

House Bill No. 529

An act relating to funeral and cemetery industry regulation; amending s. 316.1974, F.S.; authorizing the use of purple lights on certain funeral escort vehicles and funeral lead vehicles; amending s. 497.005, F.S.; revising definitions; amending s. 497.101, F.S.; clarifying eligibility for Board of Funeral, Cemetery, and Consumer Services membership; requiring the Department of Financial Services to adopt rules regarding application for board membership; amending s. 497.103, F.S.; revising authority of the department to take emergency action; limiting the authority of the Chief Financial Officer; amending s. 497.140, F.S.; revising the time period for board reaction to department revenue projections; providing for future termination of certain assessments; providing for delinquency fees to be charged and collected from certain licensees; providing a default delinquency fee; amending s. 497.141, F.S.; requiring licensure applications to include tax identification numbers of applicants that are not natural persons; authorizing the licensing authority to require certain applicants to provide a photograph; clarifying when licenses may be issued to entities and to natural persons; clarifying the types of entities to which licenses may be issued; providing signature requirements; authorizing the licensing authority to adopt rules; restricting assignment or transfer of licenses; amending s. 497.142, F.S.; revising fingerprinting requirements; clarifying requirements as to disclosure of previous criminal records; revising which members of an entity applying for licensure are required to disclose their criminal records; providing for waiver of the fingerprint requirements in certain circumstances; providing for the cost for fingerprinting processing; amending s. 497.143, F.S.; prohibiting preneed sales under a limited license; amending s. 497.144, F.S.; requiring a challenger to pay the costs for failure to appear at a challenge hearing; amending s. 497.147, F.S.; revising provisions relating to the licensing authority's rules regulating precensure training and continuing education providers; amending s. 497.149, F.S.; revising terminology; amending s. 497.151, F.S.; revising applicability; specifying what is not deemed to be a complaint; amending s. 497.152, F.S.; revising disciplinary provisions; revising certain grounds for disciplinary action; specifying what is not deemed to be a complaint; authorizing the board to adopt rules providing criteria for identifying minor and nonwillful remittance deficiencies; amending s. 497.153, F.S.; providing for the use of consent orders in certain circumstances; amending s. 497.158, F.S.; revising fine amounts; amending s. 497.159, F.S.; revising provisions relating to criminal penalties for violations involving precensure examinations, willful obstruction, and trust funds and other specified violations; revising what constitutes improper discrimination; amending s. 497.161, F.S.; removing a provision allowing board members to serve as experts in investigations; specifying standing of licensees to challenge rules; amending s. 497.165, F.S.; stipulating that intentional or gross negligence renders owners, directors, and officers jointly and

severally liable for certain trust fund deficiencies; amending s. 497.166, F.S.; specifying who may act as a preneed sales agent; providing responsibility of certain licensees; amending s. 497.169, F.S.; revising provisions for award of attorney's fees and costs in certain actions; creating s. 497.171, F.S.; providing requirements for the identification of human remains; amending s. 497.260, F.S.; revising what constitutes improper discrimination by cemeteries; amending s. 497.263, F.S.; revising the applicability of certain application procedures for licensure of cemetery companies; amending s. 497.264, F.S.; revising requirements relating to applicants seeking to acquire control of a licensed cemetery; amending s. 497.281, F.S.; revising requirements for licensure of burial rights brokers; amending s. 497.365, F.S.; requiring the board to adopt rules prescribing application and renewal fees for inactive status, a delinquency fee, and a fee for reactivation of a license; providing a cap on such fees; providing a limitation on the department's ability to reactivate a license; amending s. 497.368, F.S.; revising grounds for issuance of licensure as an embalmer by examination; amending s. 497.369, F.S.; revising grounds for issuance of licensure as an embalmer by endorsement; amending s. 497.373, F.S.; revising grounds for issuance of licensure as a funeral director by examination; amending s. 497.374, F.S.; revising grounds for issuance of licensure as a funeral director by endorsement; amending s. 497.376, F.S.; revising authority to issue a combination license as a funeral director and embalmer; authorizing the licensing authority to establish certain rules; amending s. 497.378, F.S.; raising the cap on funeral director and embalmer license renewal fees; amending s. 497.380, F.S.; specifying requirements for funeral establishment licensure applicants; raising the cap on funeral establishment license renewal fees; providing requirements for reporting a change in location of the establishment; amending s. 497.385, F.S.; revising application requirements for licensure of a removal service or a refrigeration service; providing requirements for change in location of removal services and refrigeration services; deleting a provision exempting centralized embalming facilities from certain funeral establishment requirements; authorizing the licensing authority to adopt certain rules for centralized embalming facility operations; revising application requirements for licensure of a centralized embalming facility; providing for inspection of centralized embalming facilities; providing for change in ownership and change in location of centralized embalming facilities; amending s. 497.453, F.S.; revising net worth requirements for preneed licensure; specifying authority to accept certain alternative evidence of financial responsibility in lieu of net worth regarding preneed licensure applicants; providing preneed license renewal fees for monument establishments; revising grounds for issuance of a preneed branch license; raising the cap on branch license renewal fees; deleting a provision exempting sponsoring preneed licensees from responsibility for certain violations of branch licensees; amending s. 497.456, F.S.; revising use of the Preneed Funeral Contract Consumer Protection Trust Fund by the licensing authority; amending s. 497.458, F.S.; revising requirements to loan

or invest trust funds; amending s. 497.466, F.S.; revising general provisions applicable to preneed sales agents; revising requirements and application procedures for preneed sales agent licensure; providing requirements for the issuance of a temporary preneed sales agent license; providing requirements for the conversion of temporary preneed sales agent licenses to permanent preneed sales agent licenses; providing requirements for applicants with a criminal or disciplinary record; providing for termination of a permanent preneed sales agent license due to lack of appointments; providing requirements for the appointment of preneed sales agents; providing for administrative matters regarding preneed sales agent licensure; creating s. 497.468, F.S.; providing for disclosure of certain information to the public; requiring the licensing authority to establish rules relating to the manner in which certain written contracts are provided; amending s. 497.550, F.S.; creating two categories of monument establishment licensure and providing certain requirements for such categories; revising application procedures for licensure as a monument establishment; requiring inspection of proposed monument establishment facilities; amending s. 497.551, F.S.; revising requirements for renewal of monument establishment licensure; amending s. 497.552, F.S.; revising facility requirements for monument establishments; amending s. 497.553, F.S.; requiring the board to set an annual inspection fee for monument establishment licensees; providing a cap for such fee; providing requirements for change of ownership and location of monument establishments; amending s. 497.554, F.S.; revising application procedure and renewal requirements for monument establishment sales representatives; deferring application of section; amending s. 497.555, F.S.; requiring monument establishments to comply with rules establishing minimum standards for access to cemeteries; amending s. 497.602, F.S.; revising application procedures for direct disposer licensure; amending s. 497.603, F.S.; raising the cap on direct disposer license renewal fees; amending s. 497.604, F.S.; revising provisions relating to direct disposal establishment licensure and application for such licensure; revising provisions relating to the regulation of direct disposal establishments; amending s. 497.606, F.S.; revising provisions relating to cinerator facility licensure and application for such licensure; revising provisions relating to the regulation of cinerator facilities; amending s. 497.607, F.S.; providing that the anatomical board at the University of Florida Health Science Center is not prohibited from causing the final disposition of unclaimed human remains under certain circumstances; amending s. 152, ch. 2004-301, Laws of Florida; specifying applicability of rules; amending s. 626.785, F.S.; revising a policy coverage limit; repealing s. 497.275, F.S., relating to identification of human remains in licensed cemeteries; repealing s. 497.388, F.S., relating to identification of human remains; repealing s. 497.556, F.S., relating to requirements relating to monument establishments; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 316.1974, Florida Statutes, is amended to read:

316.1974 Funeral procession right-of-way and liability.—

(2) EQUIPMENT.—

(a) All non-law enforcement funeral escort vehicles and funeral lead vehicles shall be equipped with at least one lighted circulation lamp exhibiting an amber or purple light or lens visible under normal atmospheric conditions for a distance of 500 feet from the front of the vehicle. Flashing amber or purple lights may be used only when such vehicles are used in a funeral procession.

Section 2. Section 497.005, as amended by chapter 2004-301, Laws of Florida, is amended to read:

497.005 Definitions.—As used in this chapter:

(1) “Alternative container” means an unfinished wood box or other a nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, that is designed for the encasement of human remains and that is made of fiberboard, pressed wood, composition materials (with or without an outside covering), or like materials which is less expensive than a casket and of sufficient strength to be used to hold and transport a dead human body.

(2) “At-need solicitation” means any uninvited contact by a licensee or her or his agent for the purpose of the sale of burial services or merchandise to the family or next of kin of a person after her or his death has occurred.

(3) “Bank of belowground crypts” means any construction unit of belowground crypts ~~that which~~ is acceptable to the department and ~~that which~~ a cemetery uses to initiate its belowground crypt program or to add to existing belowground crypt structures.

(4) “Belowground crypts” consist of interment space in preplaced chambers, either side by side or multiple depth, covered by earth and sod and known also as “lawn crypts,” “westminsters,” or “turf-top crypts.”

(5) “Board” means the Board of Funeral, Cemetery, and Consumer Services.

~~(6) “Body parts” means:~~

~~(a) Limbs or other portions of the anatomy which are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or~~

~~(b) Human bodies or any portions of human bodies which have been donated to science for medical research purposes.~~

~~(6)(7)~~ “Burial merchandise,” “funeral merchandise,” or “merchandise” means any personal property offered or sold by any person for use in connection with the final disposition, memorialization, interment, entombment, or

inurnment of human remains or cremated remains, including, but not limited to, caskets, outer burial containers, alternative containers, cremation containers, cremation interment containers, urns, monuments, private mausoleums, flowers, benches, vases, acknowledgment cards, register books, memory folders, prayer cards, and clothing.

(7)(8) “Burial right” means the right to use a grave space, mausoleum, columbarium, ossuary, or scattering garden for the interment, entombment, inurnment, or other disposition of human remains or cremated remains.

(8)(9) “Burial service,” ~~“funeral service,”~~ or “service” means any service offered or provided ~~by any person~~ in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains or cremated remains.

(9)(10) “Care and maintenance” means the perpetual process of keeping a cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums, columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well-cared-for and dignified condition, so that the cemetery does not become a nuisance or place of reproach and desolation in the community. As specified in the rules of the licensing authority, “care and maintenance” may include, but is not limited to, any or all of the following activities: mowing the grass at reasonable intervals; raking and cleaning the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains, water lines, roads, buildings, and other improvements. “Care and maintenance” may include, but is not limited to, reasonable overhead expenses necessary for such purposes, including maintenance of machinery, tools, and equipment used for such purposes. “Care and maintenance” may also include repair or restoration of improvements necessary or desirable as a result of wear, deterioration, accident, damage, or destruction. “Care and maintenance” does not include expenses for the construction and development of new grave spaces or interment structures to be sold to the public.

(10)(11) “Casket” means a rigid container ~~that which~~ is designed for the encasement of human remains and ~~that which~~ is usually constructed of wood or metal, ornamented, and lined with fabric.

(11)(12) “Cemetery” means a place dedicated to and used or intended to be used for the permanent interment of human remains or cremated remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated remains; or any combination of one or more of such structures or places.

(12)(13) “Cemetery company” means any legal entity that owns or controls cemetery lands or property.

(13)(14) “Centralized embalming facility” means a facility, ~~not physically connected with a funeral establishment,~~ in which embalming takes place

that operates independently of a funeral establishment licensee and that offers embalming services to funeral directors for a fee.

~~(14)~~(15) “Cinerator” means a facility where dead human bodies are sub~~jected to cremation. reduced to a residue, including bone fragments, by direct flame, also known as “cremation,” or by intense heat, also known as “calcination.”~~

~~(15)~~(16) “Closed container” means any container in which cremated remains can be placed and closed in a manner so as to prevent leakage or spillage of the remains.

~~(16)~~(17) “Columbarium” means a structure or building ~~that which~~ is substantially exposed above the ground and ~~that which~~ is intended to be used for the inurnment of cremated remains.

~~(17)~~(18) “Common business enterprise” means a group of two or more business entities that share common ownership in excess of 50 percent.

~~(18)~~(19) “Control” means the possession, directly or indirectly, through the ownership of voting shares, by contract, arrangement, understanding, relationship, or otherwise, of the power to direct or cause the direction of the management and policies of a person or entity. However, a person or entity shall not be deemed to have control if the person or entity holds voting shares, in good faith and not for the purpose of circumventing this definition, as an agent, bank, broker, nominee, custodian, or trustee for one or more beneficial owners who do not individually or as a group have control.

~~(19)~~(20) “Cremated remains” means all the remains of the human body recovered after the completion of the cremation process, including processing or pulverization ~~that which~~ leaves only bone fragments reduced to unidentifiable dimensions and may include the residue of any foreign matter, including casket material, bridgework, or eyeglasses that were cremated with the human remains.

~~(20)~~(21) “Cremation” means any mechanical or thermal process whereby a dead human body is reduced to ashes and bone fragments. Cremation also includes any other mechanical or thermal process whereby human remains are pulverized, burned, re Cremated, or otherwise further reduced in size or quantity the technical process, using direct flame and heat or chemical means, which reduces human remains to bone fragments through heat and evaporation. Cremation includes the processing and usually includes the pulverization of the bone fragments.

~~(21)~~(22) “Cremation chamber” means the enclosed space within which the cremation process takes place. Cremation chambers covered by these procedures shall ~~must~~ be used exclusively for the cremation of human remains.

~~(22)~~(23) “Cremation container” means the casket or alternative container in which the human remains are transported to and placed in the cremation chamber for a cremation. A cremation container should meet substantially all of the following standards:

- (a) Be composed of readily combustible materials suitable for cremation.
- (b) Be able to be closed in order to provide a complete covering for the human remains.
- (c) Be resistant to leakage or spillage.
- (d) Be rigid enough to be handled with ease.
- (e) Be able to provide protection for the health, safety, and personal integrity of crematory personnel.

~~(23)~~(24) “Cremation interment container” means a rigid outer container that, subject to a cemetery’s rules and regulations, is composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground and that is designed to support the earth above the urn.

~~(24)~~(25) “Department” means the Department of Financial Services.

~~(25)~~(26) “Direct disposal establishment” means a facility licensed under this chapter where a direct disposer practices direct disposition.

~~(26)~~(27) “Direct disposer” means any person licensed under this chapter to practice direct disposition in this state.

~~(27)~~(28) “Director” means the director of the Division of Funeral, Cemetery, and Consumer Services.

~~(28)~~(29) “Disinterment” means removal of a dead human body from earth interment or aboveground interment.

~~(29)~~(30) “Division” means the Division of Funeral, Cemetery, and Consumer Services within the Department of Financial Services.

~~(30)~~(31) “Embalmer” means any person licensed under this chapter to practice embalming in this state.

~~(31)~~(32) “Final disposition” means the final disposal of a dead human body by earth interment, aboveground interment, cremation, burial at sea, or delivery to a medical institution for lawful dissection if the medical institution assumes responsibility for disposal. “Final disposition” does not include the disposal or distribution of cremated remains ~~ashes~~ and residue of cremated remains.

~~(32)~~(33) “Funeral” or “funeral service” means the observances, services, or ceremonies held to commemorate the life of a specific deceased human being and at which the human remains are present.

~~(33)~~(34) “Funeral director” means any person licensed under this chapter to practice funeral directing in this state.

~~(34)~~(35) “Funeral establishment” means a facility licensed under this chapter where a funeral director or embalmer practices funeral directing or embalming.

