

Bill No. SB 2856

Barcode 585068

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (King) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Subsection (3) of section 497.101, Florida Statutes, is amended to read:

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

(3) Board members shall be appointed for terms of 4 years, and the State Health Officer shall serve as long as that person holds that office. The designee of the State Health Officer shall serve at the pleasure of the Governor. When the terms of the initial board members expire, the Chief Financial Officer shall stagger the terms of the successor members as follows: one funeral director, one cemetery representative, the monument retailer ~~dealer~~, and one consumer member shall be appointed for terms of 2 years, and the remaining members shall be appointed for terms of 4 years. All

Bill No. SB 2856

Barcode 585068

1 subsequent terms shall be for 4 years.

2 Section 2. Paragraphs (e), (f), and (g) of subsection  
3 (12) of section 497.141, Florida Statutes, are redesignated as  
4 paragraphs (f), (g), and (h), respectively, and a new  
5 paragraph (e) is added to that subsection, to read:

6 497.141 Licensing; general application procedures.--

7 (12)

8 (e)1. It is unlawful for any person regulated under  
9 chapter 395, chapter 400, or chapter 429, or any officer,  
10 administrator, or board member of such entity if the entity is  
11 a firm, corporation, partnership, or association, or any  
12 person owning 5 percent or more of such entity to conduct,  
13 maintain, manage, own, or operate a licensee under this  
14 chapter.

15 2. This paragraph does not apply to a board member of  
16 a corporation or organization regulated under chapter 395,  
17 chapter 400, or chapter 429 if the board member serves solely  
18 in a voluntary capacity, does not regularly take part in the  
19 day-to-day operational decisions of the corporation or  
20 organization, receives no remuneration for his or her  
21 services, and has no financial interest and has no family  
22 members with a financial interest in the corporation or  
23 organization.

24 Section 3. Section 497.143, Florida Statutes, is  
25 amended to read:

26 497.143 Licensing; limited licenses for retired  
27 professionals.--

28 (1) It is the intent of the Legislature that, absent a  
29 threat to the health, safety, and welfare of the public, the  
30 use of retired professionals in good standing to serve ~~the~~  
31 ~~indigent, underserved, or critical need populations of this~~

Bill No. SB 2856

Barcode 585068

1 state during times of critical need should be encouraged. To  
2 that end, rules may be adopted to permit practice by retired  
3 professionals as limited licensees under this section.

4 (2) For purposes of this section, the term "critical  
5 need" means:

6 (a) An executive order from the Governor declaring a  
7 state of emergency in an area;

8 (b) A request from the director of the Division of  
9 Emergency Management, as state coordinating officer for the  
10 state's comprehensive emergency management plan;

11 (c) A request from the Florida Emergency Mortuary  
12 Operations Response System sponsored by the University of  
13 Florida in collaboration with the Maples Center for Forensic  
14 Medicine;

15 (d) A request from any district medical examiner; or

16 (e) Activation of a state continuity of operations  
17 plan.

18 (3)(2) Any person desiring to obtain a limited  
19 license, when permitted by rule, shall submit to the  
20 department an application and fee, not to exceed \$300, and an  
21 affidavit stating that the applicant has been licensed to  
22 practice in any jurisdiction in the United States for at least  
23 10 years in the profession for which the applicant seeks a  
24 limited license. The affidavit shall also state that the  
25 applicant has retired ~~or intends to retire~~ from the practice  
26 of that profession and intends to practice only pursuant to  
27 the restrictions of the limited license granted pursuant to  
28 this section. If the applicant for a limited license submits a  
29 notarized statement from the employer stating that the  
30 applicant will not receive monetary compensation for any  
31 service involving the practice of her or his profession, ~~the~~

Bill No. SB 2856

Barcode 585068

1 ~~application and~~ all licensure fees shall be waived. In no  
2 event may a person holding a limited license under this  
3 section engage in preneed sales under such limited license.

4 ~~(4)(3)~~ Limited licensure may be denied to an applicant  
5 who has committed, or is under investigation or prosecution  
6 for, any act which would constitute the basis for discipline  
7 under this chapter.

