

Bill No. CS for SB 2856

Barcode 954964

CHAMBER ACTION

Senate

House

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The Committee on Community Affairs (Crist) 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 builder ~~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

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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~~

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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 an executive order of the Governor or a federal
6 order declaring a state of emergency in an area.

7 (3)(2) Any person desiring to obtain a limited
8 license, when permitted by rule, shall submit to the
9 department an application and fee, not to exceed \$300, and an
10 affidavit stating that the applicant has been licensed to
11 practice in any jurisdiction in the United States for at least
12 10 years in the profession for which the applicant seeks a
13 limited license. The affidavit shall also state that the
14 applicant has retired ~~or intends to retire~~ from the practice
15 of that profession and intends to practice only pursuant to
16 the restrictions of the limited license granted pursuant to
17 this section. If the applicant for a limited license submits a
18 notarized statement from the employer stating that the
19 applicant will not receive monetary compensation for any
20 service involving the practice of her or his profession, ~~the~~
21 ~~application and~~ all licensure fees shall be waived. In no
22 event may a person holding a limited license under this
23 section engage in preneed sales under such limited license.

24 (4)(3) Limited licensure may be denied to an applicant
25 who has committed, or is under investigation or prosecution
26 for, any act which would constitute the basis for discipline
27 under this chapter.

28 (5)(4) ~~The recipient of a limited license may practice~~
29 ~~only in the employ of public agencies or institutions or~~
30 ~~nonprofit agencies or institutions which meet the requirements~~
31 ~~of 26 U.S.C. 501(c)(3) of the Internal Revenue Code and which~~

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1 ~~provide professional liability coverage for acts or omissions~~
 2 ~~of the limited licensee.~~ A limited licensee may provide
 3 services only during times of ~~to the indigent, underserved, or~~
 4 ~~critical need~~ populations within the state. ~~The standard for~~
 5 ~~determining indigency shall be that recognized by the Federal~~
 6 ~~Poverty Income Guidelines produced by the United States~~
 7 ~~Department of Health and Human Services.~~ Rules may be adopted
 8 ~~to define underserved and critical need areas and to ensure~~
 9 ~~implementation of this section.~~

10 ~~(6)(5)~~ The department may provide by rule for
 11 supervision of limited licensees to protect the health,
 12 safety, and welfare of the public.

13 ~~(7)(6)~~ Each applicant granted a limited license is
 14 subject to all the provisions of this chapter under which the
 15 limited license is issued which are not in conflict with this
 16 section.

17 ~~(8)~~ All limited licensees shall work for an entity
 18 licensed under this chapter.

19 Section 4. Section 497.162, Florida Statutes, is
 20 amended to read:

21 497.162 Health and safety education.--All individuals
 22 not licensed under this chapter who intend to be employed as
 23 operational personnel affiliated with a direct disposal
 24 establishment, cinerator facility, removal service,
 25 refrigeration facility, or centralized embalming facility, ~~as~~
 26 ~~well as~~ all nonlicensed individuals who intend to be involved
 27 in the removal or transportation of human remains on behalf of
 28 a funeral establishment, direct disposal establishment, or
 29 cinerator facility shall complete one course approved by the
 30 licensing authority on communicable diseases, within 10 days
 31 after the date that they begin functioning as operational

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1 personnel on behalf of any entity that is regulated by this
 2 chapter. The course shall not exceed 3 hours and shall be
 3 offered at approved locations throughout the state. Such
 4 locations may include establishments that are licensed under
 5 this chapter. The licensing authority shall adopt rules to
 6 implement and enforce this provision, which rules shall
 7 include provisions that provide for the use of approved
 8 videocassette courses and other types of audio, video,
 9 Internet, or home study courses to fulfill the continuing
 10 education requirements of this section.

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

13 497.260 Cemeteries; exemption; investigation and
 14 mediation.--

15 (2) Section 497.276(1) as to burial records, and ss.
 16 497.152(1)(d), 497.164, 497.2765, 497.278, 497.280, and
 17 497.284 apply to all cemeteries in this state.