~~(36) “Funeral merchandise” or “merchandise” means any merchandise commonly sold in connection with the funeral, final disposition, or memorialization of human remains, including, but not limited to, caskets, outer burial containers, alternative containers, cremation containers, cremation interment containers, urns, monuments, private mausoleums, flowers, benches, vases, acknowledgment cards, register books, memory folders, prayer cards, and clothing.~~

~~(35)~~(37) “Grave space” means a space of ground in a cemetery intended to be used for the interment in the ground of human remains.

~~(36)~~(38) “Human remains” or “remains,” or “dead human body” or “dead human bodies,” means the body of a deceased human person for which a death certificate or fetal death certificate is required under chapter 382 and includes the body in any stage of decomposition ~~and the residue of cremated human bodies.~~

~~(37)~~(39) “Legally authorized person” means, in the priority listed, the decedent, when written inter vivos authorizations and directions are provided by the decedent; the surviving spouse, unless the spouse has been arrested for committing against the deceased an act of domestic violence as defined in s. 741.28 ~~that which~~ resulted in or contributed to the death of the deceased; a son or daughter who is 18 years of age or older; a parent; a brother or sister who is 18 years of age or older; a grandchild who is 18 years of age or older; a grandparent; or any person in the next degree of kinship. In addition, the term may include, if no family member exists or is available, the guardian of the dead person at the time of death; the personal representative of the deceased; the attorney in fact of the dead person at the time of death; the health surrogate of the dead person at the time of death; a public health officer; the medical examiner, county commission, or administrator acting under part II of chapter 406 or other public administrator; a representative of a nursing home or other health care institution in charge of final disposition; or a friend or other person not listed in this subsection who is willing to assume the responsibility as the legally authorized person. Where there is a person in any priority class listed in this subsection, the funeral establishment shall rely upon the authorization of any one legally authorized person of that class if that person ~~individual~~ represents that she or he is not aware of any objection to the cremation of the deceased’s human remains by others in the same class of the person making the representation or of any person in a higher priority class.

~~(38)~~(40) “License” includes all authorizations required or issued under this chapter, except where expressly indicated otherwise, and shall be understood to include authorizations previously referred to as registrations or certificates of authority in chapters 470 and 497 as those chapters appeared in the 2004 edition of the Florida Statutes.

~~(39)~~(41) “Licensee” means the person or entity holding any license or other authorization issued under this chapter, except where expressly indicated otherwise.

~~(40)~~(42) “Mausoleum” means a structure or building ~~that which~~ is substantially exposed above the ground and that ~~which~~ is intended to be used for the entombment of human remains.

(41)(43) “Mausoleum section” means any construction unit of a mausoleum ~~that which~~ is acceptable to the department and ~~that which~~ a cemetery uses to initiate its mausoleum program or to add to its existing mausoleum structures.

(42)(44) “Monument” means any product used for identifying a grave site and cemetery memorials of all types, including monuments, markers, and vases.

(43)(45) “Monument establishment” means a facility that operates independently of a cemetery or funeral establishment and that offers to sell monuments or monument services to the public for placement in a cemetery.

(44)(46) “Net assets” means the amount by which the total assets of a licensee, excluding goodwill, franchises, customer lists, patents, trademarks, and receivables from or advances to officers, directors, employees, salespersons, and affiliated companies, exceed total liabilities of the licensee. For purposes of this definition, the term “total liabilities” does not include the capital stock, paid-in capital, or retained earnings of the licensee.

(45)(47) “Net worth” means total assets minus total liabilities pursuant to generally accepted accounting principles.

(46)(48) “Niche” means a compartment or cubicle for the memorialization or permanent placement of a container or urn containing cremated remains.

(47)(49) “Ossuary” means a receptacle used for the communal placement of cremated remains without benefit of an urn or any other container in which cremated remains may be commingled with other cremated remains and are nonrecoverable. It may or may not include memorialization.

(48)(50) “Outer burial container” means an enclosure into which a casket is placed and includes, but is not limited to, vaults made of concrete, steel, fiberglass, or copper; sectional concrete enclosures; crypts; and wooden enclosures.

(49)(51) “Person,” when used without qualification such as “natural” or “individual,” includes both natural persons and legal entities.

(50)(52) “Personal residence” means any residential building in which one temporarily or permanently maintains her or his abode, including, but not limited to, an apartment or a hotel, motel, nursing home, convalescent home, home for the aged, or a public or private institution.

(51)(53) “Practice of direct disposition” means the cremation of human remains without preparation of the human remains by embalming and without any attendant services or rites such as funeral or graveside services or the making of arrangements for such final disposition.

(52)(54) “Practice of embalming” means disinfecting or preserving or attempting to disinfect or preserve dead human bodies by replacing certain body fluids with preserving and disinfecting chemicals.

(53)(55) “Practice of funeral directing” means the performance by a licensed funeral director of any of those functions authorized by s. 497.372.

(54)(56) “Preneed contract” means any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.

(55)(57) “Preneed sales agent” means any person who is licensed under this chapter to sell preneed burial or funeral service and merchandise contracts or direct disposition contracts in this state.

(56)(58) “Principal” means and includes the sole proprietor of a sole proprietorship; all partners of a partnership; all members of a limited liability company; regarding a corporation, all directors and officers, and all stockholders controlling more than 10 percent of the voting stock; and all other persons who can exercise control over the person or entity.

(57)(59) “Processing” means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual means.

(58)(60) “Profession” and “occupation” are used interchangeably in this chapter. The use of the word “profession” in this chapter with respect to any activities regulated under this chapter shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law.

(59)(61) “Pulverization” means the reduction of identifiable bone fragments after the completion of the cremation and processing to granulated particles by manual or mechanical means.

(60)(62) “Refrigeration facility” means a facility that is operated independently of not physically connected with a funeral establishment, crematory, or direct disposal establishment, that maintains space and equipment for the storage and refrigeration of dead human bodies, and that offers its service to funeral directors, and funeral establishments, direct disposers, direct disposal establishments, or crematories for a fee.

(61)(63) “Religious institution” means an organization formed primarily for religious purposes that which has qualified for exemption from federal income tax as an exempt organization under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(62)(64) “Removal service” means any service that operates independently of a funeral establishment or a direct disposal establishment, that handles the initial removal of dead human bodies, and that offers its service to funeral establishments and direct disposal establishments for a fee.

(63)(65) “Rules” refers to rules adopted under this chapter unless expressly indicated to the contrary.

(64)(66) “Scattering garden” means a location set aside, within a cemetery, that which is used for the spreading or broadcasting of cremated remains that have been removed from their container and can be mixed with

or placed on top of the soil or ground cover or buried in an underground receptacle on a commingled basis and that are nonrecoverable. It may or may not include memorialization.

(65)(67) “Servicing agent” means any person acting as an independent contractor whose fiduciary responsibility is to assist both the trustee and licensee in administering their responsibilities pursuant to this chapter.

(66)(68) “Solicitation” means any communication that ~~which~~ directly or implicitly requests an immediate oral response from the recipient.

(67)(69) “Statutory accounting” means generally accepted accounting principles, except as modified by this chapter.

(68)(70) “Temporary container” means a receptacle for cremated remains usually made of cardboard, plastic, or similar material designated to hold the cremated remains until an urn or other permanent container is acquired.

(69)(71) “Urn” means a receptacle designed to permanently encase cremated remains.

Section 3. Subsection (2) of section 497.101, Florida Statutes, as amended by chapter 2004-301, Laws of Florida, is amended, and subsection (8) is added to said section, to read:

497.101 Board of Funeral, Cemetery, and Consumer Services; membership; appointment; terms.—

(2) Two members of the board shall ~~must~~ be funeral directors licensed under part III of this chapter who are associated with a funeral establishment. One member of the board shall ~~must~~ be a funeral director licensed under part III of this chapter who is associated with a funeral establishment licensed under part III of this chapter that ~~which~~ has a valid preneed license issued pursuant to this chapter and who owns or operates a cinerator facility approved under chapter 403 and licensed under part VI of this chapter. Two members of the board shall ~~must~~ be persons whose primary occupation is associated with a cemetery company licensed pursuant to this chapter. Three members of the board shall ~~must~~ be consumers who are residents of the state, have never been licensed as funeral directors or embalmers, are not connected with a cemetery or cemetery company licensed pursuant to this chapter, and are not connected with the death care industry or the practice of embalming, funeral directing, or direct disposition. One of the consumer members shall ~~must~~ be at least 60 years of age, and one shall ~~must~~ be licensed as a certified public accountant under chapter 473. One member of the board shall ~~must~~ be a monument establishment dealer ~~licensed under this chapter as a monument builder or, for board appointments made before June 1, 2006, a licensed monument establishment certified by the department to be eligible for licensure as a monument builder. One member shall ~~must~~ be the State Health Officer or her or his designee. There shall not be two or more board members who are principals or directors, employees, ~~partners, shareholders, or members~~ of the same company or partnership or group of companies or partnerships under common control.~~

(8) The department shall adopt rules establishing forms by which persons may apply for membership on the board and procedures for applying for such membership. Such forms shall require disclosure of the existence and nature of all current and past employments by or contracts with, and direct or indirect affiliations or interests in, any entity or business that at any time was licensed by the board or by the former Board of Funeral and Cemetery Services or the former Board of Funeral Directors and Embalmers or that is or was otherwise involved in the death care industry, as specified by department rule.

Section 4. Paragraph (m) of subsection (2) of section 497.103, Florida Statutes, as amended by chapter 2004-301, Laws of Florida, is amended, and paragraph (e) is added to subsection (4) of said section, to read:

497.103 Rulemaking authority of board and department.—

(2) DEPARTMENT AUTHORITY.—All authority provided by this chapter and not expressly vested in the board by subsection (1) is vested in the department, and the department shall be deemed to be the licensing authority as to such matters. Without limiting the generality of the foregoing vesting of authority in the department, the authority provided by this chapter that ~~which~~ is vested solely in the department includes:

(m) Authority to take emergency action against any licensee under this chapter, without prior consultation with the board, when the department determines that there is an imminent danger to the health, safety, or welfare of the citizens of the state.

(4) RECOMMENDATIONS BY THE CHIEF FINANCIAL OFFICER.—

(e) The Chief Financial Officer shall have no authority by recommendation or otherwise to set fees, rates, or prices to be used by any licensee under this chapter, and notwithstanding the provision of this subsection, no licensee under this chapter shall in any event be required to set fees, rates, or prices in accordance with any recommendation of the Chief Financial Officer.

Section 5. Paragraphs (b) and (c) of subsection (1) of section 497.140, Florida Statutes, as renumbered and amended by section 10 of chapter 2004-301, Laws of Florida, are amended, and subsection (8) is added to said section, to read:

497.140 Fees.—

(1)

(b) It is the legislative intent that the costs of regulation under this chapter be provided for by fees collected under this chapter. The board shall ensure that fees are adequate to cover all anticipated costs of implementation of this chapter. The department shall at least every other year provide the board with estimates as to projected costs in implementing this chapter and projected fee collections under this chapter for the following 2 years, information as to balances of regulatory trusts from fees collected, other

information ~~that which~~ the department deems material to the setting of fees by the board at proper levels, and a department recommendation as to action, if any, regarding changing fee levels. The board shall review such information provided by the department and increase or decrease make such changes in fees, up or down, as the board determines appropriate. If sufficient action is not taken by the board within 6 months 1 year after notification by the department that fees are projected to be inadequate, the department shall set fees on behalf of the board to cover anticipated costs.

(c) The board may from time to time by rule assess and collect a one-time fee from each active and each voluntary inactive licensee under this chapter in an amount necessary to correct an inadequacy of fees received to implement regulation required by this chapter, provided that no such assessments may be made after October 1, 2007 more than one such assessment may be made in any 4-year period without specific legislative authorization.

(8) A delinquency fee shall be charged and collected from a licensee for the failure to timely renew a license issued under this chapter. Where no specific delinquency fee is specified in this chapter in relation to a particular category of licensure under this chapter, the delinquency fee shall be \$50.

Section 6. Subsection (2) of section 497.141, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended, and subsection (12) is added to said section, to read:

497.141 Licensing; general application procedures.—

(2) Any person desiring to be licensed shall apply to the licensing authority in writing using such forms and procedures as may be prescribed by rule. The application for licensure shall include the applicant's social security number if the applicant is a natural person; otherwise, the applicant's federal tax identification number shall be included. Notwithstanding any other provision of law, the department is the sole authority for determining the forms and form contents to be submitted for initial licensure and licensure renewal application. Such forms and the information and materials required by such forms may include, as appropriate, demographics, education, work history, personal background, criminal history, finances, business information, signature notarization, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, fingerprint requirements, continuing education requirements, business plans, character references, and ongoing education monitoring. Such forms and the information and materials required by such forms may also include, to the extent such information or materials are not already in the possession of the department or the board, records or information as to complaints, inspections, investigations, discipline, and bonding, and photographs. The application shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application ~~that which~~ takes place between the initial filing of the application and the final grant or denial of the license and ~~that which~~ might affect the decision of the department or the board. After an application by a natural person for licensure under this chapter is approved, the licensing authority may require the successful applicant to provide a photograph of himself or herself

for permanent lamination onto the license card to be issued to the applicant, pursuant to rules and fees adopted by the licensing authority.

(12)(a) The following licenses may only be applied for and issued to a natural person:

1. Embalmer apprentice.
2. Embalmer intern.
3. Funeral director intern.
4. Funeral director.
5. Funeral director and embalmer.
6. Direct disposer.
7. Monument establishment sales agent.
8. Preneed sales agent.

(b) The following licenses may be applied for and issued to a natural person, a corporation, a limited liability company, or a partnership:

1. Funeral establishment.
2. Centralized embalming facility.
3. Refrigeration facility.
4. Direct disposal establishment.
5. Monument establishment.
6. Cinerator facility.
7. Removal service.
8. Preneed sales business under s. 497.453.

(c) A cemetery license may only be applied for and issued to a corporation, partnership, or limited liability company.

(d) No license shall be issued to any applicant that is a corporation, limited liability company, or partnership unless the applicant is organized and in good standing under the laws of this state or another state of the United States and provides written proof thereof issued by the applicable state office or official in the state concerned. Each applicant that is a corporation, limited liability company, or partnership shall file with its application a written statement, signed by the same person who signs the application, identifying by name and business functional title the following persons, as applicable to the type of entity applying: officers, managers, managing members, partners, general partners, limited partners, managing partners, directors, all stockholders controlling more than 10 percent of the voting

stock, and all other persons who may exercise control over the applicant. The licensing authority may require the filing of the applicant's articles of incorporation or other organizational documents and a resume concerning any person identified in this paragraph.

(e) All applications shall be signed by the applicant. Signatures of the applicant shall be as follows:

1. Where the applicant is a natural person, the application shall be signed by the applicant.

2. Where the applicant is a corporation, the application shall be signed by the corporation's president.

3. Where the applicant is a partnership, the application shall be signed by a partner, who shall provide proof satisfactory to the licensing authority of that partner's authority to sign on behalf of the partnership.

4. Where the applicant is a limited liability company, the application shall be signed by a member of the company, who shall provide proof satisfactory to the licensing authority of that member's authority to sign on behalf of the company.

(f) The licensing authority may adopt rules for the implementation of this section, including required procedures and forms.

(g) No license regulated under this chapter is assignable or transferable except as provided in this chapter.

Section 7. Section 497.142, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.142 Licensing; fingerprinting and criminal background checks.—

(1) In any instance that this chapter requires submission of fingerprints in connection with an application for license, the provisions of this section shall apply.