8 ~~(5)(4)~~ ~~The recipient of a limited license may practice~~  
9 ~~only in the employ of public agencies or institutions or~~  
10 ~~nonprofit agencies or institutions which meet the requirements~~  
11 ~~of 26 U.S.C. 501(c)(3) of the Internal Revenue Code and which~~  
12 ~~provide professional liability coverage for acts or omissions~~  
13 ~~of the limited licensee.~~ A limited licensee may provide  
14 services only during times of ~~to the indigent, underserved, or~~  
15 ~~critical need~~ populations within the state. ~~The standard for~~  
16 ~~determining indigency shall be that recognized by the Federal~~  
17 ~~Poverty Income Guidelines produced by the United States~~  
18 ~~Department of Health and Human Services. Rules may be adopted~~  
19 ~~to define underserved and critical need areas and to ensure~~  
20 ~~implementation of this section.~~

21 ~~(6)(5)~~ The department may provide by rule for  
22 supervision of limited licensees to protect the health,  
23 safety, and welfare of the public.

24 ~~(7)(6)~~ Each applicant granted a limited license is  
25 subject to all the provisions of this chapter under which the  
26 limited license is issued which are not in conflict with this  
27 section.

28 (8) All limited licensees shall work for an entity  
29 licensed under this chapter.

30 Section 4. Section 497.162, Florida Statutes, is  
31 amended to read:

Bill No. SB 2856

Barcode 585068

1           497.162 Health and safety education.--All individuals  
2 not licensed under this chapter who intend to be employed as  
3 operational personnel affiliated with a direct disposal  
4 establishment, cinerator facility, removal service,  
5 refrigeration facility, or centralized embalming facility, ~~as~~  
6 ~~well as~~ all nonlicensed individuals who intend to be involved  
7 in the removal or transportation of human remains on behalf of  
8 a funeral establishment, direct disposal establishment, or  
9 cinerator facility, and once every 6 years each person who is  
10 not licensed under this chapter who is employed by an entity  
11 licensed under this chapter shall complete one course approved  
12 by the licensing authority on communicable diseases, within 10  
13 days after the date that they begin functioning as operational  
14 personnel on behalf of any entity that is regulated by this  
15 chapter. The course shall not exceed 3 hours and shall be  
16 offered at approved locations throughout the state. Such  
17 locations may include establishments that are licensed under  
18 this chapter. The licensing authority shall adopt rules to  
19 implement and enforce this provision, which rules shall  
20 include provisions that provide for the use of approved  
21 videocassette courses and other types of audio, video, or home  
22 study courses to fulfill the continuing education requirements  
23 of this section.

24           Section 5. Subsection (2) of section 497.260, Florida  
25 Statutes, is amended to read:

26           497.260 Cemeteries; exemption; investigation and  
27 mediation.--

28           (2) Section 497.276(1) as to burial records, and ss.  
29 497.152(1)(d), 497.164, 497.2765, 497.278, 497.280, and  
30 497.284 apply to all cemeteries in this state.

31           Section 6. Paragraph (c) of subsection (2) of section

Bill No. SB 2856

Barcode 585068

1 497.271, Florida Statutes, is amended to read:

2 497.271 Standards for construction and significant  
3 alteration or renovation of mausoleums and columbaria.--

4 (2) The licensing authority shall adopt, by no later  
5 than July 1, 1999, rules establishing minimum standards for  
6 all newly constructed and significantly altered or renovated  
7 mausoleums and columbaria; however, in the case of significant  
8 alterations or renovations to existing structures, the rules  
9 shall apply only, when physically feasible, to the newly  
10 altered or renovated portion of such structures, except as  
11 specified in subsection (4). In developing and adopting such  
12 rules, the licensing authority may define different classes of  
13 structures or construction standards, and may provide for  
14 different rules to apply to each of said classes, if the  
15 designation of classes and the application of different rules  
16 is in the public interest and is supported by findings by the  
17 licensing authority based on evidence of industry practices,  
18 economic and physical feasibility, location, or intended uses;  
19 provided, that the rules shall provide minimum standards  
20 applicable to all construction. For example, and without  
21 limiting the generality of the foregoing, the licensing  
22 authority may determine that a small single-story ground level  
23 mausoleum does not require the same level of construction  
24 standards that a large multistory mausoleum might require; or  
25 that a mausoleum located in a low-lying area subject to  
26 frequent flooding or hurricane threats might require different  
27 standards than one located on high ground in an area not  
28 subject to frequent severe weather threats. The licensing  
29 authority shall develop the rules in cooperation with, and  
30 with technical assistance from, the Florida Building  
31 Commission of the Department of Community Affairs, to ensure