18 Section 6. Paragraph (c) of subsection (2) of section
 19 497.271, Florida Statutes, is amended to read:

20 497.271 Standards for construction and significant
 21 alteration or renovation of mausoleums and columbaria.--

22 (2) The licensing authority shall adopt, by no later
 23 than July 1, 1999, rules establishing minimum standards for
 24 all newly constructed and significantly altered or renovated
 25 mausoleums and columbaria; however, in the case of significant
 26 alterations or renovations to existing structures, the rules
 27 shall apply only, when physically feasible, to the newly
 28 altered or renovated portion of such structures, except as
 29 specified in subsection (4). In developing and adopting such
 30 rules, the licensing authority may define different classes of
 31 structures or construction standards, and may provide for

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1 different rules to apply to each of said classes, if the
2 designation of classes and the application of different rules
3 is in the public interest and is supported by findings by the
4 licensing authority based on evidence of industry practices,
5 economic and physical feasibility, location, or intended uses;
6 provided, that the rules shall provide minimum standards
7 applicable to all construction. For example, and without
8 limiting the generality of the foregoing, the licensing
9 authority may determine that a small single-story ground level
10 mausoleum does not require the same level of construction
11 standards that a large multistory mausoleum might require; or
12 that a mausoleum located in a low-lying area subject to
13 frequent flooding or hurricane threats might require different
14 standards than one located on high ground in an area not
15 subject to frequent severe weather threats. The licensing
16 authority shall develop the rules in cooperation with, and
17 with technical assistance from, the Florida Building
18 Commission of the Department of Community Affairs, to ensure
19 that the rules are in the proper form and content to be
20 included as part of the State Minimum Building Codes under
21 part VII of chapter 553. If the Florida Building Commission
22 advises that some of the standards proposed by the licensing
23 authority are not appropriate for inclusion in such building
24 codes, the licensing authority may choose to include those
25 standards in a distinct chapter of its rules entitled
26 "Non-Building-Code Standards for Mausoleums" or "Additional
27 Standards for Mausoleums," or other terminology to that
28 effect. If the licensing authority elects to divide the
29 standards into two or more chapters, all such rules shall be
30 binding on licensees and others subject to the jurisdiction of
31 the licensing authority, but only the chapter containing

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1 provisions appropriate for building codes shall be transmitted
 2 to the Florida Building Commission pursuant to subsection (3).
 3 Such rules may be in the form of standards for design and
 4 construction; methods, materials, and specifications for
 5 construction; or other mechanisms. Such rules shall encompass,
 6 at a minimum, the following standards:

7 (c) Such structure must contain adequate provision for
 8 drainage and ventilation. Private or family mausoleums with
 9 all crypts bordering an exterior wall must contain pressure
 10 relief ventilation from the crypts to the outside of the
 11 mausoleum through the exterior wall or roof.

12 Section 7. Subsection (4) is added to section 497.273,
 13 Florida Statutes, to read:

14 497.273 Cemetery companies; authorized functions.--

15 (4) This chapter does not prohibit the interment or
 16 entombment of the inurned cremated animal remains of the
 17 decedent's pet or pets with the decedent's human remains or
 18 cremated human remains if:

19 (a) The human remains or cremated human remains are
 20 not commingled with the inurned cremated animal remains; and

21 (b) The interment or entombment with the inurned
 22 cremated animal remains is with the authorization of the
 23 decedent or other legally authorized person.

24 Section 8. Subsection (1) of section 497.367, Florida
 25 Statutes, is amended to read:

26 497.367 Instruction on HIV and AIDS, funeral directors
 27 and embalmers.--

28 (1) Each person licensed as a funeral director or
 29 embalmer under this chapter shall be required to complete an
 30 approved continuing educational course on human
 31 immunodeficiency virus and acquired immune deficiency syndrome

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

9 Section 9. Paragraph (b) of subsection (1) of section
 10 497.374, Florida Statutes, is amended to read:

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

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

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

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

30 Section 10. Subsection (1) of section 497.550, Florida
 31 Statutes, is amended to read:

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1 497.550 Licensure of monument establishments required;
2 procedures and criteria.--

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

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

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

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

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

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

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1 not otherwise be required to comply with s. 497.552 or be
2 subject to inspection under this chapter.

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

6 Section 11. Section 497.609, Florida Statutes, is
7 created to read:

8 497.609 Liability of direct disposers, direct disposal
9 establishments, funeral directors, funeral establishments, and
10 cinerator facilities regarding cremation.--If a direct
11 disposer, direct disposal establishment, funeral director,
12 funeral establishment, or cinerator facility is given a copy
13 of the deceased's declaration of intent to be cremated that is
14 signed by the deceased and the deceased's human remains are
15 subsequently cremated, or a court order directing the
16 cremation of the deceased's human remains, no person may make
17 a claim objecting to the cremation against that direct
18 disposer, direct disposal establishment, funeral director,
19 funeral establishment, or cinerator facility. If a direct
20 disposer, direct disposal establishment, funeral director,
21 funeral establishment, or cinerator facility performs a
22 cremation pursuant to the authorization of a legally
23 authorized person who represents that she or he is not aware
24 of any objection to the cremation of the deceased's human
25 remains by others in the same class of the person making the
26 representation or of any person in a higher priority class,
27 and the deceased's human remains are subsequently cremated, no
28 person may make a claim objecting to the cremation against
29 that direct disposer, direct disposal establishment, funeral
30 director, funeral establishment, or cinerator facility.

