

By the Committees on Community Affairs; Regulated Industries;  
and Senator Crist

578-2664-07

1                                   A bill to be entitled  
2           An act relating to funeral and cemetery  
3           industry regulation; amending s. 497.101, F.S.;  
4           conforming a reference; amending s. 497.141,  
5           F.S.; prohibiting certain persons from  
6           conducting, maintaining, managing, owning, or  
7           operating licensees under ch. 479; providing an  
8           exception; amending s. 497.143, F.S.; revising  
9           regulation and practice of limited licensees;  
10          amending s. 497.162, F.S.; authorizing the use  
11          of Internet courses for continuing education;  
12          amending s. 497.260, F.S.; requiring that a  
13          provision relating to the installation of  
14          monuments applies to all cemeteries in the  
15          state; amending s. 497.271, F.S.; requiring  
16          that certain mausoleums contain pressure relief  
17          ventilation; amending s. 497.273, F.S.;  
18          providing for internment or entombment of a  
19          decedent with the remains of the decedent's  
20          pet; amending s. 497.367, F.S.; revising the  
21          frequency with which licensed funeral directors  
22          and embalmers are required to complete a  
23          continuing education course on HIV and AIDS;  
24          amending s. 497.374, F.S.; revising  
25          qualifications for licensure by endorsement for  
26          funeral directors; amending s. 497.550, F.S.;  
27          replacing the term "monument dealer" with  
28          "monument retailer"; creating s. 497.609, F.S.;  
29          providing freedom from liability for direct  
30          disposers, direct disposal establishments,  
31          funeral directors, funeral establishments, and

1 cinerator facilities performing cremation under  
2 certain circumstances; amending s. 553.36,  
3 F.S.; providing definitions; amending s.  
4 553.73, F.S.; providing exceptions to the  
5 Florida Building Code relating to columbaria  
6 and mausoleums; amending ss. 316.515 and  
7 627.702, F.S.; conforming cross-references;  
8 providing an effective date.  
9

10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Subsection (3) of section 497.101, Florida  
13 Statutes, is amended to read:

14 497.101 Board of Funeral, Cemetery, and Consumer  
15 Services; membership; appointment; terms.--

16 (3) Board members shall be appointed for terms of 4  
17 years, and the State Health Officer shall serve as long as  
18 that person holds that office. The designee of the State  
19 Health Officer shall serve at the pleasure of the Governor.  
20 When the terms of the initial board members expire, the Chief  
21 Financial Officer shall stagger the terms of the successor  
22 members as follows: one funeral director, one cemetery  
23 representative, the monument builder ~~dealer~~, and one consumer  
24 member shall be appointed for terms of 2 years, and the  
25 remaining members shall be appointed for terms of 4 years. All  
26 subsequent terms shall be for 4 years.

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

31 497.141 Licensing; general application procedures.--

1 (12)

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

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

18 Section 3. Section 497.143, Florida Statutes, is  
19 amended to read:

20 497.143 Licensing; limited licenses for retired  
21 professionals.--

22 (1) It is the intent of the Legislature that, absent a  
23 threat to the health, safety, and welfare of the public, the  
24 use of retired professionals in good standing to serve ~~the~~  
25 ~~indigent, underserved, or critical need populations~~ of this  
26 state during times of critical need should be encouraged. To  
27 that end, rules may be adopted to permit practice by retired  
28 professionals as limited licensees under this section.

29 (2) For purposes of this section, the term "critical  
30 need" means an executive order of the Governor or a federal  
31 order declaring a state of emergency in an area.

1           ~~(3)(2)~~ Any person desiring to obtain a limited  
2 license, when permitted by rule, shall submit to the  
3 department an application and fee, not to exceed \$300, and an  
4 affidavit stating that the applicant has been licensed to  
5 practice in any jurisdiction in the United States for at least  
6 10 years in the profession for which the applicant seeks a  
7 limited license. The affidavit shall also state that the  
8 applicant has retired ~~or intends to retire~~ from the practice  
9 of that profession and intends to practice only pursuant to  
10 the restrictions of the limited license granted pursuant to  
11 this section. If the applicant for a limited license submits a  
12 notarized statement from the employer stating that the  
13 applicant will not receive monetary compensation for any  
14 service involving the practice of her or his profession, ~~the~~  
15 ~~application and~~ all licensure fees shall be waived. In no  
16 event may a person holding a limited license under this  
17 section engage in preneed sales under such limited license.