(2) The fingerprints shall ~~must~~ be taken by a law enforcement agency or other agency or entity approved by the department and in such a way as to allow their use to obtain a criminal history check through the Department of Law Enforcement.

(3) The department shall submit the fingerprints to or cause them to be submitted to the Department of Law Enforcement for the purpose of ascertaining whether the person fingerprinted has a criminal history in any state or before the Federal Government and, if so, the nature of the criminal history.

(4) The Department of Law Enforcement may accept fingerprints of any applicant under this chapter, any principal of any such applicant, and any other person who is examined or investigated or who is subject to examination or investigation under the provisions of this chapter.

(5) The Department of Law Enforcement may, to the extent provided for by federal law, exchange state, multistate, and federal criminal history records with the department and the board for the purpose of the issuance, denial, suspension, or revocation of any license or other application under this chapter.

~~(6) The Department of Law Enforcement may accept fingerprints of any other person required by statute or rule to submit fingerprints to the department or board or any applicant or licensee regulated by the department or board who is required to demonstrate that she or he has not been convicted of or pled guilty or nolo contendere to a felony or a misdemeanor.~~

(6)(7) The Department of Law Enforcement shall, upon receipt of fingerprints from the department, submit the fingerprints to the Federal Bureau of Investigation to check federal criminal history records.

~~(7)(8) Statewide criminal records obtained through the Department of Law Enforcement, federal criminal records obtained through the Federal Bureau of Investigation, and local criminal records obtained through local law enforcement agencies shall be used by the department and board for the purpose of issuance, denial, suspension, or revocation of certificates of authority, certifications, or licenses issued to operate in this state.~~

(8)(9) For the purposes of criminal background checks, applicants and principals of applicants for any approval or license under this chapter may be required to disclose whether they have ever had their name legally changed and any prior name or names they have used.

(9)(10) If any applicant under this chapter has been, within the 10 years preceding the application under this chapter, convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, any crime in any jurisdiction, the application shall not be deemed complete until such time as the applicant provides such certified true copies of the court records evidencing the conviction, finding, or plea, as the licensing authority may by rule require.

(10)(a) When applying for any license under this chapter, every applicant shall be required to disclose the applicant's criminal records in accordance with this subsection.

(b) The criminal record required to be disclosed shall be any crime listed in paragraph (c) of which the person or entity required to make disclosure has been convicted or to which that person or entity entered a plea in the nature of no contest. Disclosure shall be required pursuant to this subsection regardless of whether adjudication was entered or withheld by the court in which the case was prosecuted.

(c) Crimes to be disclosed are:

1. Any felony or misdemeanor, no matter when committed, that was directly or indirectly related to or involving any aspect of the practice or business of funeral directing, embalming, direct disposition, cremation, funeral or cemetery preneed sales, funeral establishment operations, cemetery operations, or cemetery monument or marker sales or installation.

2. Any other felony not already disclosed under subparagraph 1. that was committed within the 20 years immediately preceding the application under this chapter.

3. Any other misdemeanor not already disclosed under subparagraph 1. that was committed within the 5 years immediately preceding the application under this chapter.

(d) Criminal records subject to paragraphs (b) and (c) shall be disclosed regardless of whether the criminal conduct occurred inside or outside the state and regardless of whether the criminal prosecution occurred in state court or in the court of another state, the United States, or a foreign country. As to crimes prosecuted in courts other than the courts of this state, the designation of the crime as a felony or misdemeanor by the law of the jurisdiction prosecuting the crime shall control. If the prosecuting jurisdiction does not use the term "felony" or "misdemeanor" in classifying the crime, the crime shall be deemed a felony for purposes of this subsection if punishable under the law of the prosecuting jurisdiction by a term of imprisonment in excess of 1 year; otherwise, the crime shall be classified as a misdemeanor for purposes of this subsection. Excessive speed in the operation of a motor vehicle and other noncriminal traffic infractions are not required to be reported under this section.

(e) For purposes of this subsection, the persons required to make disclosure of their criminal records in relation to an application shall be as follows:

1. Where the applicant is a natural person, only the natural person making application has the duty to disclose.

2. Where the applicant is a corporation, all officers and directors of that corporation have the duty to disclose.

3. Where the applicant is a limited liability company, all managers and members of the limited liability company have the duty to disclose.

4. Where the applicant is a partnership, all partners have the duty to disclose.

5. Where the applicant is required by this chapter to identify in the application the individual licensee under this chapter who will be in charge of the applicant, the identified individual licensee in charge, in addition to the applicant, shall make disclosure of criminal records as part of the application.

(f) In addition to persons identified in paragraph (e) as being required to provide a criminal history in relation to an application for licensure, the department may, during its preclicensing investigation of the applicant pursuant to subsection (3), on a case-by-case basis, require disclosure of criminal records from any other employee or principal of the applicant if the department has grounds to believe that such employee or principal has committed any crime and that such employee's or principal's relationship to the applicant may render the applicant a danger to the public if the license applied for is issued.

(g) The licensing authority may adopt rules specifying forms and procedures to be utilized by persons required to disclose criminal records under this subsection. The licensing authority may conduct investigation and further inquiry of any person regarding any criminal record disclosed pursuant to this section.

(11)(a) When an applicant is required by this chapter to submit fingerprints in applying for a license, the following persons shall be required to submit such fingerprints:

1. Where the applicant is a natural person, the fingerprints of the natural person making application.

2. Where the applicant is a corporation, the fingerprints of the persons serving in the following capacities: chief executive officer and president, or both persons if the positions are filled by different persons; chief financial officer; chief of operations; general counsel if a corporation employee; and members of the board.

3. Where the applicant is a limited liability company, the fingerprints of all managers and members of the limited liability company.

4. Where the applicant is a partnership, the fingerprints of all partners.

(b) In addition to persons identified in paragraph (a) as being required to provide fingerprints, the department may, during its prelicensing investigation of the applicant pursuant to subsection (3), on a case-by-case basis, require fingerprints from any other employee of the applicant if the department has grounds to believe that any such employee may have committed any crime and that such employee's relationship to the applicant may render the applicant a danger to the public if the license applied for is issued.

(12) The licensing authority may by rule establish forms, procedures, and fees for the submission and processing of fingerprints required to be submitted in accordance with this chapter. The licensing authority may by rule waive the requirement for submission of fingerprints otherwise required by this chapter if the person has within the preceding 24 months submitted fingerprints to the licensing authority and the licensing authority has obtained a criminal history report utilizing those prior fingerprints. The cost for the fingerprint processing shall be paid to the Department of Law Enforcement and may be borne by the Department of Financial Services, the employer, or the person subject to the background check.

Section 8. Subsection (2) of section 497.143, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.143 Licensing; limited licenses for retired professionals.—

(2) Any person desiring to obtain a limited license, when permitted by rule, shall submit to the department an application and fee, not to exceed \$300, and an affidavit stating that the applicant has been licensed to practice in any jurisdiction in the United States for at least 10 years in the profession for which the applicant seeks a limited license. The affidavit shall

also state that the applicant has retired or intends to retire from the practice of that profession and intends to practice only pursuant to the restrictions of the limited license granted pursuant to this section. If the applicant for a limited license submits a notarized statement from the employer stating that the applicant will not receive monetary compensation for any service involving the practice of her or his profession, the application and all licensure fees shall be waived. In no event may a person holding a limited license under this section engage in preneed sales under such limited license.

Section 9. Subsection (13) of section 497.144, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.144 Licensing; examinations, general provisions.—

(13) When any licensed applicant under this chapter requests a hearing to challenge a decision that the applicant's answer to any licensure test question was not a correct answer, or to seek a determination that a challenged question should be stricken, unless the ~~an~~ applicant notifies the department at least 5 days prior to ~~the an~~ examination hearing of the applicant's inability to attend or unless ~~the an~~ applicant can demonstrate an extreme emergency for failing to attend, the department may require ~~the an~~ applicant who fails to attend to pay reasonable attorney's fees, costs, and court costs of the department for the examination hearing.

Section 10. Paragraph (b) of subsection (4) of section 497.147, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.147 Continuing education; general provisions.—

(4) The licensing authority is authorized to adopt rules to implement requirements regarding prelicensure training and continuing education requirements under this chapter. Persons providing prelicensure training or continuing education for credit against the requirements of this chapter are hereinafter referred to as "providers."

(b) The rules may establish conditions and requirements applicable to providers, including, but not limited to:

1. Periodic submission by the provider to the licensing authority of information and documentation as to course materials, class locations and schedules, names of scheduled instructors, resumes of instructors, and descriptions of facilities.

2. Requirements for periodic reporting by the provider to the licensing authority of information concerning enrollment, attendance, and status of persons enrolled for credit under this chapter.

3. Requirements for inspection by the licensing authority of records of the provider related to training or continuing education of applicants and licensees under this chapter.

4. Requirements for announced or unannounced attendance by department staff or board members at scheduled classes or training, for the pur-

pose of ensuring that the training meets the requirements of this chapter and rules adopted under this chapter.

~~5. Requirements for written contracts or agreements required to be entered into by providers with the licensing authority as a prerequisite to acceptance of training or continuing education provided by such provider for credit under this chapter.~~

5.6. Requirements regarding retention of records by the provider regarding training or continuing education for which credit has been given to any licensee under this chapter.

6.7. Procedures and criteria for terminating the status of any provider as an approved source of training or continuing education for credit under this chapter.

7.8. Requirements for fees to accompany applications from providers for approval or renewal of approval as a provider, not to exceed \$250 per year. The rules may exempt nonprofit entities from such fees.

Section 11. Paragraph (c) of subsection (1) of section 497.149, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.149 Investigations, hearings, and inspections.—

(1) INVESTIGATIONS.—Investigations shall be conducted by the department. The following provisions shall apply concerning investigations:

(c) If the department finds any accounts or records of a licensee required by this chapter to be created and maintained by the licensee to be inadequate or inadequately kept or posted, it may employ experts to reconstruct, rewrite, post, or balance them at the expense of the person being investigated, provided the person has failed to maintain, complete, or correct such records or accounting after the department has given the licensee her or him notice and a reasonable opportunity to do so.

Section 12. Subsection (1) of section 497.151, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended, and subsection (4) is added to said section, to read:

497.151 Complaints; logs; procedures.—

(1) This section shall be applicable to all entities licensed under this chapter licensees under this chapter ~~except preneed sales agent licensees.~~

(4) For purposes of this section, the response of a customer recorded by the customer on a customer satisfaction questionnaire or survey form sent to the customer by the licensee, and returned by the customer to the licensee, shall not be deemed to be a complaint.

Section 13. Section 497.152, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.152 Disciplinary grounds.—This section sets forth conduct that ~~which~~ is prohibited and that ~~which~~ shall constitute grounds for denial of any application, imposition of discipline, or ~~and~~ other enforcement action against the licensee or other person committing such conduct. For purposes of this section, the requirements of this chapter include the requirements of rules adopted under authority of this chapter. No subsection heading in this section shall be interpreted as limiting the applicability of any paragraph within the subsection.

(1) GENERAL PROVISIONS.—The generality of the provisions of this subsection shall not be deemed to be limited by the provisions of any other subsection.

(a) Violating any provision of this chapter or any lawful order of the board or department or of the statutory predecessors to the board or department.

(b) Committing fraud, deceit, negligence, incompetency, or misconduct in the practice of any of the activities regulated under this chapter.

(c) Failing while holding a license under this chapter to maintain one or more of the qualifications for such license.

(d) Refusing to sell or issue a contract or provide services to any person because of the person's race, color, creed, marital status, sex, or national origin.

(2) CRIMINAL ACTIVITY.—Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that ~~which~~ relates to the practice of, or the ability to practice, a licensee's profession or occupation under this chapter.

(3) DISCIPLINARY ACTION BY OTHER AUTHORITIES.—Having a license or the authority to practice a profession or occupation revoked, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of ~~another~~ any jurisdiction, including its agencies or subdivisions, for conduct that would constitute a violation of this chapter if committed in this state or upon grounds that ~~which~~ directly relate to the ability to practice under this chapter. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of charges against the license shall be construed as action against the license.

(4) OBLIGATIONS TO REGULATORS AND OTHER GOVERNMENT AGENCIES.—

(a) Improperly interfering with an investigation or inspection authorized by statute or with any disciplinary proceeding.

(b) Failure to comply with a lawfully issued subpoena of the department.

(c) Refusal to produce records to the department or board in connection with any activity regulated pursuant to this chapter.

(d) Failing to report to the department any violation of this chapter by another person, which violation is known to the licensee to have created or be creating a serious and immediate danger to the public health, safety, or welfare ~~person who the licensee knows is in violation of this chapter.~~

(e) Knowingly concealing information relative to violations of this chapter.

(f) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, false or forged evidence, or misrepresentation or through an error of the department or board known to the applicant.

(g) Making or filing a report or statement to or with any government entity that ~~which~~ the licensee knows or has reason to know to be false; or intentionally or negligently failing to file a report or record required to be filed with any government entity, or willfully impeding or obstructing another person to do so, or inducing another person to impede or obstruct such filing.

(h) Failing to perform any statutory or legal obligation placed upon a licensee.

(5) LIMITATIONS ON SCOPE OF PRACTICE; UNLICENSED PRACTICE.—

(a) Practicing or offering to practice beyond the scope permitted by this chapter and rules adopted under this chapter for the type of licensure held or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

(b) Practicing or attempting to practice with a revoked, suspended, inactive, or delinquent license.

(c) Representing as her or his own the license of another.

(d) Aiding, assisting, procuring, employing, or advising any person or entity to practice a profession or occupation regulated by this chapter without required licensure under this chapter.

(e) Aiding, assisting, procuring, employing, or advising any person or entity to operate or in operating an establishment regulated by this chapter without the required licensure under this chapter.

(f) Delegating to any person the performance of professional activities, or contracting with any person for the performance of professional activities by such person, when the licensee knows or has reason to know the person is not qualified by training, experience, and authorization to perform such responsibilities.

(g) Using the name or title “funeral director,” “embalmer,” “direct disposer,” or other title suggesting licensure that ~~which~~ the person using such name or title does not hold.

(h) Engaging by a direct disposer in the practice of direct burial or offering the at-need or preneed service of direct burial.

(6) EDUCATIONAL REQUIREMENTS.—

(a) Failing to comply with applicable educational course requirements pursuant to this chapter or rules adopted under this chapter regarding human immunodeficiency virus and acquired immune deficiency syndrome.

(b) Failing to timely comply with applicable continuing education requirements of this chapter.

(7) RELATIONS WITH OTHER LICENSEES.—

(a) Having been found liable in a civil proceeding for knowingly filing a false report or complaint against another licensee with the department or the board.

(b) Making any misleading statements or misrepresentations as to the financial condition of any person, or making statements that ~~which~~ are falsely and maliciously critical of any person for the purpose of damaging that person's business regulated under this chapter.

(8) TRANSPORT, CUSTODY, TREATMENT, OR DISINTERMENT OF HUMAN REMAINS.—

(a) Violation of any state law or rule or any municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.

(b) Refusing to surrender promptly the custody of a dead human body upon the express order of the person legally authorized to its custody; however, this provision shall be subject to any state or local laws or rules governing custody or transportation of dead human bodies.

(c) Taking possession of a dead human body without first having obtained written or oral permission from a legally authorized person. If oral permission is granted, the licensee shall ~~must~~ obtain written permission within a reasonable time as established by rule.

(d) Embalming human remains without first having obtained written or oral permission from a legally authorized person; however, washing and other public health procedures, such as closing of the orifices by placing cotton soaked in a disinfectant in such orifices until authorization to embalm is received, shall not be precluded. If oral permission is granted, the licensee shall ~~must~~ obtain written permission within a reasonable time as established by board rule.