Bill No. SB 2856

Barcode 585068

1 that the rules are in the proper form and content to be  
 2 included as part of the State Minimum Building Codes under  
 3 part VII of chapter 553. If the Florida Building Commission  
 4 advises that some of the standards proposed by the licensing  
 5 authority are not appropriate for inclusion in such building  
 6 codes, the licensing authority may choose to include those  
 7 standards in a distinct chapter of its rules entitled  
 8 "Non-Building-Code Standards for Mausoleums" or "Additional  
 9 Standards for Mausoleums," or other terminology to that  
 10 effect. If the licensing authority elects to divide the  
 11 standards into two or more chapters, all such rules shall be  
 12 binding on licensees and others subject to the jurisdiction of  
 13 the licensing authority, but only the chapter containing  
 14 provisions appropriate for building codes shall be transmitted  
 15 to the Florida Building Commission pursuant to subsection (3).  
 16 Such rules may be in the form of standards for design and  
 17 construction; methods, materials, and specifications for  
 18 construction; or other mechanisms. Such rules shall encompass,  
 19 at a minimum, the following standards:

20 (c) Such structure must contain adequate provision for  
 21 drainage and ventilation. Private or family mausoleums with  
 22 all crypts bordering an exterior wall must contain pressure  
 23 relief ventilation from the crypts to the outside of the  
 24 mausoleum through the exterior wall.

25 Section 7. Subsection (1) of section 497.367, Florida  
 26 Statutes, is amended to read:

27 497.367 Instruction on HIV and AIDS, funeral directors  
 28 and embalmers.--

29 (1) Each person licensed as a funeral director or  
 30 embalmer under this chapter shall be required to complete an  
 31 approved continuing educational course on human

Bill No. SB 2856

Barcode 585068

1 immunodeficiency virus and acquired immune deficiency syndrome  
 2 as a prerequisite for every third biennial licensure renewal  
 3 ~~at least every 2 years~~. The course shall consist of education  
 4 on the modes of transmission, infection control procedures,  
 5 clinical management, and prevention of human immunodeficiency  
 6 virus and acquired immune deficiency syndrome. Such course  
 7 shall include information on current Florida law on acquired  
 8 immune deficiency syndrome and its impact on testing,  
 9 confidentiality of test results, and treatment of patients.

10 Section 8. Paragraph (b) of subsection (1) of section  
 11 497.374, Florida Statutes, is amended to read:

12 497.374 Funeral directing; licensure as a funeral  
 13 director by endorsement; licensure of a temporary funeral  
 14 director.--

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

19 (b)1. Holds a valid license to practice funeral  
 20 directing in another state of the United States, provided  
 21 that, when the applicant secured her or his original license,  
 22 the requirements for licensure were substantially equivalent  
 23 to or more stringent than those existing in this state; or

24 2. Meets the qualifications for licensure in s.  
 25 497.373 and has, ~~within 10 years prior to the date of~~  
 26 ~~application,~~ successfully completed a state, regional, or  
 27 national examination in mortuary science, which, as determined  
 28 by rule of the licensing authority, is substantially  
 29 equivalent to or more stringent than the examination given by  
 30 the licensing authority.

31 Section 9. Subsection (1) of section 497.550, Florida



Bill No. SB 2856

Barcode 585068

1 Statutes, is amended to read:

2 497.550 Licensure of monument establishments required;  
3 procedures and criteria.--

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

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

- 10 1. Monument builder.
- 11 2. Monument retailer ~~dealer~~.

12 (b) An applicant for licensure as a monument  
13 establishment shall designate on the application form the  
14 category of monument establishment licensure for which he or  
15 she is applying.

16 (c) Each monument establishment that is licensed under  
17 this chapter at 11:59 p.m. on September 30, 2005, is, on and  
18 after October 1, 2005, licensed as a monument retailer ~~dealer~~  
19 subject to the requirements of this chapter. A person who  
20 becomes licensed as a monument retailer ~~dealer~~ by operation of  
21 this paragraph may apply to the board for licensure as a  
22 monument builder and, upon payment of applicable application  
23 fees and the granting of such application and licensure as a  
24 monument builder, such person's licensure as a monument  
25 retailer ~~dealer~~ will expire.