18           ~~(4)(3)~~ Limited licensure may be denied to an applicant  
19 who has committed, or is under investigation or prosecution  
20 for, any act which would constitute the basis for discipline  
21 under this chapter.

22           ~~(5)(4)~~ ~~The recipient of a limited license may practice~~  
23 ~~only in the employ of public agencies or institutions or~~  
24 ~~nonprofit agencies or institutions which meet the requirements~~  
25 ~~of 26 U.S.C. 501(c)(3) of the Internal Revenue Code and which~~  
26 ~~provide professional liability coverage for acts or omissions~~  
27 ~~of the limited licensee. A limited licensee may provide~~  
28 services only during times of ~~to the indigent, underserved, or~~  
29 critical need ~~populations~~ within the state. ~~The standard for~~  
30 ~~determining indigency shall be that recognized by the Federal~~  
31 ~~Poverty Income Guidelines produced by the United States~~

1 ~~Department of Health and Human Services. Rules may be adopted~~  
2 ~~to define underserved and critical need areas and to ensure~~  
3 ~~implementation of this section.~~

4 ~~(6)(5)~~ The department may provide by rule for  
5 supervision of limited licensees to protect the health,  
6 safety, and welfare of the public.

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

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

13 Section 4. Section 497.162, Florida Statutes, is  
14 amended to read:

15 497.162 Health and safety education.--All individuals  
16 not licensed under this chapter who intend to be employed as  
17 operational personnel affiliated with a direct disposal  
18 establishment, cinerator facility, removal service,  
19 refrigeration facility, or centralized embalming facility, ~~as~~  
20 ~~well as~~ all nonlicensed individuals who intend to be involved  
21 in the removal or transportation of human remains on behalf of  
22 a funeral establishment, direct disposal establishment, or  
23 cinerator facility shall complete one course approved by the  
24 licensing authority on communicable diseases, within 10 days  
25 after the date that they begin functioning as operational  
26 personnel on behalf of any entity that is regulated by this  
27 chapter. The course shall not exceed 3 hours and shall be  
28 offered at approved locations throughout the state. Such  
29 locations may include establishments that are licensed under  
30 this chapter. The licensing authority shall adopt rules to  
31 implement and enforce this provision, which rules shall

1 | include provisions that provide for the use of approved  
2 | videocassette courses and other types of audio, video,  
3 | Internet, or home study courses to fulfill the continuing  
4 | education requirements of this section.

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

7 |             497.260 Cemeteries; exemption; investigation and  
8 | mediation.--

9 |             (2) Section 497.276(1) as to burial records, and ss.  
10 | 497.152(1)(d), 497.164, 497.2765, 497.278, 497.280, and  
11 | 497.284 apply to all cemeteries in this state.

12 |         Section 6. Paragraph (c) of subsection (2) of section  
13 | 497.271, Florida Statutes, is amended to read:

14 |             497.271 Standards for construction and significant  
15 | alteration or renovation of mausoleums and columbaria.--

16 |             (2) The licensing authority shall adopt, by no later  
17 | than July 1, 1999, rules establishing minimum standards for  
18 | all newly constructed and significantly altered or renovated  
19 | mausoleums and columbaria; however, in the case of significant  
20 | alterations or renovations to existing structures, the rules  
21 | shall apply only, when physically feasible, to the newly  
22 | altered or renovated portion of such structures, except as  
23 | specified in subsection (4). In developing and adopting such  
24 | rules, the licensing authority may define different classes of  
25 | structures or construction standards, and may provide for  
26 | different rules to apply to each of said classes, if the  
27 | designation of classes and the application of different rules  
28 | is in the public interest and is supported by findings by the  
29 | licensing authority based on evidence of industry practices,  
30 | economic and physical feasibility, location, or intended uses;  
31 | provided, that the rules shall provide minimum standards

