of the licensing authority but not to exceed \$250. ~~Once~~
 3108 ~~issued, a monument establishment sales agent license of an agent~~
 3109 ~~not licensed to make preneed sales shall remain in effect~~
 3110 ~~without renewal until surrendered, or the sponsoring monument~~
 3111 ~~establishment terminates the agent's authority to sell on behalf~~
 3112 ~~of that monument establishment, or the license is revoked or~~
 3113 ~~suspended by the licensing authority for cause.~~

3114 (b) The monument establishment whose officer signed the
 3115 sales agent application shall terminate that agent's authority
 3116 to sell on behalf of that monument establishment, and the
 3117 monument establishment in writing shall advise the licensing
 3118 authority of such termination within 30 days after the
 3119 termination.

3120 (7) EFFECTIVE DATE.--The provisions of this section shall
 3121 take effect October 1, 2006.

3122 Section 45. Section 497.555, Florida Statutes, as created
 3123 by chapter 2004-301, Laws of Florida, is amended to read:

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3124 497.555 Required rules.--Rules shall be adopted
 3125 establishing minimum standards for access to all cemeteries by
 3126 licensed monument establishments for the purpose of delivering
 3127 and installing markers and monuments. In all cases, cemeteries
 3128 and monument establishments shall ~~must~~ comply with these minimum
 3129 standards.

3130 Section 46. Paragraphs (d) and (f) of subsection (2) of
 3131 section 497.602, Florida Statutes, as renumbered and amended by
 3132 section 127 of chapter 2004-301, Laws of Florida, are amended to
 3133 read:

3134 497.602 Direct disposers, license required; licensing
 3135 procedures and criteria; regulation.--

3136 (2) APPLICATION PROCEDURES.--

3137 (d) The applicant shall be required to make disclosure of
 3138 the applicant's criminal records, if any, as required by s.
 3139 ~~497.142. The application shall require the applicant to disclose~~
 3140 ~~whether the applicant has ever been convicted or found guilty~~
 3141 ~~of, or entered a plea of no contest to, regardless of~~
 3142 ~~adjudication, any crime in any jurisdiction.~~

3143 (f) The applicant shall submit fingerprints in accordance
 3144 with s. 497.142. ~~The application shall require the applicant to~~
 3145 ~~provide fingerprints in accordance with part I of this chapter.~~

3146 Section 47. Subsection (1) of section 497.603, Florida
 3147 Statutes, as renumbered and amended by section 128 of chapter
 3148 2004-301, Laws of Florida, is amended to read:

3149 497.603 Direct disposers, renewal of license.--

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3150 (1) A direct disposer's license shall be renewed upon
 3151 receipt of the renewal application and fee set by rule of the
 3152 licensing authority but not to exceed \$500 ~~\$250~~.

3153 Section 48. Paragraphs (f), (h), and (j) of subsection
 3154 (2), paragraphs (a) and (b) of subsection (3), and subsection
 3155 (7) of section 497.604, Florida Statutes, as renumbered and
 3156 amended by section 129 of chapter 2004-301, Laws of Florida, are
 3157 amended, and paragraph (f) is added to subsection (9) of said
 3158 section, to read:

3159 497.604 Direct disposal establishments, license required;
 3160 licensing procedures and criteria; license renewal;
 3161 regulation.--

3162 (2) APPLICATION PROCEDURES.--

3163 (f) The applicant shall be required to make disclosure of
 3164 the applicant's criminal records, if any, as required by s.
 3165 497.142. ~~The application shall require the applicant to disclose~~
 3166 ~~whether the applicant or any of the applicant's principals~~
 3167 ~~including its proposed supervising licensee has ever been~~
 3168 ~~convicted or found guilty of, or entered a plea of no contest~~
 3169 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

3170 (h) The applicant shall submit fingerprints in accordance
 3171 with s. 497.142. ~~The application shall require the applicant and~~
 3172 ~~its principals to provide fingerprints in accordance with part I~~
 3173 ~~of this chapter.~~

3174 (j) The application shall be signed in accordance with s.
 3175 497.141(12) ~~by the applicant if a natural person or by the~~
 3176 ~~president of an applicant that is not a natural person.~~

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3177 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
 3178 application for licensure under this section, accompanied by the
 3179 required fee, shall be approved if the licensing authority
 3180 determines that the following conditions are met:

3181 (a) The applicant is a natural person at least 18 years of
 3182 age, a corporation, a partnership, or a limited liability
 3183 company ~~formed prior to January 1, 2006, which limited liability~~
 3184 ~~company already holds a license under this chapter.~~

3185 (b) The applicant does or will prior to commencing
 3186 operations under the license comply with all requirements of
 3187 this chapter relating to the license applied for. The applicant
 3188 shall have passed an inspection prior to issuance of a license
 3189 under this section, in accordance with rules of the licensing
 3190 authority.