(e) Failing to obtain written authorization from the family or next of kin of the deceased prior to entombment, interment, disinterment, disentombment, or disinurnment of the remains of any human being.

(9) SALES PRACTICES IN GENERAL.—

(a) Soliciting by the licensee, or by her or his agent, assistant, or employee, through the use of fraud, undue influence, intimidation, overreaching, or other means ~~that which~~ takes advantage of a customer's ignorance or emotional vulnerability.

(b) Exercising undue influence on a client for the purpose of financial gain of the licensee or a third party in connection with any transaction regulated by this chapter.

(c) Discouraging a customer's purchase of any funeral merchandise or service ~~that which~~ is advertised or offered for sale, with the purpose of encouraging the purchase of additional or more expensive merchandise or service, by disparaging its quality or appearance, except that true factual statements concerning features, design, or construction do not constitute disparagement; by misrepresenting its availability or any delay involved in obtaining it; or by suggesting directly or by implication that a customer's concern for price or expressed interest in inexpensive funeral merchandise or services is improper, inappropriate, or indicative of diminished respect or affection for the deceased.

(d) Misrepresenting the benefits, advantages, conditions, or terms of any contract to provide any services or merchandise regulated under this chapter.

(e) Advertising goods and services in a manner that is fraudulent, deceptive, or misleading in form or content.

(f) Directly or indirectly making any deceptive, misleading, or untrue representations, whether oral or written, or employing any trick, scheme, or artifice, in or related to the practice of a profession or occupation regulated under this chapter, including in the advertising or sale of any merchandise or services related to the practice of the profession or occupation.

(10) SPECIFIC MISREPRESENTATIONS.—

(a) Making any false or misleading statement of the legal requirement as to the necessity of any particular burial or funeral merchandise or services.

(b) Making any oral, written, or visual representations, directly or indirectly, that any funeral merchandise or service is offered for sale when such is not a bona fide offer to sell such merchandise or service.

(c) Making any misrepresentation for the purpose of inducing, or tending to induce, the lapse, forfeiture, exchange, conversion, or surrender of any preneed contract or any life insurance policy pledged or assigned to secure payment for funeral or burial goods or services.

(d) Misrepresenting pertinent facts or prepaid contract provisions relating to funeral or burial merchandise or services.

(e) Misrepresenting the amount advanced on behalf of a customer for any item of service or merchandise, including, but not limited to, cemetery or

crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates, described as cash advances, accommodations, or words of similar import on the contract, final bill, or other written evidence of agreement or obligation furnished to customers; however, nothing in this paragraph shall require disclosure of a discount or rebate that ~~which~~ may accrue to a licensee subsequent to making a cash advance.

(f) Making any false or misleading statement or claim that natural decomposition or decay of human remains can be prevented or substantially delayed by embalming, use of a gasketed or ungasketed casket, or use of an adhesive or nonadhesive closure on an outer burial container.

(g) Making any false or misleading statement, oral or written, directly or indirectly, regarding any law or rule pertaining to the preparation for disposition, transportation for disposition, or disposition of dead human bodies.

(h) Making any false or misleading statements of the legal requirement as to the conditions under which preservation of a dead human body is required or as to the necessity of a casket or outer burial container.

(11) SPECIFIC SALES PRACTICES.—

(a) Failing to furnish, for retention, to each purchaser of burial rights, burial or funeral merchandise, or burial or funeral services a written agreement, the form of which has been previously approved if and as required by this chapter, that ~~which~~ lists in detail the items and services purchased together with the prices for the items and services purchased; the name, address, and telephone number of the licensee; the signatures of the customer and the licensee or her or his representative; and the date signed.

(b) Filling in any contract form for use with a particular customer using language that ~~Using any name or title in any contract regulated under this chapter which~~ misrepresents the true nature of the contract.

(c) Selling an irrevocable preneed contract to a person who is not an applicant for or recipient of Supplemental Security Income or Aid to Families with Dependent Children or pursuant to s. 497.459(6)(a).

(d) Except as authorized in part IV of this chapter, guaranteeing the price of goods and services at a future date.

(e) Requiring that a casket be purchased for cremation or claiming directly or by implication that a casket is required for cremation.

(f) When displaying any caskets for sale, failing to display the least expensive casket offered for sale or use in adult funerals in the same general manner as the funeral service industry member's other caskets are displayed.

(g) Assessing fees and costs that have not been disclosed to the customer in connection with any transaction regulated by this chapter.

(h) Failure by a cemetery licensed under this chapter to provide to any person, upon request, a copy of the cemetery bylaws.

(i) Requirements by a cemetery licensee that lot owners or current customers make unnecessary visits to the cemetery company office for the purpose of solicitation.

(12) DISCLOSURE REQUIREMENTS.—

(a) Failure to disclose, when such disclosure is desired, the components of the prices for alternatives offered by the licensee from whom disclosure is requested, such as graveside service, direct disposition, and body donation without any rites or ceremonies prior to the delivery of the body and prices of service if there are to be such after the residue has been removed following the use thereof.

(b) Failing to furnish, for retention, to anyone who inquires in person about burial rights, burial or funeral merchandise, or burial or funeral services, before any discussion of selection, a printed or typewritten list specifying the range of retail prices for such rights, merchandise, or services. At a minimum, the list shall itemize the highest and lowest priced product and service regularly offered and shall include the name, address, and telephone number of the licensee and statements that the customer may choose only the items the customer desires, that the customer will be charged for only those items selected, and that there may be other charges for other items or other services.

(c) Failing to reasonably provide by telephone, upon request, accurate information regarding the retail prices of funeral merchandise and services offered for sale by that licensee.

(d) Failure by a funeral director to make full disclosure in the case of a funeral or direct disposition with regard to the use of funeral merchandise ~~that which~~ is not to be disposed of with the body or failure to obtain written permission from the purchaser regarding disposition of such merchandise.

(e) Failure by any funeral director to fully disclose all of her or his available services and merchandise prior to the selection of a casket offered by a licensee. The full disclosure required shall identify what is included in the funeral or direct disposition and the prices of all services and merchandise provided by the licensee or registrant.

(f) Failing to have the price of any casket offered for sale clearly marked on or in the casket, whether the casket is displayed at a funeral establishment or at any other location, regardless of whether the licensee is in control of such location. If a licensee uses books, catalogs, brochures, or other printed display aids, the price of each casket shall be clearly marked.

(g) Failing to disclose all fees and costs the customer may incur to use the burial rights or merchandise purchased.

(13) CONTRACT OBLIGATIONS.—

(a) Failing without reasonable justification to timely honor contracts entered into by the licensee or under the licensee's license for funeral or burial merchandise or services.

(b) Failure to honor preneed contract cancellation requests and make refunds as required by the chapter.

(14) OBLIGATIONS REGARDING COMPLAINTS AND CLAIMS BY CUSTOMERS.—

(a) Failing to adopt and implement standards for the proper investigation and resolution of claims and complaints received by a licensee relating to the licensee's activities regulated by this chapter.

(b) Committing or performing with such frequency as to indicate a general business practice any of the following:

1. Failing to acknowledge and act promptly upon communications from a licensee's customers and their representatives with respect to claims or complaints relating to the licensee's activities regulated by this chapter.

2. Denying claims or rejecting complaints received by a licensee from a customer or customer's representative, relating to the licensee's activities regulated by this chapter, without first conducting reasonable investigation based upon available information.

3. Attempting to settle a claim or complaint on the basis of a material document ~~that which~~ was altered without notice to, or without the knowledge or consent of, the contract purchaser or her or his representative or legal guardian.

4. Failing within a reasonable time to affirm or deny coverage of specified services or merchandise under a contract entered into by a licensee upon written request of the contract purchaser or her or his representative or legal guardian.

5. Failing to promptly provide, in relation to a contract for funeral or burial merchandise or services entered into by the licensee or under the licensee's license, a reasonable explanation to the contract purchaser or her or his representative or legal guardian of the licensee's basis for denying or rejecting all or any part of a claim or complaint submitted.

(c) Making a material misrepresentation to a contract purchaser or her or his representative or legal guardian for the purpose and with the intent of effecting settlement of a claim or complaint or loss under a prepaid contract on less favorable terms than those provided in, and contemplated by, the prepaid contract.

(d) Failing to maintain a complete copy of every complaint received by the licensee since the date of the last examination of the licensee by the department. For purposes of this subsection, the term "complaint" means any written communication primarily expressing a grievance and which communication is from:

1. A representative or family member of a deceased person interred at the licensee's facilities or using the licensee's services, or which deceased's remains were the subject of any service provided by the licensee or licensee's business; or

2. A person, or such person's family member or representative, who inquired of the licensee or licensee's business concerning the purchase of, or who purchased or contracted to purchase, any funeral or burial merchandise or services from the licensee or licensee's business.

For purposes of this subsection, the response of a customer recorded by the customer on a customer satisfaction questionnaire or survey form sent to the customer by the licensee, and returned by the customer to the licensee, shall not be deemed to be a complaint.

(15) MISCELLANEOUS FINANCIAL MATTERS.—

(a) Failing to timely pay any fee required by this chapter.

(b) Failing to timely remit as required by this chapter the required amounts to any trust fund required by this chapter. The board may by rule provide criteria for identifying minor, nonwillful trust remittance deficiencies; and remittance deficiencies falling within such criteria, if fully corrected within 30 days after notice to the licensee by the department, shall not constitute grounds for disciplinary action.

(c) Paying to or receiving from any organization, agency, or person, either directly or indirectly, any commission, bonus, kickback, or rebate in any form whatsoever for any business regulated under this chapter, whether such payments are made or received by the licensee, or her or his agent, assistant, or employee; however, this provision shall not prohibit the payment of commissions by a funeral director, funeral establishment, cemetery, or monument establishment to its preneed agents licensed pursuant to this chapter or to licensees under this chapter.

Section 14. Subsection (1), paragraph (b) of subsection (2), and paragraph (c) of subsection (4) of section 497.153, Florida Statutes, as created by chapter 2004-301, Laws of Florida, are amended to read:

497.153 Disciplinary procedures and penalties.—

(1) JURISDICTION OF LICENSING AUTHORITY TO INVESTIGATE AND PROSECUTE.—The expiration, nonrenewal, or surrender of licensure under this chapter shall not eliminate jurisdiction in the licensing authority to investigate and prosecute for violations committed by a licensee while licensed under this chapter. The prosecution of any matter may be initiated or continued notwithstanding the withdrawal of any complaint.

(2) DETERMINATION OF PROBABLE CAUSE.—

(b) Prior to submitting a matter to the probable cause panel, the licensee who is the subject of the matter shall be provided by the department with a copy of any written complaint received by the department in the matter

and shall be advised that ~~the licensee she or he~~ may, within 20 days after receipt of a copy of such complaint from the department, submit to the department a written response. Any response timely received by the department shall be provided by the department to the probable cause panel. Licensees may not appear in person or through a representative at any probable cause panel proceeding. This paragraph shall not apply to emergency action.

(4) ACTION AFTER PROBABLE CAUSE FOUND.—

(c) The department may at any time present to the board a proposed settlement by consent order or otherwise of any matter as to which probable cause has been found. If the board accepts the proposed settlement, it may execute and file the consent order as its final order in the matter or may otherwise issue its final order in the matter ~~shall issue its final order adopting the settlement~~. If the board does not accept such settlement, the prosecution of the matter shall be resumed. No settlement of any disciplinary matter as to which probable cause has been found may be entered into by the board prior to receipt of a recommended order of an administrative law judge without the department's concurrence.

Section 15. Subsection (1) of section 497.158, Florida Statutes, as renumbered and amended by section 28 of chapter 2004-301, Laws of Florida, is amended to read:

497.158 Court enforcement actions; powers; abatement of nuisances.—

(1) In addition to or in lieu of other actions authorized by this chapter, the department may petition the courts of this state for injunctive or other relief against any licensed or unlicensed person for the enforcement of this chapter and orders issued under this chapter. The court shall be authorized to impose a fine of up to \$5,000 per violation on any licensee under this chapter and up to \$10,000 on any person not licensed under this chapter, payable to the department, upon any person determined by the court to have violated this chapter, and may order payment to the department of the department's attorney's fees and litigation costs, by any person found to have violated this chapter.

Section 16. Subsections (1), (3), and (4) and paragraph (a) of subsection (5) of section 497.159, Florida Statutes, as created by chapter 2004-301, Laws of Florida, are amended to read:

497.159 Crimes.—

(1) ~~The theft of an examination~~ in whole or in part or the act of unauthorized reproducing, circulating, or copying of any questions or answers on, from, or for any precicensure examination administered by the department or the board, whether such examination is reproduced or copied in part or in whole and by any means, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person ~~individual~~ who willfully obstructs the department or its examiner in any examination or investigation authorized by this chapter

commits is guilty of a misdemeanor of the second degree and is, in addition to any disciplinary action under this chapter, punishable as provided in s. 775.082 or s. 775.083. The initiation of action in any court by or on behalf of any licensee to terminate or limit any examination or investigation under this chapter shall not constitute a violation under this subsection.

(4) Any officer or director, or person occupying similar status or performing similar functions, of a preneed licensee who fails under this chapter who knowingly directs or causes the failure to make required deposits to any trust fund required by this chapter; any director, officer, agent, or employee of a preneed licensee who makes any unlawful withdrawal of funds from any such account or who knowingly discloses to the department or an employee thereof any false report made pursuant to this chapter; or any person who willfully violates any of the provisions of part II, part IV or part V, or with knowledge that such required deposits are not being made as required by law fails to report such failure to the department, or who knowingly directs or causes the unlawful withdrawal of funds from any trust fund required by this chapter, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)(a) No cemetery company or other legal entity conducting or maintaining any public or private cemetery may deny burial space to any person because of race, creed, marital status, sex, national origin, or color. A cemetery company or other entity operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation. Religious institution cemeteries may limit burials to members of the religious institution and their families.

Section 17. Paragraphs (g) and (h) of subsection (1) and subsection (3) of section 497.161, Florida Statutes, as created by chapter 2004-301, Laws of Florida, are amended to read:

497.161 Other rulemaking provisions.—

(1) In addition to such other rules as are authorized or required under this chapter, the following additional rules, not inconsistent with this chapter, shall be authorized by the licensing authority.

~~(g) Rules establishing procedures by which the department may use the expert or technical advice of the board or members of the board for the purposes of any investigation, inspection, or financial examination, without thereby disqualifying the board member from voting on final action in the matter.~~

~~(g)(h)~~ In connection with the statutory revisions by the 2004 2005 Regular Session of the Legislature merging chapters 470 and 497 as those chapters appeared in the 2003 2004 edition of the Florida Statutes and the elimination of the former boards under those chapters and the movement of regulation out of the Department of Business and Professional Regulation, the licensing authority shall through July 1, 2006, be deemed to have extraordinary rulemaking authority to adopt any and all rules jointly agreed by the board and the department to be necessary for the protection of the

public concerning the regulation of the professions and occupations regulated under this chapter, or for the relief of licensees regulated under this chapter concerning any impacts ~~that~~ which the department and the board jointly agree were unintended or not contemplated in the enactment of the ~~2004~~ 2005 legislative changes. The authority under this paragraph and any rules adopted under authority of this paragraph shall expire July 1, 2006.

(3) The department and the board shall each have standing under chapter 120 for the purposes of challenging rules or proposed rules under this chapter. This subsection shall not be interpreted to deny standing to a licensee to challenge any rule under this chapter if the licensee would otherwise have standing.