1 applicable to all construction. For example, and without  
2 limiting the generality of the foregoing, the licensing  
3 authority may determine that a small single-story ground level  
4 mausoleum does not require the same level of construction  
5 standards that a large multistory mausoleum might require; or  
6 that a mausoleum located in a low-lying area subject to  
7 frequent flooding or hurricane threats might require different  
8 standards than one located on high ground in an area not  
9 subject to frequent severe weather threats. The licensing  
10 authority shall develop the rules in cooperation with, and  
11 with technical assistance from, the Florida Building  
12 Commission of the Department of Community Affairs, to ensure  
13 that the rules are in the proper form and content to be  
14 included as part of the Florida Building Code ~~State Minimum~~  
15 ~~Building Codes~~ under part IV VII of chapter 553. If the  
16 Florida Building Commission advises that some of the standards  
17 proposed by the licensing authority are not appropriate for  
18 inclusion in such building codes, the licensing authority may  
19 choose to include those standards in a distinct chapter of its  
20 rules entitled "Non-Building-Code Standards for Mausoleums" or  
21 "Additional Standards for Mausoleums," or other terminology to  
22 that effect. If the licensing authority elects to divide the  
23 standards into two or more chapters, all such rules shall be  
24 binding on licensees and others subject to the jurisdiction of  
25 the licensing authority, but only the chapter containing  
26 provisions appropriate for building codes shall be transmitted  
27 to the Florida Building Commission pursuant to subsection (3).  
28 Such rules may be in the form of standards for design and  
29 construction; methods, materials, and specifications for  
30 construction; or other mechanisms. Such rules shall encompass,  
31 at a minimum, the following standards:

1 (c) Such structure must contain adequate provision for  
2 drainage and ventilation. Private or family mausoleums with  
3 all crypts bordering an exterior wall must contain pressure  
4 relief ventilation from the crypts to the outside of the  
5 mausoleum through the exterior wall or roof.

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

8 497.273 Cemetery companies; authorized functions.--

9 (4) This chapter does not prohibit the interment or  
10 entombment of the inurned cremated animal remains of the  
11 decedent's pet or pets with the decedent's human remains or  
12 cremated human remains if:

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

15 (b) The interment or entombment with the inurned  
16 cremated animal remains is with the authorization of the  
17 decedent or other legally authorized person.

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

20 497.367 Instruction on HIV and AIDS, funeral directors  
21 and embalmers.--

22 (1) Each person licensed as a funeral director or  
23 embalmer under this chapter shall be required to complete an  
24 approved continuing educational course on human  
25 immunodeficiency virus and acquired immune deficiency syndrome  
26 as a prerequisite for every third biennial licensure renewal  
27 ~~at least every 2 years~~. The course shall consist of education  
28 on the modes of transmission, infection control procedures,  
29 clinical management, and prevention of human immunodeficiency  
30 virus and acquired immune deficiency syndrome. Such course  
31 shall include information on current Florida law on acquired



1 immune deficiency syndrome and its impact on testing,  
2 confidentiality of test results, and treatment of patients.

3 Section 9. Paragraph (b) of subsection (1) of section  
4 497.374, Florida Statutes, is amended to read:

5 497.374 Funeral directing; licensure as a funeral  
6 director by endorsement; licensure of a temporary funeral  
7 director.--

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

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

17 2. Meets the qualifications for licensure in s.  
18 497.373 and has, ~~within 10 years prior to the date of~~  
19 ~~application,~~ successfully completed a state, regional, or  
20 national examination in mortuary science, which, as determined  
21 by rule of the licensing authority, is substantially  
22 equivalent to or more stringent than the examination given by  
23 the licensing authority.

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

26 497.550 Licensure of monument establishments required;  
27 procedures and criteria.--

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

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

- 3 1. Monument builder.
- 4 2. Monument retailer ~~dealer~~.

5 (b) An applicant for licensure as a monument  
6 establishment shall designate on the application form the  
7 category of monument establishment licensure for which he or  
8 she is applying.

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

19 (d) The requirements of this chapter apply to both  
20 monument retailers ~~dealers~~ and monument builders, except as  
21 provided in this paragraph. Each monument establishment shall  
22 be a physical structure that is located at a specific street  
23 address, in compliance with zoning regulations of the  
24 appropriate local government, and not located on property that  
25 is exempt from taxation, but a monument retailer ~~dealer~~ may  
26 not otherwise be required to comply with s. 497.552 or be  
27 subject to inspection under this chapter.

28 (e) A monument establishment that is not licensed  
29 under the monument-builder category is not eligible for a  
30 preneed sales license.

