

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 ss.  
4 316.515 and 627.702, F.S.; conforming  
5 cross-references; providing an effective date.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
8

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

11 497.101 Board of Funeral, Cemetery, and Consumer  
12 Services; membership; appointment; terms.--

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

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

28 497.141 Licensing; general application procedures.--

29 (12)

30 (e)1. It is unlawful for any person regulated under  
31 chapter 395, chapter 400, or chapter 429, or any officer,

1 administrator, or board member of such entity if the entity is  
2 a firm, corporation, partnership, or association, or any  
3 person owning 5 percent or more of such entity to conduct,  
4 maintain, manage, own, or operate a licensee under this  
5 chapter.

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

15 Section 3. Section 497.143, Florida Statutes, is  
16 amended to read:

17 497.143 Licensing; limited licenses for retired  
18 professionals.--

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

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

29 (3)(2) Any person desiring to obtain a limited  
30 license, when permitted by rule, shall submit to the  
31 department an application and fee, not to exceed \$300, and an

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

15 ~~(4)(3)~~ Limited licensure may be denied to an applicant  
16 who has committed, or is under investigation or prosecution  
17 for, any act which would constitute the basis for discipline  
18 under this chapter.

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

1        ~~(6)(5)~~ The department may provide by rule for  
2 supervision of limited licensees to protect the health,  
3 safety, and welfare of the public.

4        ~~(7)(6)~~ Each applicant granted a limited license is  
5 subject to all the provisions of this chapter under which the  
6 limited license is issued which are not in conflict with this  
7 section.

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

10        Section 4. Section 497.162, Florida Statutes, is  
11 amended to read:

12        497.162 Health and safety education.--All individuals  
13 not licensed under this chapter who intend to be employed as  
14 operational personnel affiliated with a direct disposal  
15 establishment, cinerator facility, removal service,  
16 refrigeration facility, or centralized embalming facility, ~~as~~  
17 ~~well as~~ all nonlicensed individuals who intend to be involved  
18 in the removal or transportation of human remains on behalf of  
19 a funeral establishment, direct disposal establishment, or  
20 cinerator facility shall complete one course approved by the  
21 licensing authority on communicable diseases, within 10 days  
22 after the date that they begin functioning as operational  
23 personnel on behalf of any entity that is regulated by this  
24 chapter. The course shall not exceed 3 hours and shall be  
25 offered at approved locations throughout the state. Such  
26 locations may include establishments that are licensed under  
27 this chapter. The licensing authority shall adopt rules to  
28 implement and enforce this provision, which rules shall  
29 include provisions that provide for the use of approved  
30 videocassette courses and other types of audio, video,  
31

1 Internet, or home study courses to fulfill the continuing  
2 education requirements of this section.

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

5 497.260 Cemeteries; exemption; investigation and  
6 mediation.--

7 (2) Section 497.276(1) as to burial records, and ss.  
8 497.152(1)(d), 497.164, 497.2765, 497.278, 497.280, and  
9 497.284 apply to all cemeteries in this state.

10 Section 6. Paragraph (c) of subsection (2) of section  
11 497.271, Florida Statutes, is amended to read:

12 497.271 Standards for construction and significant  
13 alteration or renovation of mausoleums and columbaria.--

14 (2) The licensing authority shall adopt, by no later  
15 than July 1, 1999, rules establishing minimum standards for  
16 all newly constructed and significantly altered or renovated  
17 mausoleums and columbaria; however, in the case of significant  
18 alterations or renovations to existing structures, the rules  
19 shall apply only, when physically feasible, to the newly  
20 altered or renovated portion of such structures, except as  
21 specified in subsection (4). In developing and adopting such  
22 rules, the licensing authority may define different classes of  
23 structures or construction standards, and may provide for  
24 different rules to apply to each of said classes, if the  
25 designation of classes and the application of different rules  
26 is in the public interest and is supported by findings by the  
27 licensing authority based on evidence of industry practices,  
28 economic and physical feasibility, location, or intended uses;  
29 provided, that the rules shall provide minimum standards  
30 applicable to all construction. For example, and without  
31 limiting the generality of the foregoing, the licensing