Section 18. Section 497.165, Florida Statutes, as renumbered and amended by section 35 of chapter 2004-301, Laws of Florida, is amended to read:

497.165 Liability of owners, directors, and officers regarding trust funds.—The owners, officers, and directors of any licensee under this chapter may be held jointly and severally liable for any deficiency in any trust fund required by this chapter, to the extent the deficiency arose during the period they were owners, officers, or directors of the licensee, if they intentionally or through gross ~~their conduct, or their~~ negligence in the performance of their duties, caused the deficiency or substantially contributed to conditions that allowed the deficiency to arise or increase.

Section 19. Subsections (1) and (3) of section 497.166, Florida Statutes, as created by chapter 2004-301, Laws of Florida, are amended to read:

497.166 Preneed sales.—

(1) Regulation of preneed sales shall be as set forth in part IV of this chapter. No person may act as an agent for a preneed licensee ~~funeral establishment or direct disposal establishment~~ with respect to preneed contracts unless such person is licensed as a preneed sales agent pursuant to part IV of this chapter or is a licensed funeral director acting as a preneed sales agent.

(3)(a) The funeral director in charge of a funeral establishment shall be responsible for the control and activities of the establishment's preneed sales agents.

(b) The direct disposer in charge or a funeral director acting as a direct disposer in charge of a direct disposal establishment shall be responsible for the control and activities of the establishment's preneed sales agents.

(c) The responsibility imposed by this subsection on the funeral director and direct disposer in charge is a duty of reasonable supervision and not absolute liability. The responsibility of the funeral director or direct disposer in charge shall be in addition to the responsibility of the preneed licensee for the conduct of the preneed sales agents it employs.

Section 20. Subsection (2) of section 497.169, Florida Statutes, as renumbered and amended by section 39 of chapter 2004-301, Laws of Florida, is amended to read:

497.169 Private actions; actions on behalf of consumers; attorney's fee.—

(2) In any civil litigation resulting from a transaction involving a violation of this chapter by a cemetery company or burial rights broker licensed under part II, a monument establishment licensed under part V, or a pre-need entity or preneed sales agent licensed under part IV, the court may award to the prevailing party and against such cemetery company, burial rights broker, monument establishment, or preneed entity or sales agent, after judgment in the trial court and exhaustion of any appeal, reasonable attorney's fees and costs from the nonprevailing party in an amount to be determined by the trial court. Any award of attorney's fees or costs shall become a part of the judgment and shall be subject to execution as the law allows. This subsection does not apply to licensees licensed under part III or part VI.

Section 21. Section 497.171, Florida Statutes, is created to read:

497.171 Identification of human remains.—

(1) PRIOR TO FINAL DISPOSITION.—

(a) This subsection shall apply to licensees under parts III and VI.

(b) The licensee in charge of the final disposition of dead human remains shall, prior to final disposition of such dead human remains, affix to the ankle or wrist of the deceased, and on the casket, alternative container, or cremation container, a tag providing proper identification of the dead human remains. The identification tag shall be encased in or consist of durable and long-lasting material and shall list the name, date of birth, and date of death of the deceased, if available. The board may adopt rules specifying acceptable materials for such identification tag, acceptable locations for the tag on the casket, alternative container, or cremation container, and acceptable methods of affixing the tag.

(c) If the dead human remains are cremated, proper identification shall be placed in the container or urn containing the cremated remains.

(d) Any licensee responsible for removal of dead human remains to any establishment, facility, or location shall ensure that the remains are identified by a tag or other means of identification that is affixed to the ankle or wrist of the deceased at the time the remains are removed from the place of death or other location.

(2) INTERMENT IN UNLICENSED CEMETERIES.—The identification of human remains interred in an unlicensed cemetery shall be the responsibility of the licensed funeral establishment in charge of the funeral arrangements for the deceased person. The licensed funeral establishment in charge of the funeral arrangements for the interment of human remains in an unlicensed cemetery shall place on the outer burial container, cremation interment container, or other container or on the inside of a crypt or niche a tag or permanent identifying mark listing the name of the decedent and the date of death, if available. The materials and locations of the tag or mark shall be more specifically described by rule of the licensing authority.

(3) INTERMENT IN LICENSED CEMETERIES.—

(a) This subsection shall apply to cemetery licensees under part II.

(b) As to interments in a licensed cemetery, each licensed cemetery shall place on the outer burial container, cremation interment container, or other container or on the inside of a crypt or niche a tag or permanent identifying marker listing the name of the decedent and the date of death, if available. The materials and the location of the tag or marker shall be more specifically described by rule of the licensing authority.

(c) Each licensed cemetery may rely entirely on the identity stated on the burial transit permit or on the identification supplied by a person licensed under this chapter to establish the identity of the dead human remains delivered by such person for burial and shall not be liable for any differences between the identity shown on the burial transit permit or identification and the actual identity of the dead human remains delivered by such person and buried in the cemetery.

(4) DIRECT DISPOSAL ESTABLISHMENTS.—Direct disposal establishments shall establish a system of identification of human remains received that shall be designed to track the identity of the remains from the time of receipt until delivery of the remains to the authorized persons. This is in addition to the requirements for identification of human remains set forth in subsection (1). A copy of the identification procedures shall be available, upon request, to the department and legally authorized persons.

(5) RELIANCE ON LEGALLY AUTHORIZED PERSON.—Any licensee charged with responsibility under this section may rely on the representation of a legally authorized person to establish the identity of dead human remains.

Section 22. Paragraph (b) of subsection (6) of section 497.260, Florida Statutes, as renumbered and amended by section 42 of chapter 2004-301, Laws of Florida, is amended to read:

497.260 Cemeteries; exemption; investigation and mediation.—

(6)

(b) No cemetery company or other legal entity conducting or maintaining any public or private cemetery may deny burial space to any person because of race, creed, marital status, sex, national origin, or color. A cemetery company or other entity operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation. Religious institution cemeteries may limit burials to members of the religious institution and their families.

Section 23. Paragraphs (b), (m), (o), and (q) of subsection (2) of section 497.263, Florida Statutes, as renumbered and amended by section 45 of chapter 2004-301, Laws of Florida, are amended to read:

497.263 Cemetery companies; license required; licensure requirements and procedures.—

(2) APPLICATION PROCEDURES.—

(b) ~~The applicant shall be a corporation, or a partnership, or a limited liability company formed prior to January 1, 2005, which limited liability company already holds a license under this chapter.~~

~~(m) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The application shall require the applicant to disclose whether the applicant or any principal of the applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction. The licensing authority may require by rule additional information to be provided concerning any affirmative answers.~~

~~(o) The applicant shall submit fingerprints in accordance with s. 497.142. The application shall require the applicant and applicant's principals to provide fingerprints in accordance with part I of this chapter.~~

~~(q) The application shall be signed in accordance with s. 497.141(12) by the president of the applicant.~~

Section 24. Paragraphs (h), (j), and (l) of subsection (2) of section 497.264, Florida Statutes, as renumbered and amended by section 46 of chapter 2004-301, Laws of Florida, are amended to read:

497.264 License not assignable or transferable.—

(2) Any person or entity that seeks to purchase or otherwise acquire control of any cemetery licensed under this chapter shall first apply to the licensing authority and obtain approval of such purchase or change in control.

~~(h) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The application shall require the applicant to disclose whether the applicant or any principal of the applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction. The licensing authority may require by rule additional information to be provided concerning any affirmative answers.~~

~~(j) The applicant shall submit fingerprints in accordance with s. 497.142. The application shall require the applicant and the applicant's principals to provide fingerprints in accordance with part I of this chapter.~~

~~(l) The application shall be signed in accordance with s. 497.141(12) by the applicant if a natural person, otherwise by the president of the applicant.~~

Section 25. Section 497.281, Florida Statutes, as renumbered and amended by section 62 of chapter 2004-301, Laws of Florida, is amended to read:

497.281 Licensure of brokers of burial rights.—

(1) No person shall receive compensation to act as a third party to the sale or transfer of three or more burial rights in a 12-month period unless the person pays a license fee as determined by licensing authority rule but not to exceed \$250 and is licensed with the department as a burial rights broker in accordance with this section.

(2)(a) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142.

(b) The application shall require the applicant to disclose whether the applicant or any principal of the applicant has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction. The licensing authority may require by rule additional information to be provided concerning any affirmative answers. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license. The licensing authority may require by rule additional information to be provided concerning any affirmative answers.

(c) The applicant shall submit fingerprints in accordance with s. 497.142. The application shall be signed in accordance with s. 497.141(12).

(d) The applicant shall demonstrate by clear and convincing evidence that the applicant has the ability, experience, and integrity to act as a burial broker and, if the applicant is an entity, that the applicant's principals are of good character.

(3) For the purpose of preventing confusion and error by the licensee or by the cemeteries in which the burial rights are located as to the status as sold or unsold, and as to the identity of the owner, of the burial rights and related interment spaces in the cemetery, the licensing authority shall by rule establish requirements for minimum records to be maintained by licensees under this section.

(4) The licensing authority may by rule require inspections of the records of licensees under this section.

(5)(2) The department, by rule, shall provide for the biennial renewal of licenses under this section and a renewal fee as determined by licensing authority rule but not to exceed \$250.

(6)(3) The licensure requirements of this section shall not apply to persons otherwise licensed pursuant to this chapter, but such persons, if they engage in activity as burial rights brokers, shall be subject to rules relating to required records and inspections.

(4) The licensing authority may by rule specify records of brokerage transactions which shall be required to be maintained by burial rights brokers licensed under this subsection, and which shall be subject to inspection by the department.

Section 26. Subsection (12) is added to section 497.365, Florida Statutes, as created by chapter 2004-301, Laws of Florida, to read:

497.365 Licensure; inactive and delinquent status.—

(12) The board shall prescribe by rule an application fee for inactive status, a renewal fee for inactive status, a delinquency fee, and a fee for reactivation of a license. None of these fees may exceed the biennial renewal fee established by the board for an active license. The department may not reactivate a license unless the inactive or delinquent licensee has paid any applicable biennial renewal or delinquency fee, or both, and a reactivation fee.

Section 27. Paragraph (c) of subsection (1) of section 497.368, Florida Statutes, as renumbered and amended by section 73 of chapter 2004-301, Laws of Florida, is amended to read:

497.368 Embalmers; licensure as an embalmer by examination; provisional license.—

(1) Any person desiring to be licensed as an embalmer shall apply to the licensing authority to take the licensure examination. The licensing authority shall examine each applicant who has remitted an examination fee set by rule of the licensing authority not to exceed \$200 plus the actual per applicant cost to the licensing authority for portions of the examination and who has:

(c) Made disclosure of the applicant's criminal records, if any, as required by s. 497.142. The applicant shall submit fingerprints in accordance with s. 497.142. The applicant may not be licensed under this section unless the licensing authority determines the applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters. ~~Had no conviction or finding of guilt, regardless of adjudication, for a crime which directly relates to the ability to practice embalming or the practice of embalming.~~

Section 28. Paragraph (d) is added to subsection (1) of section 497.369, Florida Statutes, as renumbered and amended by section 74 of chapter 2004-301, Laws of Florida, to read:

497.369 Embalmers; licensure as an embalmer by endorsement; licensure of a temporary embalmer.—

(1) The licensing authority shall issue a license by endorsement to practice embalming to an applicant who has remitted an examination fee set by rule of the licensing authority not to exceed \$200 and who the licensing authority certifies:

(d) Has made disclosure of the applicant's criminal records, if any, as required by s. 497.142. The applicant shall submit fingerprints in accordance with s. 497.142. The applicant may not be licensed under this section unless the licensing authority determines the applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters.

Section 29. Paragraph (c) of subsection (1) of section 497.373, Florida Statutes, as renumbered and amended by section 78 of chapter 2004-301, Laws of Florida, is amended to read:

497.373 Funeral directing; licensure as a funeral director by examination; provisional license.—

(1) Any person desiring to be licensed as a funeral director shall apply to the licensing authority to take the licensure examination. The licensing authority shall examine each applicant who has remitted an examination fee set by rule of the licensing authority not to exceed \$200 plus the actual per applicant cost to the licensing authority for portions of the examination and who the licensing authority certifies has:

(c) Made disclosure of the applicant's criminal records, if any, as required by s. 497.142. The applicant shall submit fingerprints in accordance with s. 497.142. The applicant may not be licensed under this section unless the licensing authority determines the applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters. Had no conviction or finding of guilt, regardless of adjudication, for a crime which directly relates to the ability to practice funeral directing or the practice of funeral directing.

Section 30. Paragraph (d) is added to subsection (1) of section 497.374, Florida Statutes, as renumbered and amended by section 79 of chapter 2004-301, Laws of Florida, to read:

497.374 Funeral directing; licensure as a funeral director by endorsement; licensure of a temporary funeral director.—

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

(d) Has made disclosure of the applicant's criminal records, if any, as required by s. 497.142. The applicant shall submit fingerprints in accordance with s. 497.142. The applicant may not be licensed under this section unless the licensing authority determines the applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters.

Section 31. Subsection (1) of section 497.376, Florida Statutes, as renumbered and amended by section 81 of chapter 2004-301, Laws of Florida, is amended to read:

497.376 License as funeral director and embalmer permitted; display of license.—

(1) Nothing in this chapter may be construed to prohibit a person from holding a license as an embalmer and a license as a funeral director at the same time. There may be issued and renewed by the licensing authority a combination license as both funeral director and embalmer to persons meeting the separate requirements for both licenses as set forth in this chapter.

The licensing authority may adopt rules providing procedures for applying for and renewing such combination license. The licensing authority may by rule establish application, renewal, and other fees for such combination license, which fees shall not exceed the sum of the maximum fees for the separate funeral director and embalmer license categories as provided in this chapter. Persons holding a combination license as a funeral director and an embalmer shall be subject to regulation under this chapter both as a funeral director and an embalmer.

Section 32. Subsection (1) of section 497.378, Florida Statutes, as amended and renumbered by section 83 of chapter 2004-301, Laws of Florida, is amended to read:

497.378 Renewal of funeral director and embalmer licenses.—

(1) There shall be renewed a funeral director or embalmer license upon receipt of the renewal application and fee set by the licensing authority not to exceed ~~\$500~~ \$250. The licensing authority may prescribe by rule continuing education requirements of up to 12 classroom hours and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis, in addition to a licensing authority-approved course on communicable diseases that includes the course on human immunodeficiency virus and acquired immune deficiency syndrome required by s. 497.367, for the renewal of a funeral director or embalmer license. The rule may provide for the waiver of continuing education requirements in circumstances that would justify the waiver, such as hardship, disability, or illness. The continuing education requirement is not required after July 1, 1996, for a licensee who is over the age of 75 years if the licensee does not qualify as the sole person in charge of an establishment or facility.

Section 33. Subsections (1), (4), (5), and (12) of section 497.380, Florida Statutes, as renumbered and amended by section 85 of chapter 2004-301, Laws of Florida, are amended to read:

497.380 Funeral establishment; licensure.—

(1) A funeral establishment shall be a place at a specific street address or location consisting of at least 1,250 contiguous interior square feet and shall ~~must~~ maintain or make arrangements for either capacity for the refrigeration and storage of dead human bodies handled and stored by the establishment and a preparation room equipped with necessary ventilation and drainage and containing necessary instruments for embalming dead human bodies or shall ~~must~~ make arrangements for a preparation room as established by rule.