26 (d) The requirements of this chapter apply to both  
27 monument retailers ~~dealers~~ and monument builders, except as  
28 provided in this paragraph. Each monument establishment shall  
29 be a physical structure that is located at a specific street  
30 address, in compliance with zoning regulations of the  
31 appropriate local government, and not located on property that

Bill No. SB 2856

Barcode 585068

1 is exempt from taxation, but a monument retailer ~~dealer~~ may  
2 not otherwise be required to comply with s. 497.552 or be  
3 subject to inspection under this chapter.

4 (e) A monument establishment that is not licensed  
5 under the monument-builder category is not eligible for a  
6 preneed sales license.

7 Section 10. Section 497.609, Florida Statutes, is  
8 created to read:

9 497.609 Liability of direct disposers, direct disposal  
10 establishments, funeral directors, funeral establishments, and  
11 cinerator facilities regarding cremation.--If a direct  
12 disposer, direct disposal establishment, funeral director,  
13 funeral establishment, or cinerator facility is given a copy  
14 of the deceased's declaration of intent to be cremated that is  
15 signed by the deceased and the deceased's human remains are  
16 subsequently cremated, or a court order directing the  
17 cremation of the deceased's human remains, no person may make  
18 a claim objecting to the cremation against that direct  
19 disposer, direct disposal establishment, funeral director,  
20 funeral establishment, or cinerator facility. If a direct  
21 disposer, direct disposal establishment, funeral director,  
22 funeral establishment, or cinerator facility performs a  
23 cremation pursuant to the authorization of a legally  
24 authorized person who represents that she or he is not aware  
25 of any objection to the cremation of the deceased's human  
26 remains by others in the same class of the person making the  
27 representation or of any person in a higher priority class,  
28 and the deceased's human remains are subsequently cremated, no  
29 person may make a claim objecting to the cremation against  
30 that direct disposer, direct disposal establishment, funeral  
31 director, funeral establishment, or cinerator facility.

Bill No. SB 2856

Barcode 585068

1           Section 11. Subsections (5) through (14) of section  
 2 553.36, Florida Statutes, are renumbered as subsections (6)  
 3 through (15), respectively, present subsections (15) and (16)  
 4 are renumbered as subsections (17) and (18), respectively, and  
 5 new subsections (5) and (16) are added to that section, to  
 6 read:

7           553.36 Definitions.--The definitions contained in this  
 8 section govern the construction of this part unless the  
 9 context otherwise requires.

10           (5) "Columbarium" means a structure or building that  
 11 is substantially exposed above the ground and that is intended  
 12 to be used for the inurnment of cremated remains.

13           (16) "Private mausoleum" means a mausoleum as defined  
 14 in s. 497.005(40) for the private use of a family or group of  
 15 family members.

16           Section 12. Paragraphs (j) and (k) are added to  
 17 subsection (9) of section 553.73, Florida Statutes, to read:

18           553.73 Florida Building Code.--

19           (9) The following buildings, structures, and  
 20 facilities are exempt from the Florida Building Code as  
 21 provided by law, and any further exemptions shall be as  
 22 determined by the Legislature and provided by law:

23           (j) Prefabricated or pre-assembled columbaria.

24           (k) Prefabricated or pre-assembled private mausoleums  
 25 that are not walk-in.

26  
 27 With the exception of paragraphs (a), (b), (c), and (f), in  
 28 order to preserve the health, safety, and welfare of the  
 29 public, the Florida Building Commission may, by rule adopted  
 30 pursuant to chapter 120, provide for exceptions to the broad  
 31 categories of buildings exempted in this section, including

Bill No. SB 2856

Barcode 585068

1 exceptions for application of specific sections of the code or  
 2 standards adopted therein. The Department of Agriculture and  
 3 Consumer Services shall have exclusive authority to adopt by  
 4 rule, pursuant to chapter 120, exceptions to nonresidential  
 5 farm buildings exempted in paragraph (c) when reasonably  
 6 necessary to preserve public health, safety, and welfare. The  
 7 exceptions must be based upon specific criteria, such as  
 8 under-roof floor area, aggregate electrical service capacity,  
 9 HVAC system capacity, or other building requirements. Further,  
 10 the commission may recommend to the Legislature additional  
 11 categories of buildings, structures, or facilities which  
 12 should be exempted from the Florida Building Code, to be  
 13 provided by law.

