

By the Committee on Governmental Oversight and Accountability;
and Senator Powell

585-02614-23

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1 A bill to be entitled
2 An act relating to abandoned and historic cemeteries;
3 creating s. 267.21, F.S.; creating the Historic
4 Cemeteries Program within the Division of Historical
5 Resources of the Department of State; designating the
6 State Historic Preservation Officer as the program's
7 director and requiring him or her to hire employees,
8 subject to legislative appropriation; providing the
9 duties and responsibilities of the program; requiring
10 the program to provide grants, subject to legislative
11 appropriation, to certain entities for certain
12 purposes; authorizing the division to adopt rules;
13 creating s. 267.22, F.S.; creating the Historic
14 Cemeteries Program Advisory Council within the
15 division; providing for membership, terms, and duties
16 of the council; providing that members shall serve
17 without compensation but may be reimbursed for per
18 diem and travel expenses; amending s. 497.005, F.S.;
19 revising the definition of the term "legally
20 authorized person" to include a member of a
21 representative community organization; amending s.
22 704.06, F.S.; revising the definition of the term
23 "conservation easement" to include a right or interest
24 in real property which is appropriate to retaining the
25 structural integrity or physical appearance of certain
26 cemeteries; authorizing certain entities to acquire
27 conservation easements to preserve certain cemeteries;
28 providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Section 267.21, Florida Statutes, is created to
33 read:

34 267.21 Historic Cemeteries Program.—

35 (1) The Historic Cemeteries Program is created within the
36 division. The State Historic Preservation Officer shall serve as
37 the director of the program and shall, subject to legislative
38 appropriation, employ three full-time employees to operate the
39 program. The program shall have the following duties and
40 responsibilities:

41 (a) Serve as the organizational center for recording and
42 updating in the Florida Master Site File records of cemeteries
43 in this state established at least 50 years ago.

44 (b) Develop guidelines for use by state agencies, local
45 governments, and developers in the identification, location, and
46 maintenance of abandoned and historic cemeteries.

47 (c) Serve as an interagency governmental liaison to
48 municipalities, planning departments, colleges and universities,
49 and community organizations to facilitate collaboration and the
50 sharing of information relating to abandoned and historic
51 cemeteries.

52 (d) Coordinate with the University of South Florida's Black
53 Cemetery Network to facilitate the inclusion of abandoned
54 African-American cemeteries in the Black Cemetery Network.

55 (e) Research, identify, and record abandoned cemeteries,
56 with an emphasis on abandoned African-American cemeteries.

57 (f) When abandoned cemeteries are located, provide
58 notification and guidance to relevant persons and assist with

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59 efforts to identify relatives and descendants, funeral
60 directors, religious organizations, qualified nonprofit
61 organizations, and property owners.

62 (g) Assist constituents, descendant communities, state and
63 federal agencies, local governments, and other stakeholders with
64 inquiries relating to abandoned cemeteries.

65 (h) In coordination with the Department of Education,
66 develop a curriculum relating to abandoned and historic
67 cemeteries, with a focus on citizenship, social responsibility,
68 and history.

69 (i) Establish a priority for the placement of historical
70 markers for erased, forgotten, lost, or abandoned African-
71 American cemeteries.

72 (2) The Historic Cemeteries Program shall, subject to
73 legislative appropriation, provide grants to the following
74 entities:

75 (a) Research institutions, colleges and universities, and
76 qualified nonprofit organizations, for the purpose of conducting
77 genealogical and historical research necessary to identify and
78 contact the relatives and descendants of persons buried in
79 abandoned African-American cemeteries.

80 (b) Local governments and qualified nonprofit
81 organizations, for the purposes of repairing, restoring, and
82 maintaining abandoned African-American cemeteries.

83 (3) The division may adopt rules to implement this section.

84 Section 2. Section 267.22, Florida Statutes, is created to
85 read:

86 267.22 Historic Cemeteries Program Advisory Council.—

87 (1) The Historic Cemeteries Program Advisory Council, an

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88 advisory council as defined in s. 20.03(7), is created within
89 the division and shall be composed of members appointed by the
90 Secretary of State after considering the recommendations of the
91 director of the division. The council shall be composed of an
92 inclusive group of members who are regionally distributed and
93 representative of communities throughout this state. Members
94 shall serve 4-year terms; however for the purpose of providing
95 staggered terms, half of the appointees shall initially be
96 appointed to 2-year terms, while the other half shall initially
97 be appointed to 4-year terms. All subsequent appointments shall
98 be for 4-year terms. As soon as practicable after July 1, 2023,
99 the council shall meet to elect a chair from its membership.
100 Except as otherwise provided in this section, the council shall
101 operate in a manner consistent with s. 20.052.