(4) Application for a funeral establishment license shall be made on forms and pursuant to procedures specified by rule, shall be accompanied by a nonrefundable fee not to exceed \$300 as set by licensing authority rule, and shall include the name of the licensed funeral director who is in charge of that establishment. The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The applicant shall submit fingerprints in accordance with s. 497.142. A duly completed application accompanied by the required fees shall be approved and

the license issued if the proposed funeral establishment has passed an inspection pursuant to rule of the licensing authority, the licensing authority determines the applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters, and the applicant otherwise is in compliance with all applicable requirements of this chapter.

(5) A funeral establishment license shall be renewable biennially pursuant to procedures, and upon payment of a nonrefundable fee not to exceed ~~\$500~~ \$300, as set by licensing authority rule. The licensing authority may also establish by rule a delinquency fee not to exceed \$50 per day.

(12)(a) A change in ownership of a funeral establishment shall be promptly reported pursuant to procedures established by rule and shall require the relicensure of the funeral establishment, including reinspection and payment of applicable fees.

(b) A change in location of a funeral establishment shall be promptly reported to the licensing authority pursuant to procedures established by rule. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities, pursuant to rules of the licensing authority, has been conducted and passed at the new location.

Section 34. Paragraphs (a) and (g) of subsection (1) and paragraphs (a), (f), and (g) of subsection (2) of section 497.385, Florida Statutes, as renumbered and amended by section 90 of chapter 2004-301, Laws of Florida, are amended, and paragraph (i) is added to subsection (2) of said section, to read:

497.385 Removal services; refrigeration facilities; centralized embalming facilities.—In order to ensure that the removal, refrigeration, and embalming of all dead human bodies is conducted in a manner that properly protects the public's health and safety, the licensing authority shall adopt rules to provide for the licensure of removal services, refrigeration facilities, and centralized embalming facilities operated independently of funeral establishments, direct disposal establishments, and cinerator facilities.

(1) REMOVAL SERVICES AND REFRIGERATION SERVICES.—

(a) Application for licensure of a removal service or a refrigeration service shall be made using forms and procedures as specified by rule, shall be accompanied by a nonrefundable fee not to exceed \$300 as set by licensing authority rule, and shall include the name of the business owner, manager in charge, business address, and copies of occupational and other local permits. The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The applicant shall submit fingerprints in accordance with s. 497.142. A duly completed application accompanied by the required fees shall be approved and the license issued if the applicant has passed an inspection pursuant to rule of the licensing authority, the licensing authority determines the applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters, and the applicant otherwise is in compliance with all applicable requirements of this chapter.

(g)1. A change in ownership shall be promptly reported using forms and procedures specified by rule and may require the relicensure of the licensee, including reinspection and payment of applicable fees, as required by rule.

2. A change in location shall be promptly reported to the licensing authority pursuant to procedures established by rule. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities, pursuant to rules of the licensing authority, has been conducted and passed at the new location.

(2) CENTRALIZED EMBALMING FACILITIES.—In order to ensure that all funeral establishments have access to embalming facilities that comply with all applicable health and safety requirements, the licensing authority shall adopt rules to provide for the licensure and operation of centralized embalming facilities and shall require, at a minimum, the following:

(a) All centralized embalming facilities shall contain all of the equipment and meet all of the requirements that a preparation room located in a funeral establishment is required to meet, ~~but such facilities shall not be required to comply with any of the other requirements for funeral establishments, as set forth in s. 497.380.~~ The licensing authority may adopt rules establishing the equipment and other requirements for operation of a centralized embalming facility consistent with this paragraph.

(f) Application for licensure of a centralized embalming facility shall be made utilizing forms and procedures prescribed by rule and shall be accompanied by a nonrefundable fee not to exceed \$300 as set by licensing authority rule, and licensure shall be renewed biennially pursuant to procedures and upon payment of a nonrefundable fee not to exceed \$300 as set by licensing authority rule. The licensing authority may also establish by rule a late fee not to exceed \$50 per day. Any licensure not renewed within 30 days after the renewal date shall expire without further action by the department. The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The applicant shall submit fingerprints in accordance with s. 497.142. A duly completed application accompanied by the required fees shall be approved and the license issued if the applicant has passed an inspection pursuant to rule of the licensing authority, the licensing authority determines the applicant is of good character and has no demonstrated history of lack of trustworthiness or integrity in business or professional matters, and the applicant otherwise is in compliance with all applicable requirements of this chapter.

(g) The licensing authority shall set by rule an annual inspection fee not to exceed \$300, payable upon application for licensure and upon renewal of such licensure. Centralized embalming facilities shall be subject to inspection before issuance of license and annually thereafter and also upon change of location and during investigation of any complaint. A centralized embalming facility shall notify the licensing authority of any change in location. A change in ownership shall be promptly reported to the licensing authority using forms and procedures specified by rule and may require the relicensure of the licensee, including reinspection and payment of applicable fees,

as required by rule. The licensing authority shall adopt rules establishing inspection criteria and otherwise establishing forms and procedures for the implementation of this paragraph.

(i) A change in location shall be promptly reported to the licensing authority pursuant to procedures established by rule. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities, pursuant to rules of the licensing authority, has been conducted and passed at the new location.

Section 35. Section 497.453, Florida Statutes, as renumbered and amended by section 102 of chapter 2004-301, Laws of Florida, is amended to read:

497.453 Application for preneed license, procedures and criteria; renewal; reports.—

(1) PRENEED LICENSE APPLICATION PROCEDURES.—

(a) A person seeking a license to enter into preneed contracts shall apply for such licensure using forms prescribed by rule.

(b) The application shall require the name, business address, residence address, date and place of birth or incorporation, and business phone number of the applicant and all principals of the applicant. The application shall require the applicant's social security number, or, if the applicant is an entity, its federal tax identification number.

(c) The application may require information as to the applicant's financial resources.

(d) The application may require information as to the educational and employment history of an individual applicant; and as to applicants that are not natural persons, the business and employment history of the applicant and principals of the applicant.

(e) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The application shall require the applicant to disclose whether the applicant or any of the applicant's principals have ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(f) The application shall require the applicant to disclose whether the applicant or any of the applicant's principals have ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(g) The applicant shall submit fingerprints in accordance with s. 497.142. The application shall require the applicant and its principals to provide fingerprints in accordance with part I of this chapter.

(h) The application shall state the name and license number of the funeral establishment, cemetery company, direct disposal establishment, or monument establishment, under whose license the preneed application is made.

(i) The application shall state the types of preneed contracts proposed to be written.

(j) The application shall disclose the existence of all preneed contracts for service or merchandise entered into by the applicant, or by any other entity under common control with the applicant, without or prior to authorization under this section or predecessors to this section. As to each such contract, the applicant shall disclose the name and address of the contract purchaser, the status of the contract, and what steps or measures the applicant has taken to ensure performance of unfulfilled contracts, setting forth the treatment and status of funds received from the customer in regard to the contract, and stating the name and address of any institution where such funds are deposited and the number used by the institution to identify the account. With respect to contracts entered into before January 1, 1983, an application to issue or renew a preneed license may not be denied solely on the basis of such disclosure. The purchaser of any such contract may not be required to liquidate the account if such account was established before July 1, 1965. Information disclosed may be used by the licensing authority to notify the contract purchaser and the institution in which such funds are deposited should the holder of a preneed license be unable to fulfill the requirements of the contract.

(k) The application shall require the applicant to demonstrate that the applicant complies and will comply with all requirements for preneed contract licensure under this chapter.

(l) The application may require any other information considered necessary by the department or board to meet its responsibilities under this chapter.

(m) The application shall be sworn to and signed in accordance with s. 497.141(12) ~~by the applicant if a natural person, or by the president of an applicant that is not a natural person.~~

(n) The application shall be accompanied by a nonrefundable fee as determined by licensing authority rule but not to exceed \$500.

(2) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fees, shall be approved and a license issued, if the licensing authority determines that the following conditions are met:

(a) The application is made by a funeral establishment, cemetery company, direct disposal establishment, or monument establishment, or on behalf of one of the preceding licensees by its agent in the case of a corporate entity, licensed and in good standing under this chapter.

(b) The applicant meets net worth requirements specified by rule of the licensing authority.

1. The net worth required by rule to obtain or renew a preneed license and write and carry up to \$100,000 in total retail value of outstanding preneed contracts shall not exceed \$20,000. The board may specify higher net worth requirements by increments, for total retail value of outstanding preneed contracts carried in excess of \$100,000, as the board determines necessary for the protection of the public.

2. An applicant to obtain or renew a preneed license who cannot demonstrate the required initial minimum net worth may voluntarily submit to the licensing authority, and request acceptance of, alternative evidence of financial stability and resources or agree to additional oversight in lieu of the required net worth. Such additional evidence or oversight may include, as appropriate, one or more of the following:

- a. An agreement to submit monthly financial statements of the entity.
- b. An agreement to submit quarterly financial statements of the entity.
- c. An appraisal of the entity's property or broker's opinion of the entity's assets.
- d. A credit report of the entity or its principals.
- e. A subordination-of-debt agreement from the entity's principals.
- f. An indemnification or subrogation agreement binding the entity and its principals.
- g. A guarantee agreement for the entity from its principals.
- h. A written explanation of past financial activity.
- i. Submission of a 12-month projected business plan that includes:
 - (I) A statement of cash flows.
 - (II) Pro forma income statements, with sources of revenues identified.
 - (III) Marketing initiatives.
- j. Submission of previous department examination reports.
- k. An agreement of 100 percent voluntary trust by the entity.

3. The licensing authority may accept such alternative evidence or arrangements in lieu of the required net worth only if the licensing authority determines such alternative evidence or arrangements are an adequate substitute for required net worth and that acceptance would not substantially increase the risk to existing or future customers of nonperformance by the applicant or licensee on its retail sales agreements.

(c) The applicant has and will have the ability to discharge her or his liabilities as they become due in the normal course of business, and has and will have sufficient funds available during the calendar year to perform her or his obligations under her or his contracts.

(d) If the applicant or any entity under common control with the applicant has entered into preneed contracts prior to being authorized to do so under the laws of this state:

1. The licensing authority determines that adequate provision has been made to ensure the performance of such contracts.

2. The licensing authority determines that the improper sale of such preneed contracts prior to authorization under this chapter does not indicate, under the facts of the particular application in issue, that the applicant has a disregard of the laws of this state such as would expose the public to unreasonable risk if the applicant were issued a preneed license.

3. Nothing in this section shall imply any authorization to enter into preneed contracts without authorization under this chapter.

(e) Neither the applicant nor the applicant's principals have a demonstrated history of conducting their business affairs to the detriment of the public.

(f) The applicant and the applicant's principals are of good character and have no demonstrated history of lack of trustworthiness or integrity in business or professional matters.

(g) The applicant does and will comply with all other requirements of this chapter relating to preneed licensure.

(3) ISSUANCE OF LICENSES ON PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the preneed contract business by, among other means, the entry of new licensees into that business. To facilitate issuance of licenses concerning applications judged by the licensing authority to be borderline as to qualification for licensure, the licensing authority may issue a new license under this section on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 12 months of licensure, to ensure the licensee's responsibility, competency, financial stability, and compliance with this chapter. Provided, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority shall ~~must~~ within 12 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure under this chapter and institute proceedings for revocation of licensure.

(4) CHANGE IN CONTROL SUBSEQUENT TO LICENSURE.—

(a) Each licensee under this section shall ~~must~~ provide notice as required by rule prior to any change in control of the licensee. Any such change is subject to disapproval or to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter, based upon criteria established by rule, which criteria shall promote the purposes of this part in protecting the consumer.

(b) The licensing authority may authorize the transfer of a preneed license and establish by rule a fee for the transfer in an amount not to exceed \$500. Upon receipt of an application for transfer, the executive director may grant a temporary preneed license to the proposed transferee, based upon criteria established by the licensing authority by rule, which criteria shall promote the purposes of this chapter in protecting the consumer. Such a temporary preneed license shall expire at the conclusion of the next regular meeting of the board unless renewed by the board. The licensing authority may by rule establish forms and procedures for the implementation of this paragraph.

(5) RENEWAL OF LICENSES.—

(a) A preneed license shall expire annually on June 1, unless renewed, or at such other time or times as may be provided by rule. The application for renewal of the license shall be on forms prescribed by rule and shall be accompanied by a renewal fee as specified in paragraph (c).

(b) Within 3 months after the end of its fiscal period, or within an extension of time therefor, as the department for good cause may grant, the licensee shall file with the department a full and true statement of her or his financial condition, transactions, and affairs, prepared on a basis as adopted by rule, as of the end of the preceding fiscal period or at such other time or times as may be required by rule, together with such other information and data ~~that which~~ may be required by rule. To facilitate uniformity in financial statements and to facilitate department analysis, there may be adopted by rule a form for financial statements. The rules regarding net worth, authorized by paragraph (2)(b), shall be applicable to the renewal of preneed licenses.

(c)1. Each annual application for renewal of a preneed license that is not held by a monument establishment shall be accompanied by the appropriate fee as follows:

a.1. For a preneed licensee with no preneed contract sales during the immediately preceding year \$300.

b.2. For a preneed licensee with at least 1 but fewer than 50 preneed contract sales during the immediately preceding year \$400.

c.3. For a preneed licensee with at least 50 but fewer than 250 preneed contract sales during the immediately preceding year \$500.

d.4. For a preneed licensee with at least 250 but fewer than 1,000 preneed contract sales during the immediately preceding year \$850.

e.5. For a preneed licensee with at least 1,000 but fewer than 2,500 preneed contract sales during the immediately preceding year . . \$1,500.

f.6. For a preneed licensee with at least 2,500 but fewer than 5,000 preneed contract sales during the immediately preceding year . . \$2,500.

g.7. For a preneed licensee with at least 5,000 but fewer than 15,000 preneed contract sales during the immediately preceding year . . \$6,000.

h.8. For a preneed licensee with at least 15,000 but fewer than 30,000 preneed contract sales during the immediately preceding year \$12,500.

i.9. For a preneed licensee with 30,000 preneed contract sales or more during the immediately preceding year \$18,500.

2. Each annual application for renewal of a preneed license that is held by a monument establishment shall be accompanied by the appropriate fee determined by its total gross aggregate at-need and preneed retail sales for the 12-month period ending 2 full calendar months prior to the month in which the renewal is required, as follows:

- a. Total sales of \$1 to \$50,000: \$1,000 renewal fee.
- b. Total sales of \$50,001 to \$250,000: \$1,500 renewal fee.
- c. Total sales of \$250,001 to \$500,000: \$2,000 renewal fee.
- d. Total sales over \$500,000: \$2,500 renewal fee.

(d) An application for renewal shall disclose the existence of all preneed contracts for service or merchandise funded by any method other than a method permitted by this chapter, which contracts are known to the applicant and were entered into by the applicant, or any other entity under common control with the applicant, during the annual license period then ending. Such disclosure shall include the name and address of the contract purchaser, the name and address of the institution where such funds are deposited, and the number used by the institution to identify the account.

(e) In addition to any other penalty that may be provided for under this chapter, there may be levied a late fee as determined by licensing authority rule but not to exceed \$50 a day for each day the preneed licensee fails to file its annual statement, and there may be levied a late fee as determined by licensing authority rule but not to exceed \$50 a day for each day the preneed licensee fails to file the statement of activities of the trust. Upon notice to the preneed licensee by the department that the preneed licensee has failed to file the annual statement or the statement of activities of the trust, the preneed licensee’s authority to sell preneed contracts shall cease while such default continues.

(6) QUARTERLY PAYMENTS.—In addition to other amounts required to be paid by this section, each preneed licensee shall pay to the Regulatory Trust Fund an amount established by rule not to exceed \$10 for each pre-need contract entered into. This amount ~~shall~~ must be paid within 60 days after the end of each quarter. These funds ~~shall~~ must be used to defray the cost of administering the provisions of this ~~chapter~~ part.