14 Section 13. Subsection (14) of section 316.515,  
 15 Florida Statutes, is amended to read:

16 316.515 Maximum width, height, length.--

17 (14) MANUFACTURED BUILDINGS.--The Department of  
 18 Transportation may, in its discretion and upon application and  
 19 good cause shown therefor that the same is not contrary to the  
 20 public interest, issue a special permit for truck  
 21 tractor-semitrailer combinations where the total number of  
 22 overwidth deliveries of manufactured buildings, as defined in  
 23 s. 553.36(13) ~~s. 553.36(12)~~, may be reduced by permitting the  
 24 use of an overlength trailer of no more than 54 feet.

25 Section 14. Paragraph (a) of subsection (1) and  
 26 subsection (5) of section 627.702, Florida Statutes, are  
 27 amended to read:

28 627.702 Valued policy law.--

29 (1)(a) In the event of the total loss of any building,  
 30 structure, mobile home as defined in s. 320.01(2), or  
 31 manufactured building as defined in s. 553.36(13) ~~s.~~

Bill No. SB 2856

Barcode 585068

1 ~~553.36(12)~~, located in this state and insured by any insurer  
 2 as to a covered peril, in the absence of any change increasing  
 3 the risk without the insurer's consent and in the absence of  
 4 fraudulent or criminal fault on the part of the insured or one  
 5 acting in her or his behalf, the insurer's liability under the  
 6 policy for such total loss, if caused by a covered peril,  
 7 shall be in the amount of money for which such property was so  
 8 insured as specified in the policy and for which a premium has  
 9 been charged and paid.

10 (5) This section does not apply as to personal  
 11 property or any interest therein, except with respect to  
 12 mobile homes as defined in s. 320.01(2) or manufactured  
 13 buildings as defined in s. 553.36(13) ~~s. 553.36(12)~~. Nor does  
 14 this section apply to coverage of an appurtenant structure or  
 15 other structure or any coverage or claim in which the dollar  
 16 amount of coverage available as to the structure involved is  
 17 not directly stated in the policy as a dollar amount  
 18 specifically applicable to that particular structure.

19 Section 15. This act shall take effect July 1, 2007.

20  
21

22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 Delete everything before the enacting clause

25

26 and insert:

27

A bill to be entitled

28

An act relating to funeral and cemetery

29

industry regulation; amending s. 497.101, F.S.;

30

conforming a reference; amending s. 497.141,

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F.S.; prohibiting certain persons from

Bill No. SB 2856

Barcode 585068

1 conducting, maintaining, managing, owning, or  
2 operating licensees under ch. 479; providing an  
3 exception; amending s. 497.143, F.S.; revising  
4 regulation and practice of limited licensees;  
5 amending s. 497.162, F.S.; requiring certain  
6 employees to periodically complete a course on  
7 communicable diseases; amending s. 497.260,  
8 F.S.; requiring that a provision relating to  
9 the installation of monuments applies to all  
10 cemeteries in the state; amending s. 497.271,  
11 F.S.; requiring that certain mausoleums contain  
12 pressure relief ventilation; amending s.  
13 497.367, F.S.; revising the frequency with  
14 which licensed funeral directors and embalmers  
15 are required to complete a continuing education  
16 course on HIV and AIDS; amending s. 497.374,  
17 F.S.; revising qualifications for licensure by  
18 endorsement for funeral directors; amending s.  
19 497.550, F.S.; replacing the term "monument  
20 dealer" with "monument retailer"; creating s.  
21 497.609, F.S.; providing freedom from liability  
22 for direct disposers, direct disposal  
23 establishments, funeral directors, funeral  
24 establishments, and cinerator facilities  
25 performing cremation under certain  
26 circumstances; amending s. 553.36, F.S.;  
27 providing definitions; amending s. 553.73,  
28 F.S.; providing exceptions to the Florida  
29 Building Code relating to columbaria and  
30 mausoleums; amending ss. 316.515 and 627.702,  
31 F.S.; conforming cross-references; providing an

Bill No. SB 2856

Barcode 585068

1 effective date.

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