31

1           Section 11. Section 497.609, Florida Statutes, is  
2 created to read:

3           497.609 Liability of direct disposers, direct disposal  
4 establishments, funeral directors, funeral establishments, and  
5 cinerator facilities regarding cremation.--If a direct  
6 disposer, direct disposal establishment, funeral director,  
7 funeral establishment, or cinerator facility is given a copy  
8 of the deceased's declaration of intent to be cremated that is  
9 signed by the deceased and the deceased's human remains are  
10 subsequently cremated, or a court order directing the  
11 cremation of the deceased's human remains, no person may make  
12 a claim objecting to the cremation against that direct  
13 disposer, direct disposal establishment, funeral director,  
14 funeral establishment, or cinerator facility. If a direct  
15 disposer, direct disposal establishment, funeral director,  
16 funeral establishment, or cinerator facility performs a  
17 cremation pursuant to the authorization of a legally  
18 authorized person who represents that she or he is not aware  
19 of any objection to the cremation of the deceased's human  
20 remains by others in the same class of the person making the  
21 representation or of any person in a higher priority class,  
22 and the deceased's human remains are subsequently cremated, no  
23 person may make a claim objecting to the cremation against  
24 that direct disposer, direct disposal establishment, funeral  
25 director, funeral establishment, or cinerator facility.

26           Section 12. Subsections (5) through (14) of section  
27 553.36, Florida Statutes, are renumbered as subsections (6)  
28 through (15), respectively, present subsections (15) and (16)  
29 are renumbered as subsections (17) and (18), respectively, and  
30 new subsections (5) and (16) are added to that section, to  
31 read:

1           553.36 Definitions.--The definitions contained in this  
2 section govern the construction of this part unless the  
3 context otherwise requires.

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

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

8           Section 13. Paragraphs (j) and (k) are added to  
9 subsection (9) of section 553.73, Florida Statutes, as amended  
10 by chapter 2007-1, Laws of Florida, to read:

11           553.73 Florida Building Code.--

12           (9) The following buildings, structures, and  
13 facilities are exempt from the Florida Building Code as  
14 provided by law, and any further exemptions shall be as  
15 determined by the Legislature and provided by law:

16           (j) Prefabricated or preassembled columbaria that are  
17 located in a cemetery regulated under part II of chapter 497  
18 and that are 720 square feet or less and less than 15 feet in  
19 height.

20           (k) Prefabricated or preassembled, non-walk-in private  
21 mausoleums that are located in a cemetery regulated under part  
22 II of chapter 497 and that are 720 square feet or less and  
23 less than 15 feet in height.

24  
25 With the exception of paragraphs (a), (b), (c), and (f), in  
26 order to preserve the health, safety, and welfare of the  
27 public, the Florida Building Commission may, by rule adopted  
28 pursuant to chapter 120, provide for exceptions to the broad  
29 categories of buildings exempted in this section, including  
30 exceptions for application of specific sections of the code or  
31 standards adopted therein. The Department of Agriculture and

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

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

14 316.515 Maximum width, height, length.--

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

23 Section 15. Paragraph (a) of subsection (1) and  
24 subsection (5) of section 627.702, Florida Statutes, are  
25 amended to read:

26 627.702 Valued policy law.--

27 (1)(a) In the event of the total loss of any building,  
28 structure, mobile home as defined in s. 320.01(2), or  
29 manufactured building as defined in s. 553.36(13) ~~s.~~  
30 ~~553.36(12)~~, located in this state and insured by any insurer  
31 as to a covered peril, in the absence of any change increasing

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

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

17 Section 16. This act shall take effect July 1, 2007

18  
19 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
20 COMMITTEE SUBSTITUTE FOR  
21 CS for Senate Bill 2856

22 The committee substitute further refines the definition of  
23 "times of critical need" to limit the definition to executive  
24 orders issued by the Governor declaring a state of emergency  
25 in an area. Persons who are not licensed under chapter 497,  
26 but who are employed by an entity licensed under chapter 497,  
27 are required to complete a course on communicable diseases,  
28 and the course may be an approved Internet course. The  
29 definitions of "columbarium" and "private mausoleum" are  
30 revised. Certain prefabricated or preassembled columbaria and  
31 mausoleums are exempted from the requirements of the Florida  
Building Code.