102 (2) The council shall provide guidance and recommendations
103 to the division regarding the duties and responsibilities of the
104 Historic Cemeteries Program created under s. 267.21.

105 (3) Members of the council shall serve without compensation
106 but may be reimbursed for per diem and travel expenses pursuant
107 to s. 112.061.

108 Section 3. Subsection (43) of section 497.005, Florida
109 Statutes, is amended to read:

110 497.005 Definitions.—As used in this chapter, the term:

111 (43) “Legally authorized person” means, in the priority
112 listed:

113 (a) The decedent, when written inter vivos authorizations
114 and directions are provided by the decedent;

115 (b) The person designated by the decedent as authorized to
116 direct disposition pursuant to Pub. L. No. 109-163, s. 564, as

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117 listed on the decedent's United States Department of Defense
118 Record of Emergency Data, DD Form 93, or its successor form, if
119 the decedent died while in military service as described in 10
120 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States
121 Armed Forces, United States Reserve Forces, or National Guard;

122 (c) The surviving spouse, unless the spouse has been
123 arrested for committing against the deceased an act of domestic
124 violence as defined in s. 741.28 that resulted in or contributed
125 to the death of the deceased;

126 (d) A son or daughter who is 18 years of age or older;

127 (e) A parent;

128 (f) A brother or sister who is 18 years of age or older;

129 (g) A grandchild who is 18 years of age or older;

130 (h) A grandparent; or

131 (i) Any person in the next degree of kinship.

132
133 In addition, the term may include, if no family member exists or
134 is available, the guardian of the dead person at the time of
135 death; the personal representative of the deceased; the attorney
136 in fact of the dead person at the time of death; the health
137 surrogate of the dead person at the time of death; a public
138 health officer; the medical examiner, county commission, or
139 administrator acting under part II of chapter 406 or other
140 public administrator; a representative of a nursing home or
141 other health care institution in charge of final disposition; or
142 a friend or other person, including a member of a representative
143 community organization, not listed in this subsection who is
144 willing to assume the responsibility as the legally authorized
145 person. Where there is a person in any priority class listed in

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146 this subsection, the funeral establishment shall rely upon the
147 authorization of any one legally authorized person of that class
148 if that person represents that she or he is not aware of any
149 objection to the cremation of the deceased's human remains by
150 others in the same class of the person making the representation
151 or of any person in a higher priority class.

152 Section 4. Subsections (1) and (3) of section 704.06,
153 Florida Statutes, are amended to read:

154 704.06 Conservation easements; creation; acquisition;
155 enforcement.—

156 (1) As used in this section, "conservation easement" means
157 a right or interest in real property which is appropriate to
158 retaining land or water areas predominantly in their natural,
159 scenic, open, agricultural, or wooded condition; retaining such
160 areas as suitable habitat for fish, plants, or wildlife;
161 retaining the structural integrity or physical appearance of
162 sites or properties of historical, architectural,
163 archaeological, or cultural significance, including abandoned
164 and neglected cemeteries that are at least 50 years old; or
165 maintaining existing land uses and which prohibits or limits any
166 or all of the following:

167 (a) Construction or placing of buildings, roads, signs,
168 billboards or other advertising, utilities, or other structures
169 on or above the ground.

170 (b) Dumping or placing of soil or other substance or
171 material as landfill or dumping or placing of trash, waste, or
172 unsightly or offensive materials.

173 (c) Removal or destruction of trees, shrubs, or other
174 vegetation.

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175 (d) Excavation, dredging, or removal of loam, peat, gravel,
176 soil, rock, or other material substance in such manner as to
177 affect the surface.

178 (e) Surface use except for purposes that permit the land or
179 water area to remain predominantly in its natural condition.

180 (f) Activities detrimental to drainage, flood control,
181 water conservation, erosion control, soil conservation, or fish
182 and wildlife habitat preservation.

183 (g) Acts or uses detrimental to such retention of land or
184 water areas.

185 (h) Acts or uses detrimental to the preservation of the
186 structural integrity or physical appearance of sites or
187 properties of historical, architectural, archaeological, or
188 cultural significance, including abandoned and neglected
189 cemeteries that are at least 50 years old.

190 (3) Conservation easements may be acquired by any
191 governmental body or agency or by a charitable corporation or
192 trust whose purposes include protecting natural, scenic, or open
193 space values of real property, assuring its availability for
194 agricultural, forest, recreational, or open space use,
195 protecting natural resources, maintaining or enhancing air or
196 water quality, or preserving sites or properties of historical,
197 architectural, archaeological, or cultural significance,
198 including abandoned and neglected cemeteries that are at least
199 50 years old.

200 Section 5. This act shall take effect July 1, 2023.