1 authority may determine that a small single-story ground level  
2 mausoleum does not require the same level of construction  
3 standards that a large multistory mausoleum might require; or  
4 that a mausoleum located in a low-lying area subject to  
5 frequent flooding or hurricane threats might require different  
6 standards than one located on high ground in an area not  
7 subject to frequent severe weather threats. The licensing  
8 authority shall develop the rules in cooperation with, and  
9 with technical assistance from, the Florida Building  
10 Commission of the Department of Community Affairs, to ensure  
11 that the rules are in the proper form and content to be  
12 included as part of the Florida Building Code ~~State Minimum~~  
13 ~~Building Codes~~ under part IV ~~VII~~ of chapter 553. If the  
14 Florida Building Commission advises that some of the standards  
15 proposed by the licensing authority are not appropriate for  
16 inclusion in such building codes, the licensing authority may  
17 choose to include those standards in a distinct chapter of its  
18 rules entitled "Non-Building-Code Standards for Mausoleums" or  
19 "Additional Standards for Mausoleums," or other terminology to  
20 that effect. If the licensing authority elects to divide the  
21 standards into two or more chapters, all such rules shall be  
22 binding on licensees and others subject to the jurisdiction of  
23 the licensing authority, but only the chapter containing  
24 provisions appropriate for building codes shall be transmitted  
25 to the Florida Building Commission pursuant to subsection (3).  
26 Such rules may be in the form of standards for design and  
27 construction; methods, materials, and specifications for  
28 construction; or other mechanisms. Such rules shall encompass,  
29 at a minimum, the following standards:

30 (c) Such structure must contain adequate provision for  
31 drainage and ventilation. Private or family mausoleums with

1 all crypts bordering an exterior wall must contain pressure  
 2 relief ventilation from the crypts to the outside of the  
 3 mausoleum through the exterior wall or roof.

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

6 497.273 Cemetery companies; authorized functions.--

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

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

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

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

18 497.367 Instruction on HIV and AIDS, funeral directors  
 19 and embalmers.--

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



1 Section 9. Paragraph (b) of subsection (1) of section  
2 497.374, Florida Statutes, is amended to read:

3 497.374 Funeral directing; licensure as a funeral  
4 director by endorsement; licensure of a temporary funeral  
5 director.--

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

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

15 2. Meets the qualifications for licensure in s.  
16 497.373 and has, ~~within 10 years prior to the date of~~  
17 ~~application,~~ successfully completed a state, regional, or  
18 national examination in mortuary science, which, as determined  
19 by rule of the licensing authority, is substantially  
20 equivalent to or more stringent than the examination given by  
21 the licensing authority.

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

24 497.550 Licensure of monument establishments required;  
25 procedures and criteria.--

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

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

1 1. Monument builder.

2 2. Monument retailer ~~dealer~~.

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

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

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

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

29 Section 11. Section 497.609, Florida Statutes, is  
30 created to read:

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1           497.609 Liability of direct disposers, direct disposal  
2 establishments, funeral directors, funeral establishments, and  
3 cinerator facilities regarding cremation.--If a direct  
4 disposer, direct disposal establishment, funeral director,  
5 funeral establishment, or cinerator facility is given a copy  
6 of the deceased's declaration of intent to be cremated that is  
7 signed by the deceased and the deceased's human remains are  
8 subsequently cremated, or a court order directing the  
9 cremation of the deceased's human remains, no person may make  
10 a claim objecting to the cremation against that direct  
11 disposer, direct disposal establishment, funeral director,  
12 funeral establishment, or cinerator facility. If a direct  
13 disposer, direct disposal establishment, funeral director,  
14 funeral establishment, or cinerator facility performs a  
15 cremation pursuant to the authorization of a legally  
16 authorized person who represents that she or he is not aware  
17 of any objection to the cremation of the deceased's human  
18 remains by others in the same class of the person making the  
19 representation or of any person in a higher priority class,  
20 and the deceased's human remains are subsequently cremated, no  
21 person may make a claim objecting to the cremation against  
22 that direct disposer, direct disposal establishment, funeral  
23 director, funeral establishment, or cinerator facility.

24           Section 12. Subsections (5) through (14) of section  
25 553.36, Florida Statutes, are renumbered as subsections (6)  
26 through (15), respectively, present subsections (15) and (16)  
27 are renumbered as subsections (17) and (18), respectively, and  
28 new subsections (5) and (16) are added to that section, to  
29 read:  
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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. Subsection (14) of section 316.515,  
9 Florida Statutes, is amended to read:

10           316.515 Maximum width, height, length.--

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

19           Section 14. Paragraph (a) of subsection (1) and  
20 subsection (5) of section 627.702, Florida Statutes, are  
21 amended to read:

22           627.702 Valued policy law.--

23           (1)(a) In the event of the total loss of any building,  
24 structure, mobile home as defined in s. 320.01(2), or  
25 manufactured building as defined in s. 553.36(13) ~~s.~~  
26 ~~553.36(12)~~, located in this state and insured by any insurer  
27 as to a covered peril, in the absence of any change increasing  
28 the risk without the insurer's consent and in the absence of  
29 fraudulent or criminal fault on the part of the insured or one  
30 acting in her or his behalf, the insurer's liability under the  
31 policy for such total loss, if caused by a covered peril,

1 shall be in the amount of money for which such property was so  
2 insured as specified in the policy and for which a premium has  
3 been charged and paid.

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

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