

26 cemeteries; authorizing certain entities to acquire
 27 conservation easements to preserve certain cemeteries;
 28 amending s. 704.08, F.S.; providing an easement to the
 29 state for certain purposes; providing for an
 30 appropriation; providing an effective date.

31

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

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34 Section 1. Section 267.21, Florida Statutes, is created to
 35 read:

36 267.21 Historic Cemeteries Program.—

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

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

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

49 (c) Serve as an interagency governmental liaison to
 50 municipalities, planning departments, colleges and universities,

51 and community organizations to facilitate collaboration and the
52 sharing of information relating to abandoned and historic
53 cemeteries.

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

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

59 (f) When abandoned cemeteries are located, provide
60 notification and guidance to relevant persons and assist with
61 efforts to identify relatives and descendants, funeral
62 directors, religious organizations, qualified nonprofit
63 organizations, and property owners.

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

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

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

74 (2) The Historic Cemeteries Program shall, subject to
75 legislative appropriation, provide grants to the following

76 entities:

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

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

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

87 Section 2. Section 267.22, Florida Statutes, is created to
 88 read:

89 267.22 Historic Cemeteries Program Advisory Council.—

90 (1) The Historic Cemeteries Program Advisory Council, an
 91 advisory council as defined in s. 20.03(7), is created within
 92 the division and shall consist of members appointed by the
 93 Secretary of State after considering the recommendations of the
 94 director of the division. The council must be composed of an
 95 inclusive group of members who are regionally distributed and
 96 representative of communities throughout this state. Members
 97 shall serve 4-year staggered terms. As soon as practicable after
 98 July 1, 2022, the council shall meet to elect a chair from its
 99 membership. Except as otherwise provided in this section, the
 100 council shall operate in a manner consistent with s. 20.052.

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

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

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

109 497.005 Definitions.—As used in this chapter, the term:

110 (43) "Legally authorized person" means, in the priority
 111 listed:

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

114 (b) The person designated by the decedent as authorized to
 115 direct disposition pursuant to Pub. L. No. 109-163, s. 564, as
 116 listed on the decedent's United States Department of Defense
 117 Record of Emergency Data, DD Form 93, or its successor form, if
 118 the decedent died while in military service as described in 10
 119 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States
 120 Armed Forces, United States Reserve Forces, or National Guard;

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

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

- 126 (e) A parent;
- 127 (f) A brother or sister who is 18 years of age or older;
- 128 (g) A grandchild who is 18 years of age or older;
- 129 (h) A grandparent; or
- 130 (i) Any person in the next degree of kinship.

131

132 In addition, the term may include, if no family member exists or

133 is available, the guardian of the dead person at the time of

134 death; the personal representative of the deceased; the attorney

135 in fact of the dead person at the time of death; the health

136 surrogate of the dead person at the time of death; a public

137 health officer; the medical examiner, county commission, or

138 administrator acting under part II of chapter 406 or other

139 public administrator; a representative of a nursing home or

140 other health care institution in charge of final disposition; or

141 a friend or other person, including a member of a representative

142 community organization, not listed in this subsection who is

143 willing to assume the responsibility as the legally authorized

144 person. Where there is a person in any priority class listed in

145 this subsection, the funeral establishment shall rely upon the

146 authorization of any one legally authorized person of that class

147 if that person represents that she or he is not aware of any

148 objection to the cremation of the deceased's human remains by

149 others in the same class of the person making the representation

150 or of any person in a higher priority class.

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

153 704.06 Conservation easements; creation; acquisition;
154 enforcement.—

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

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

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

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

174 (d) Excavation, dredging, or removal of loam, peat,
175 gravel, soil, rock, or other material substance in such manner

176 | as to affect the surface.

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

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

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

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

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

199 | Section 5. Section 704.08, Florida Statutes, is amended to
200 | read:

201 704.08 Cemeteries; right of ingress and egress for
 202 visiting or maintenance.—

203 (1) The relatives and descendants of any person buried in
 204 a cemetery shall have an easement for ingress and egress for the
 205 purpose of visiting the cemetery at reasonable times and in a
 206 reasonable manner. The owner of the land may designate the
 207 easement. If the cemetery is abandoned or otherwise not being
 208 maintained, such relatives and descendants may request the owner
 209 to provide for reasonable maintenance of the cemetery, and, if
 210 the owner refuses or fails to maintain the cemetery, the
 211 relatives and descendants shall have the right to maintain the
 212 cemetery.

213 (2) If credible evidence supports a determination that
 214 there is an abandoned cemetery located on, underneath, or
 215 adjacent to land owned by a private owner, the state must have
 216 an easement for ingress and egress for the purpose of
 217 maintaining and conducting research and noninvasive searches at
 218 such cemetery at reasonable times and in a reasonable manner
 219 after providing the owner with reasonable notice.

220 Section 6. The Legislature shall appropriate funds for the
 221 purpose of including abandoned African-American cemeteries in
 222 this state in the University of South Florida's Black Cemetery
 223 Network.

224 Section 7. This act shall take effect July 1, 2023.