3191 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee under
 3192 this section shall ~~must~~ provide notice as required by rule prior
 3193 to any change in location or control of the licensee or licensed
 3194 person in charge of the licensee's operations. A ~~Any such~~ change
 3195 in control is subject to approval by the licensing authority and
 3196 ~~disapproval or~~ to reasonable conditions imposed by the licensing
 3197 authority, for the protection of the public to ensure compliance
 3198 with this chapter. Operations by the licensee at a new location
 3199 may not commence until an inspection by the licensing authority
 3200 of the facilities at the new location, pursuant to rules of the
 3201 licensing authority, has been conducted and passed.

3202 (9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.--

3203 (f) A direct disposal establishment shall retain all
 3204 signed contracts for a period of at least 2 years.

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3205 Section 49. Paragraphs (f), (h), and (j) of subsection
 3206 (2), paragraph (b) of subsection (3), subsection (7), and
 3207 paragraphs (i), (j), and (k) of subsection (9) of section
 3208 497.606, Florida Statutes, as renumbered and amended by section
 3209 131 of chapter 2004-301, Laws of Florida, are amended to read:

3210 497.606 Cinerator facility, licensure required; licensing
 3211 procedures and criteria; license renewal; regulation.--

3212 (2) APPLICATION PROCEDURES.--

3213 (f) The applicant shall be required to make disclosure of
 3214 the applicant's criminal records, if any, as required by s.
 3215 497.142. ~~The application shall require the applicant to disclose~~
 3216 ~~whether the applicant or any of the applicant's principals~~
 3217 ~~including its proposed supervising licensee has ever been~~
 3218 ~~convicted or found guilty of, or entered a plea of no contest~~
 3219 ~~to, regardless of adjudication, any crime in any jurisdiction.~~

3220 (h) The applicant shall submit fingerprints in accordance
 3221 with s. 497.142. ~~The application shall require the applicant and~~
 3222 ~~its principals to provide fingerprints in accordance with part I~~
 3223 ~~of this chapter.~~

3224 (j) The application shall be signed in accordance with s.
 3225 497.141(12) ~~by the applicant if a natural person or by the~~
 3226 ~~president of an applicant that is not a natural person.~~

3227 (3) ACTION CONCERNING APPLICATIONS.--A duly completed
 3228 application for licensure under this section, accompanied by the
 3229 required fee, shall be approved if the licensing authority
 3230 determines that the following conditions are met:

3231 (b) The applicant is a natural person at least 18 years of
 3232 age, a corporation, a partnership, or a limited liability

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3233 company ~~formed prior to January 1, 2006, which limited liability~~
 3234 ~~company already holds a license under this chapter.~~

3235 (7) CHANGES SUBSEQUENT TO LICENSURE.--Each licensee under
 3236 this section shall ~~must~~ provide notice as required by rule prior
 3237 to any change in location or ~~or~~ control of the licensee, or
 3238 licensed person in charge of the licensee's operations. A Any
 3239 ~~such~~ change in control is subject to approval by the licensing
 3240 authority and disapproval ~~or~~ to reasonable conditions imposed by
 3241 the licensing authority, for the protection of the public to
 3242 ensure compliance with this chapter. Operations by the licensee
 3243 at a new location may not commence until an inspection by the
 3244 licensing authority of the facilities, pursuant to rules of the
 3245 licensing authority, has been conducted and passed at the new
 3246 location.

3247 (9) REGULATION OF CINERATOR FACILITIES.--

3248 ~~(i) There shall be adopted by rule criteria for acceptable~~
 3249 ~~cremation and alternative containers.~~

3250 ~~(i)~~ (j) There shall be rules adopted requiring each
 3251 facility to submit periodic reports to the department that ~~which~~
 3252 include the names of persons cremated, the date and county of
 3253 death, the name of each person supervising each cremation, the
 3254 name and license number of the establishment requesting
 3255 cremation, and the types of containers used to hold the body
 3256 during cremation.