(7) BRANCH OPERATIONS AND LICENSURE.—

(a) Any person or entity that is part of a common business enterprise that has a preneed license issued pursuant to this section and desires to operate under a name other than that of the common business enterprise, may

submit an application on a form adopted by rule to become a branch licensee. The application shall be accompanied by an application fee as determined by licensing authority rule but not to exceed \$300.

(b) Upon a determination that such branch applicant qualifies to sell preneed contracts under this part except for the requirements of paragraph (2)(c), and if the sponsoring preneed licensee under whose preneed license the branch applicant seeks branch status meets the requirements of such paragraph and is in compliance with all requirements of this part regarding its preneed license and operations thereunder, a branch license shall be issued.

(c) Branch licenses shall be renewed annually by payment of a renewal fee set by licensing authority rule and not to exceed ~~\$500~~ \$300. Branch licenses may be renewed only so long as the preneed license of the sponsoring preneed licensee remains in good standing.

~~(d) Violations of this part by the branch shall be deemed to be violations of this part by its sponsoring preneed licensee, unless the licensing authority determines that extenuating circumstances indicate that it would be unjust to attribute the branch's misconduct to the sponsoring preneed licensee. Preneed sales of the branch shall be deemed to be sales of the sponsoring licensee for purposes of renewal fees and trust requirements under this chapter.~~

(e) The sponsoring preneed licensee shall be responsible for performance of preneed contracts entered into by its branch if the branch does not timely fulfill any such contract.

(8) ANNUAL TRUST REPORTS.—On or before April 1 of each year, the preneed licensee shall file in the form prescribed by rule a full and true statement as to the activities of any trust established by it pursuant to this part for the preceding calendar year.

(9) DEPOSIT OF FUNDS.—All sums collected under this section shall be deposited to the credit of the Regulatory Trust Fund.

Section 36. Subsection (6) of section 497.456, Florida Statutes, as renumbered and amended by section 105 of chapter 2004-301, Laws of Florida, is amended to read:

497.456 Preneed Funeral Contract Consumer Protection Trust Fund.—

(6) Upon the commencement of a delinquency proceeding pursuant to this chapter against a preneed licensee, the licensing authority may use up to 50 percent of the balance of the trust fund not already committed to a prior delinquency proceeding ~~solely~~ for the purpose of establishing a receivership and providing restitution to preneed contract purchasers and their estates due to a preneed licensee's failure to provide the benefits of a preneed contract or failure to refund the appropriate principal amount by reason of cancellation thereof. The balance of the trust fund shall be determined as of the date of the delinquency proceeding.

Section 37. Paragraph (h) of subsection (1) and subsection (4) of section 497.458, Florida Statutes, as renumbered and amended by section 107 of chapter 2004-301, Laws of Florida, are amended to read:

497.458 Disposition of proceeds received on contracts.—

(1)

(h) In no event may trust funds be loaned, directly or indirectly, to any of the following persons: the preneed licensee; any entity under any degree of common control with the preneed licensee; any employee, director, full or partial owner, or principal of the preneed licensee; or any person related by blood or marriage to any of those persons. In no event may trust funds, directly or indirectly, be invested in or with, or loaned to, any business or business venture in which any of the following persons have an interest: the preneed licensee; any entity under any degree of common control with the preneed licensee; any employee, director, full or partial owner, or principal of the preneed licensee; or any person related by blood or marriage to any of those persons. In no event may said funds be loaned to a preneed licensee, an affiliate of a preneed licensee, or any person directly or indirectly engaged in the burial, funeral home, or cemetery business.

~~(4)(a) Trust funds shall not be invested in or loaned to or for the benefit of any business venture in which the preneed licensee, its principals, or persons related by blood or marriage to the licensee or its principals, have a direct or indirect interest, without the prior approval of the licensing authority.~~

~~(b) Trust funds shall not be loaned to or for the benefit of the preneed licensee, its principals, or persons related by blood or marriage to the licensee or its principals, without the prior approval of the licensing authority.~~

~~(c) No approval of such loans or investments shall be given unless it be shown by clear and convincing evidence that such loan or investment would be in the interest of the preneed contract holders whose contracts are secured by the trust funds.~~

(d) The licensing authority may adopt rules exempting from the prohibition of ~~paragraph (1)(h) this subsection~~, pursuant to criteria established in such rule, the investment of trust funds in investments, such as widely and publicly traded stocks and bonds, notwithstanding that the licensee, its principals, or persons related by blood or marriage to the licensee or its principals have an interest by investment in the same entity, where neither the licensee, its principals, or persons related by blood or marriage to the licensee or its principals have the ability to control the entity invested in, and it would be in the interest of the preneed contract holders whose contracts are secured by the trust funds to allow the investment.

Section 38. Section 497.466, Florida Statutes, as renumbered and amended by section 115 of chapter 2004-301, Laws of Florida, is amended to read:

497.466 Preneed sales agents, license required; application procedures and criteria; appointment of agents; responsibility of preneed licensee.—

(1) GENERAL PROVISIONS APPLICABLE TO PRENEED SALES AGENTS.—

(a) All persons individuals who offer preneed contracts to the public, or who execute preneed contracts on behalf of a preneed licensee, including all persons individuals who offer, sell, or sign contracts for the preneed sale of burial rights, shall be licensed as preneed sales agents, pursuant to this section. Persons, unless such individuals are licensed as funeral directors pursuant to this chapter may engage in preneed sales for the preneed licensee with whom they are affiliated without preneed sales agent licensure or appointment under this section.

~~(b) All preneed sales agents and funeral directors acting as preneed sales agents must be employed by or under written contract with the preneed licensee that they are representing.~~

~~(c) A preneed licensee shall be responsible for the activities of all preneed sales agents and all funeral directors acting as preneed sales agents, who are affiliated with the preneed licensee and who perform any type of preneed-related activity on behalf of the preneed licensee. In addition to the preneed sales agents and funeral directors acting as preneed sales agents, each preneed licensee shall also be subject to discipline if its preneed sales agents or funeral directors acting as preneed sales agents violate any provision of this chapter.~~

~~(d) A preneed sales agent and a funeral director acting as a preneed sales agent shall be authorized to sell, offer, and execute preneed contracts on behalf of all entities owned or operated by its sponsoring preneed licensee.~~

~~(e) An individual may be licensed as a preneed sales agent on behalf of more than one preneed licensee, provided that the individual has received the written consent of all such preneed licensees and makes separate application under this section for each such agency.~~

~~(f) A sponsoring preneed licensee shall notify the department in writing within 30 days after the sponsored preneed sales agent's authority to represent that preneed licensee has terminated.~~

(2) PRENEED SALES AGENT LICENSE; APPLICATION PROCEDURES.—

(a) A person may hold only one preneed sales agent license at a time seeking licensure as a preneed sales agent shall apply for such licensure using forms prescribed by rule of the licensing authority.

(b) No preneed sales agent license shall be issued to a person under age 18.

(c) Persons desiring a preneed sales agent license shall apply to the department for such license. The application shall require the name, residence address, residence phone number if any, and date and place of birth

of the preneed sales agent applicant. Applicants shall be at least 18 years of age. ~~The application shall require identification of the name, address, and license number of the sponsoring preneed licensee. The application shall require the preneed sales agent applicant's social security number and the federal tax identification number of the sponsoring preneed licensee.~~

~~(c) The application shall require information as to the educational and employment history of the preneed sales agent applicant.~~

~~(d) The application shall require the preneed sales agent applicant to disclose any criminal record, as required by s. 497.142 whether the preneed sales agent applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.~~

(e) The application shall require the preneed sales agent applicant to disclose whether the preneed sales agent applicant has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction. A licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(f) The application shall require identification by the preneed sales agent applicant of the preneed licensee whom the preneed sales agent applicant believes will initially appoint the preneed sales agent applicant if a preneed sales agent license is issued. The application shall require a representation by the sponsoring preneed licensee, that:

1. ~~The sponsoring preneed licensee's license is in good standing.~~

2. ~~Upon licensure as a preneed sales agent the sponsored preneed sales agent applicant will be authorized to offer, sell, and sign preneed contracts on behalf of the preneed licensee.~~

3. ~~The preneed licensee has trained the applicant in the provisions of this chapter relating to preneed sales, the provisions of the preneed licensee's preneed contracts, and the nature of the merchandise, services, or burial rights sold by the preneed licensee.~~

~~(g) The application shall require the preneed sales agent applicant to indicate whether the applicant has any type of working relationship with any other preneed licensee or insurance company, and if yes, to identify such other preneed licensee or insurance company, as the case may be.~~

~~(h) The applicant shall be required to submit her or his fingerprints in accordance with part I of this chapter.~~

(g)(i) The application shall be signed by the applicant and by an officer or manager of the sponsoring preneed licensee. The licensing authority may accept electronic signatures.

(h)(j) The application shall be accompanied by a nonrefundable fee of \$150 if made through the department's on-line licensing system or \$175 if made using paper forms. Payment of either fee shall entitle the applicant to one initial appointment without payment of further fees by the preneed sales agent or the appointing preneed licensee if a preneed sales agent license is issued \$100. The licensing authority may from time to time increase such fees fee but not to exceed \$300 \$200.

(3) ISSUANCE OF A TEMPORARY PRENEED SALES AGENT LICENSE ACTION CONCERNING APPLICATIONS; TEMPORARY AND REGULAR LICENSURE.—

(a) Upon receipt of a duly completed application and the required fee, a temporary preneed sales agent license shall be issued to the applicant if:

1. The applicant is at least 18 years of age.
2. The application indicates that the applicant has no disciplinary or criminal record and the department has no record indicating the applicant has any disciplinary or criminal record.
3. The applicant has never previously held a temporary preneed sales agent license that lapsed for failure to submit fingerprints as required by this section.

(b) A temporary preneed sales agent license shall be valid for only 120 days from the date issued and may not be renewed.

(c) An applicant for a preneed sales agent license who has previously been issued a temporary preneed sales agent license that for any reason expired without becoming permanent shall not thereafter be eligible for another temporary preneed sales agent license. Such person may apply again for a preneed sales agent license, but no license shall be issued until fingerprints are provided as required by s. 497.142, a report is received from the Department of Law Enforcement advising that the applicant has no criminal record, and the applicant is otherwise determined by the department and board to qualify for preneed sales agent licensure.

(4) CONVERSION OF TEMPORARY PRENEED SALES AGENT LICENSE TO PERMANENT PRENEED SALES AGENT LICENSE.—

(a) A temporary preneed sales agent licensee who desires to obtain a permanent preneed sales agent license shall, within 90 days after issuance of the temporary preneed sales agent license, submit his or her fingerprints to the licensing authority for a criminal background check, in accordance with s. 497.142. Unless the department determines prior to the expiration of the temporary preneed sales agent license that the temporary licensee has a criminal or disciplinary record, the temporary preneed sales agent license shall automatically be converted to a permanent preneed sales agent license.

(b) The department shall promptly give written notice to the temporary preneed sales agent licensee, and to all preneed licensees who have the

temporary preneed sales agent under appointment, that such preneed sales agent's temporary license has been converted to a permanent license, or has lapsed, as the case may be.

(5) APPLICANTS WITH A CRIMINAL OR DISCIPLINARY RECORD.—

(a) A preneed sales agent applicant having a criminal or disciplinary record shall not be eligible for a temporary preneed sales agent license. No permanent preneed sales agent license shall be issued to any person with a criminal or disciplinary record, except upon approval of the board.

(b) If, while a temporary preneed sales agent license is in force, the department determines that the temporary licensee has a criminal or disciplinary record, the temporary license shall be immediately suspended and shall not automatically convert to a permanent preneed sales agent license. The department shall promptly give written notice of the suspension to the suspended licensee and to all preneed licensees who have the suspended preneed sales agent licensee under appointment. The suspended preneed sales agent licensee may, within 21 days after the date of suspension, petition the board under paragraph (c) for issuance of a permanent preneed sales agent license notwithstanding the criminal or disciplinary record. If no petition for board review is timely received by the department or board, the temporary preneed sales agent license shall be revoked.

(c) An applicant with a criminal or disciplinary record who desires a permanent preneed sales agent license shall petition the board for issuance of such license using forms and procedures as specified by rule. The board shall issue a permanent preneed sales agent license to an applicant with a criminal or disciplinary record if the board determines:

1. That there was no inaccuracy in the application for license such as indicates the applicant is untrustworthy.

2. That the applicant, if issued a preneed sales agent license, would not pose an unreasonable risk to members of the public who might deal with the applicant in preneed transactions.

(d) The board may issue a preneed sales agent license to an applicant with a criminal or disciplinary record on a probationary basis and subject to reasonable terms of probation not to exceed 24 months in duration.

(6) TERMINATION OF A PERMANENT PRENEED SALES AGENT LICENSE DUE TO LACK OF APPOINTMENTS.—A permanent preneed sales agent license shall remain in force without a requirement for renewal until such time as there have been no appointments of the preneed sales agent under the license for 48 consecutive months, at which time the permanent preneed sales agent license will terminate. The former preneed sales agent licensee may thereafter apply for issuance of a new preneed sales agent license under this section.

(7) APPOINTMENT OF PRENEED SALES AGENTS.—

(a) A preneed sales agent licensee may be appointed by as many preneed licensees as desire to appoint the preneed sales agent licensee. When a preneed sales agent licensee is appointed by a preneed licensee, the department shall promptly give written notice to all other preneed licensees then having that same preneed sales agent under appointment.

(b) A preneed licensee may appoint a preneed sales agent licensee by identifying to the department the preneed sales agent licensee to be appointed, requesting appointment, and paying the required appointment fee. The appointment request shall be signed by the preneed licensee. The department may accept electronic signatures.

(c) Appointments shall be effective when made and shall expire 24 months from the last day of the month in which the appointment was made unless earlier terminated by the preneed licensee or the preneed sales agent. No initial appointment of a preneed sales agent licensee may be made until 24 hours after a temporary preneed sales agent license is issued to that preneed sales agent. Appointments are effective only so long as the preneed sales agent licensee's license is in good standing.

(d) A preneed licensee is responsible for taking reasonable steps to ensure that the preneed sales agent licensees it appoints have adequate training regarding preneed sales.

(e) Appointments may be renewed for additional 24-month periods by notification by the preneed licensee to the department that the preneed licensee desires to renew the appointment, accompanied by payment by the preneed licensee of the appointment renewal fee.

(f) Initial and renewal appointment fees shall be nonrefundable and shall be \$150 if made through the department's on-line licensing system and \$175 if made using paper forms requiring manual processing by the department. The board may from time to time by rule increase said appointment fees but not to exceed \$300.

(g)1. Appointments may be terminated at any time by the appointing preneed licensee or by the appointed preneed sales agent licensee.

2. Termination of appointment shall be accomplished by notice of termination conveyed to the department and signed by the person or entity requesting the termination. The department may accept electronic signatures. There shall be no fee for termination of appointment accomplished through the department's on-line licensing system; however, there shall be a fee of \$25 for terminations made using paper forms requiring manual processing by the department.

3. When an appointment is terminated, whether by the preneed licensee or the preneed sales agent licensee, the department shall promptly provide written confirmation of the termination to both the preneed sales agent licensee and the preneed licensee at their respective addresses of record with the department.

4. If a preneed licensee terminates the authority of a preneed sales agent license to sell for the preneed licensee, the preneed licensee shall, within 30

days after such termination, terminate the appointment as indicated in subparagraph 2.