31 Section 12. Subsections (5) through (14) of section

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

6 553.36 Definitions.--The definitions contained in this
7 section govern the construction of this part unless the
8 context otherwise requires.

9 (5) "Columbarium" means a permanent structure
10 consisting of niches.

11 (16) "Private mausoleum" means a structure intended
12 for the private use of a family or group of family members.

13 Section 13. Paragraphs (j) and (k) are added to
14 subsection (9) of section 553.73, Florida Statutes, to read:

15 553.73 Florida Building Code.--

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

20 (j) Prefabricated or preassembled columbaria that are
21 located in a cemetery regulated under part II of chapter 497
22 and that are 720 square feet or less and less than 15 feet in
23 height.

24 (k) Prefabricated or preassembled, non-walk-in private
25 mausoleums that are regulated under part II of chapter 497 and
26 that are 720 square feet or less and less than 15 feet in
27 height.

28
29 With the exception of paragraphs (a), (b), (c), and (f), in
30 order to preserve the health, safety, and welfare of the
31 public, the Florida Building Commission may, by rule adopted

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

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

18 316.515 Maximum width, height, length.--

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

27 Section 15. Paragraph (a) of subsection (1) and
 28 subsection (5) of section 627.702, Florida Statutes, are
 29 amended to read:

30 627.702 Valued policy law.--

31 (1)(a) In the event of the total loss of any building,

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1 structure, mobile home as defined in s. 320.01(2), or
 2 manufactured building as defined in s. 553.36(13) ~~s.~~
 3 ~~553.36(12)~~, located in this state and insured by any insurer
 4 as to a covered peril, in the absence of any change increasing
 5 the risk without the insurer's consent and in the absence of
 6 fraudulent or criminal fault on the part of the insured or one
 7 acting in her or his behalf, the insurer's liability under the
 8 policy for such total loss, if caused by a covered peril,
 9 shall be in the amount of money for which such property was so
 10 insured as specified in the policy and for which a premium has
 11 been charged and paid.

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

21 Section 16. This act shall take effect July 1, 2007
 22
 23

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

25 And the title is amended as follows:

26 Delete everything before the enacting clause
 27

28 and insert:

29 A bill to be entitled
 30 An act relating to funeral and cemetery
 31 industry regulation; amending s. 497.101, F.S.;

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1 conforming a reference; amending s. 497.141,
2 F.S.; prohibiting certain persons from
3 conducting, maintaining, managing, owning, or
4 operating licensees under ch. 479; providing an
5 exception; amending s. 497.143, F.S.; revising
6 regulation and practice of limited licensees;
7 amending s. 497.162, F.S.; authorizing the use
8 of Internet courses for continuing education;
9 amending s. 497.260, F.S.; requiring that a
10 provision relating to the installation of
11 monuments applies to all cemeteries in the
12 state; amending s. 497.271, F.S.; requiring
13 that certain mausoleums contain pressure relief
14 ventilation; amending s. 497.273, F.S.;

15 providing for internment or entombment of a
16 decedent with the remains of the decedent's
17 pet; amending s. 497.367, F.S.; revising the
18 frequency with which licensed funeral directors
19 and embalmers are required to complete a
20 continuing education course on HIV and AIDS;
21 amending s. 497.374, F.S.; revising
22 qualifications for licensure by endorsement for
23 funeral directors; amending s. 497.550, F.S.;

24 replacing the term "monument dealer" with
25 "monument retailer"; creating s. 497.609, F.S.;

26 providing freedom from liability for direct
27 disposers, direct disposal establishments,
28 funeral directors, funeral establishments, and
29 cinerator facilities performing cremation under
30 certain circumstances; amending s. 553.36,
31 F.S.; providing definitions; amending s.

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1 553.73, F.S.; providing exceptions to the
2 Florida Building Code relating to columbaria
3 and mausoleums; amending ss. 316.515 and
4 627.702, F.S.; conforming cross-references;
5 providing an effective date.

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