3257 ~~(j)~~ (k) Each cinerator facility shall ~~must~~ be inspected
 3258 prior to the initial issuance ~~and renewal~~ of its license and
 3259 annually thereafter and shall:

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- 3260 | 1. Maintain one or more retorts for the reduction of dead
- 3261 | human bodies.
- 3262 | 2. Maintain refrigeration that satisfies the standards set
- 3263 | by the Department of Health and contains a sufficient
- 3264 | refrigerated space ~~number of shelves~~ for the average daily
- 3265 | number of bodies stored, if unembalmed bodies are kept at the
- 3266 | site.
- 3267 | 3. Maintain sufficient pollution control equipment to
- 3268 | comply with requirements of the Department of Environmental
- 3269 | Protection in order to secure annual approved certification.
- 3270 | 4. Either have on site or immediately available sufficient
- 3271 | gasketed ~~sealed~~ containers of a type required for the
- 3272 | transportation of bodies as specified in applicable state rules.
- 3273 | 5. Maintain the premises in a clean and sanitary
- 3274 | condition.
- 3275 | 6. Have appropriate Department of Environmental Protection
- 3276 | permits.
- 3277 | ~~7. Retain all signed contracts for a period of at least 2~~
- 3278 | ~~years.~~

3279 | Section 50. Subsection (3) of section 497.607, Florida
 3280 | Statutes, as renumbered and amended by section 132 of chapter
 3281 | 2004-301, Laws of Florida, is amended, and subsection (4) is
 3282 | added to said section, to read:

3283 | 497.607 Cremation; procedure required.--
 3284 | (3) Pursuant to the request of a legally authorized person
 3285 | and incidental to final disposition, cremation may be performed
 3286 | on parts of human remains. ~~This subsection does not authorize~~
 3287 | ~~the cremation of body parts as defined in s. 497.005.~~

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3288 (4) In regard to human remains delivered to the control of
 3289 the anatomical board of this state headquartered at the
 3290 University of Florida Health Science Center, the provisions of
 3291 this subsection and chapter shall not be construed to prohibit
 3292 the anatomical board from causing the final disposition of such
 3293 human remains through cremation or otherwise when performed in
 3294 facilities owned and operated by such anatomical board or the
 3295 University of Florida Health Science Center pursuant to and
 3296 using such processes, equipment, and procedures as said
 3297 anatomical board determines to be proper and adequate.

3298 Section 51. Section 152 of chapter 2004-301, Laws of
 3299 Florida, is amended to read:

3300 Section 152. (1) The rules of the Board of Funeral
 3301 Directors and Embalmers and of the Department of Business and
 3302 Professional Regulation relating to the Board of Funeral
 3303 Directors and Embalmers or implementation of chapter 470,
 3304 Florida Statutes, that ~~which~~ were in effect at 11:59 p.m. on the
 3305 day prior to this act taking effect shall become, on the
 3306 subjects they address, the rules of the Department of Financial
 3307 Services and the Board of Funeral, Cemetery, and Consumer
 3308 Services and shall remain in effect until amended or repealed in
 3309 the manner provided by law.

3310 (2) The rules of the Board of Funeral and Cemetery
 3311 Services that ~~which~~ were in effect at 11:59 p.m. on the day
 3312 prior to this act taking effect shall become, on the subjects
 3313 they address, the rules of the Department of Financial Services
 3314 and the Board of Funeral, Cemetery, and Consumer Services and

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3315 shall remain in effect until specifically amended or repealed in
 3316 the manner provided by law.

3317 (3) The rules of the Department of Financial Services
 3318 relating to chapter 497, Florida Statutes, that ~~which~~ were in
 3319 effect at 11:59 p.m. on the day prior to this act taking effect
 3320 shall continue in force until thereafter repealed or amended
 3321 pursuant to chapter 120, Florida Statutes, and this act.

3322 Section 52. Subsection (3) of section 626.785, Florida
 3323 Statutes, is amended to read:

3324 626.785 Qualifications for license.--

3325 (3) Notwithstanding any other provisions of this chapter,
 3326 a funeral director, a direct disposer, or an employee of a
 3327 funeral establishment that ~~which~~ holds a certificate of
 3328 authority pursuant to s. 497.452 ~~497.405~~ may obtain an agent's
 3329 license to sell only policies of life insurance covering the
 3330 expense of a prearrangement for funeral services or merchandise
 3331 so as to provide funds at the time the services and merchandise
 3332 are needed. The face amount of insurance covered by any such
 3333 policy shall not exceed \$12,500, plus an annual percentage
 3334 increase based on the Annual Consumer Price Index compiled by
 3335 the United States Department of Labor, beginning with the Annual
 3336 Consumer Price Index announced by the United States Department
 3337 of Labor for 2003 ~~\$7,500~~.

3338 Section 53. Sections 497.275, 497.388, and 497.556,
 3339 Florida Statutes, are repealed.

3340 Section 54. This act shall take effect October 1, 2005.