5. If a preneed sales agent licensee terminates the preneed sales relationship with a preneed licensee, the preneed sales agent licensee shall, within 30 days after such termination, terminate the appointment as indicated in subparagraph 2.

6. If the license of a preneed sales agent is suspended or revoked pursuant to disciplinary action by the licensing authority against the preneed sales agent, the department shall promptly give written notice of such action to all preneed licensees then having that preneed sales agent under appointment.

(8) ADMINISTRATIVE MATTERS.—

(a) The licensing authority shall have rulemaking authority to prescribe forms and procedures for implementation of this section.

(b)1. All persons holding one or more preneed sales agent licenses in good standing under s. 497.439, as of 11:59 p.m. on September 30, 2005, shall be deemed as of October 1, 2005, to hold a permanent preneed sales agent license under this statute as effective on October 1, 2005.

2. All persons holding one or more preneed sales agent licenses in good standing under s. 497.439, as of 11:59 p.m. on September 30, 2005, shall be deemed as of October 1, 2005, to be appointed by each preneed licensee in regard to whom they hold a preneed sales agent license as of 11:59 p.m. on September 30, 2005. Such appointments shall expire on the same date as the preneed sales agent license would have expired under the law in effect at 11:59 p.m. on September 30, 2005.

(c) As used in this section, “criminal record” means and includes only crimes required to be disclosed under s. 497.142.

(d) As used in this section, “disciplinary record” means and includes any instance wherein the applicant has ever had a license or the authority to practice a profession or occupation refused, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction. A licensing authority’s acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(e) A preneed licensee shall be responsible for the activities of all preneed sales agents, and all funeral directors acting as preneed sales agents, who are affiliated with the preneed licensee and who perform any type of preneed-related activity on behalf of the preneed licensee. In addition to the preneed sales agents and funeral directors acting as preneed sales agents, each preneed licensee shall also be subject to discipline if its preneed sales agents or funeral directors acting as preneed sales agents violate any provision of this chapter.

~~(a) An applicant shall be deemed to have been issued a temporary preneed sales agent license and may begin functioning as a preneed sales agent, immediately upon receipt by the department of a duly completed application for licensure under this section, if the application shows an applicant of at least 18 years of age who has answered in the negative regarding paragraphs (2)(d) and (e) relating to prior criminal and disciplinary actions, and which application is accompanied by the required application fee. The temporary preneed sales agent license shall be valid for 90 days unless earlier suspended by the licensing authority for cause. If the application is approved by the board within the 90-day period, the temporary license shall be deemed converted to a regular biennial license which shall expire in accordance with the schedule established by the licensing authority by rule.~~

~~(b)1.— A person who cannot truthfully answer in the negative regarding paragraphs (2)(d) and (e) relating to prior criminal and disciplinary actions, may apply to the licensing authority for issuance of a preneed sales agent license notwithstanding such criminal or disciplinary record. The licensing authority may by rule specify forms and procedures for use by such persons in applying for preneed sales agent licensure, to be used by such persons in lieu of the forms and procedures specified under paragraph (a). Licensure shall be granted unless the licensing authority reasonably determines that the prior criminal or disciplinary record indicates that the granting of licensure would pose unreasonable risk to the public.~~

~~2.— To facilitate issuance of licenses concerning applicants with criminal or disciplinary records which the licensing authority judges to make the applicant borderline as to qualification for licensure, the licensing authority may issue a new license under this section on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 24 months of licensure, to ensure the preneed sales agent licensee's integrity, trustworthiness, and compliance with this chapter. Provided, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 24 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure under this chapter and institute proceedings for revocation of licensure. The licensing authority may adopt rules prescribing criteria and procedures for issuance of such probationary licenses.~~

~~(4) RENEWAL OF LICENSES.— Nontemporary preneed sales agent licenses under this section shall be renewed biennially in accordance with a schedule, forms, and procedures established by rule. The nonrefundable biennial renewal fee shall be as determined by licensing authority rule but not to exceed \$200.~~

~~(5) SIMPLIFIED PROCEDURES FOR SUBSEQUENT CHANGE OF SPONSORING LICENSEE.— The board may by rule establish simplified requirements and procedures under which any preneed sales agent, who within the 12 months preceding application under this subsection held in good standing a preneed sales agent license under this section, may obtain~~

~~a preneed sales agent's license under this section to represent a different sponsoring preneed licensee. The simplified requirements shall dispense with the requirement for submission of fingerprints. The licensing authority may by rule prescribe forms to be used by applicants under this subsection, which forms may dispense with the requirement for any information not deemed by the licensing authority to be necessary to tracking the identity of the preneed licensee responsible for the activities of the preneed sales agent. No preneed sales agent licensee whose sales agent license issued by the board was revoked or suspended or otherwise terminated while in other than good standing, shall be eligible to use the simplified requirements and procedures. The issuance of a preneed sales agent license under this subsection shall not operate as a bar to any subsequent disciplinary action relating to grounds arising prior to obtaining the license under this subsection. There shall be a fee payable to the department under such simplified procedures, which fee shall be the same as the fee paid upon initial application for a preneed sales agent license, except that no fingerprint fee shall be required if such fingerprint fee is required for initial applications.~~

Section 39. Section 497.468, Florida Statutes, is created to read:

497.468 Disclosure of information to the public.—A preneed licensee offering to provide burial rights, merchandise, or services to the public shall:

(1) Provide by telephone, upon request, accurate information regarding the retail prices of burial merchandise and services offered for sale by the licensee.

(2) Fully disclose all regularly offered services and merchandise prior to the customer's selection of burial services or merchandise. The full disclosure required shall identify the prices of all burial rights, services, and merchandise provided by the licensee.

(3) Not make any false or misleading statements of the legal requirement as to the necessity of a casket or outer burial container.

(4) Provide a good faith estimate of all fees and costs the customer will incur to use any burial rights, merchandise, or services purchased.

(5) Provide to the customer, upon the purchase of any burial right, merchandise, or service, a written contract the form of which has been approved by the licensing authority pursuant to procedures specified by rule. The written contract shall:

(a) Be completed as to all essential provisions prior to the signing of the contract by the customer.

(b) Provide an itemization of the amounts charged for all services, merchandise, and fees, which itemization shall be clearly and conspicuously segregated from everything else on the written contract.

(c) Provide a description of the merchandise covered by the contract to include, when applicable, model, manufacturer, and other relevant specifications.

(6) Provide the licensee's policy on cancellation and refunds to each customer.

(7) In a manner established by rule of the licensing authority, provide on the signature page of the written contract, clearly and conspicuously in boldfaced 10-point type or larger, the following:

(a) The words "purchase price."

(b) The amount to be trusted.

(c) The amount to be refunded upon contract cancellation.

(d) The amounts allocated to merchandise, services, and cash advances.

(e) The toll-free number of the department which is available for questions or complaints.

(f) A statement that the customer shall have 30 days from the date of execution of contract to cancel the contract and receive a total refund of all moneys paid for items not used.

(8) Effective October 1, 2006, display in its offices for free distribution to all potential customers, and provide to all customers at the time of sale, a brochure explaining how and by whom preneed sales are regulated, summarizing consumer rights under the law, and providing the name, address, and phone number of the department's consumer affairs division. The format and content of the brochure shall be as prescribed by rule. The licensing authority may cause the publication of such brochures and by rule require that preneed licensees purchase and make available such brochures as so published, in the licensee's offices, to all potential customers.

(9) Provide to each customer a complete description of any monument, marker, or memorialization to be placed at the gravesite pursuant to the preneed contract.

Section 40. Subsection (1) and paragraphs (c), (e), (f), and (h) of subsection (2) of section 497.550, Florida Statutes, as renumbered and amended by section 118 of chapter 2004-301, Laws of Florida, are amended, and paragraph (j) is added to said subsection, to read:

497.550 Licensure of monument establishments required; procedures and criteria.—

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

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

1. Monument builder.

2. Monument dealer.

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

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

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

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

(2) APPLICATION PROCEDURES.—A person seeking licensure as a monument establishment shall apply for such licensure using forms prescribed by rule.

~~(c) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The application shall require the applicant to disclose whether the applicant or any of its principals have ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.~~

~~(e) The applicant shall submit fingerprints in accordance with s. 497.142. The application shall require the applicant's principals to provide fingerprints in accordance with part I of this chapter.~~

~~(f) The applicant shall be a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company formed prior to January 1, 2005, which limited liability company already holds a license under this chapter.~~

~~(h) The application shall be signed in accordance with s. 497.141(12) by the applicant if a natural person, or by the president of an applicant that is a corporation.~~

(j) Upon receipt of the application and application fee, the licensing authority shall inspect the proposed monument establishment facilities in accordance with rules of the licensing authority.

Section 41. Section 497.551, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.551 Renewal of monument establishment licensure.—

(1) A monument establishment license shall ~~must~~ be renewed biennially by the licensee.

(2) A monument establishment licensee ~~that does not hold a preneed sales license as of 90 days prior to the date its monument establishment license renewal is due,~~ shall renew its monument establishment license by payment of a renewal fee established by rule not to exceed \$250.

(3) ~~A monument establishment licensee which as of 90 days prior to its monument establishment license renewal date also holds a preneed sales license issued under this chapter,~~ shall renew its monument establishment license by payment of a renewal fee determined by its total gross aggregate ~~at need and preneed retail sales for the 12-month period ending 2 full calendar months prior to the month in which the renewal is required,~~ as follows:

(a) ~~Total sales of \$1 to \$50,000, renewal fee \$1,000.~~

(b) ~~Total sales of \$50,001 to \$250,000, renewal fee \$1,500.~~

(c) ~~Total sales of \$250,001 to \$500,000, renewal fee \$2,000.~~

(d) ~~Total sales over \$500,000, renewal fee \$2,500.~~

~~(3)~~(4) Rules may be adopted providing procedures, forms, and uniform timeframes for monument establishment license renewals.

Section 42. Subsection (4) of section 497.552, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.552 Required facilities.—Effective January 1, 2006, a monument establishment shall at all times have and maintain a full-service place of business at a specific street address or location in Florida complying with the following requirements:

(4) It shall have facilities on site for inscribing monuments and equipment to deliver and install markers and monuments.

Section 43. Subsections (1) and (5) of section 497.553, Florida Statutes, as created by chapter 2004-301, Laws of Florida, are amended, and subsection (6) is added to said section, to read:

497.553 Regulation of monument establishments.—

(1) The Department of Financial Services shall establish and implement an inspection program for all monument establishments in accordance with the requirements of this act. The board shall set by rule an annual inspection fee not to exceed \$300, payable upon application for licensure and upon each renewal of such license.

(5) Commencing January 1, 2006, the failure of a monument establishment to deliver and install a purchased monument or marker by the date agreed in the sales agreement shall entitle the customer to a full refund of

all amounts paid by the customer for the monument and its delivery and installation, unless the monument establishment has obtained a written agreement from the customer extending the delivery date. Such refund shall be made within 30 days after receipt by the monument establishment of the customer's written request for a refund. This subsection does not preclude the purchase and installation of a new monument from any other registered monument establishment or preneed-sales licensee.

(6)(a) A change in ownership shall be promptly reported using forms and procedures specified by rule and may require the relicensure of the licensee, including reinspection and payment of applicable fees, as required by rule.

(b) A change in location shall be promptly reported to the licensing authority pursuant to procedures established by rule. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities, pursuant to rules of the licensing authority, has been conducted and passed at the new location.

Section 44. Paragraph (b) of subsection (2) and subsection (4) of section 497.554, Florida Statutes, as created by chapter 2004-301, Laws of Florida, are amended, and subsection (7) is added to said section, to read:

497.554 Monument establishment sales representatives.—

(2) APPLICATION PROCEDURES.—Licensure as a monument establishment sales agent shall be by submission of an application for licensure to the department on a form prescribed by rule.

(b) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The applicant shall submit fingerprints in accordance with s. 497.142. The application shall require the applicant to disclose whether the applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(4) RENEWAL; TERMINATION OF AUTHORITY.—

(a) A monument establishment sales agent license under this section shall be renewed upon payment of a fee determined by rule of the licensing authority but not to exceed \$250. Once issued, a monument establishment sales agent license of an agent not licensed to make preneed sales shall remain in effect without renewal until surrendered, or the sponsoring monument establishment terminates the agent's authority to sell on behalf of that monument establishment, or the license is revoked or suspended by the licensing authority for cause.

(b) The monument establishment whose officer signed the sales agent application shall terminate that agent's authority to sell on behalf of that monument establishment, and the monument establishment in writing shall advise the licensing authority of such termination within 30 days after the termination.

(7) EFFECTIVE DATE.—The provisions of this section shall take effect October 1, 2006.

Section 45. Section 497.555, Florida Statutes, as created by chapter 2004-301, Laws of Florida, is amended to read:

497.555 Required rules.—Rules shall be adopted establishing minimum standards for access to all cemeteries by licensed monument establishments for the purpose of delivering and installing markers and monuments. In all cases, cemeteries and monument establishments shall ~~must~~ comply with these minimum standards.

Section 46. Paragraphs (d) and (f) of subsection (2) of section 497.602, Florida Statutes, as renumbered and amended by section 127 of chapter 2004-301, Laws of Florida, are amended to read:

497.602 Direct disposers, license required; licensing procedures and criteria; regulation.—

(2) APPLICATION PROCEDURES.—

(d) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. ~~The application shall require the applicant to disclose whether the applicant has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.~~

(f) The applicant shall submit fingerprints in accordance with s. 497.142. ~~The application shall require the applicant to provide fingerprints in accordance with part I of this chapter.~~

Section 47. Subsection (1) of section 497.603, Florida Statutes, as renumbered and amended by section 128 of chapter 2004-301, Laws of Florida, is amended to read:

497.603 Direct disposers, renewal of license.—

(1) A direct disposer's license shall be renewed upon receipt of the renewal application and fee set by rule of the licensing authority but not to exceed \$500 ~~\$250~~.

Section 48. Paragraphs (f), (h), and (j) of subsection (2), paragraphs (a) and (b) of subsection (3), and subsection (7) of section 497.604, Florida Statutes, as renumbered and amended by section 129 of chapter 2004-301, Laws of Florida, are amended, and paragraph (f) is added to subsection (9) of said section, to read:

497.604 Direct disposal establishments, license required; licensing procedures and criteria; license renewal; regulation.—

(2) APPLICATION PROCEDURES.—

(f) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. ~~The application shall require the applicant to disclose whether the applicant or any of the applicant's principals including its proposed supervising licensee has ever been~~

convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.

(h) The applicant shall submit fingerprints in accordance with s. 497.142. The application shall require the applicant and its principals to provide fingerprints in accordance with part I of this chapter.

(j) The application shall be signed in accordance with s. 497.141(12) by the applicant if a natural person or by the president of an applicant that is not a natural person.

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fee, shall be approved if the licensing authority determines that the following conditions are met:

(a) The applicant is a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company formed prior to January 1, 2006, which limited liability company already holds a license under this chapter.

(b) The applicant does or will prior to commencing operations under the license comply with all requirements of this chapter relating to the license applied for. The applicant shall have passed an inspection prior to issuance of a license under this section, in accordance with rules of the licensing authority.

(7) CHANGES SUBSEQUENT TO LICENSURE.—Each licensee under this section shall ~~must~~ provide notice as required by rule prior to any change in location or control of the licensee or licensed person in charge of the licensee's operations. A Any such change in control is subject to approval by the licensing authority and disapproval or to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities at the new location, pursuant to rules of the licensing authority, has been conducted and passed.

(9) REGULATION OF DIRECT DISPOSAL ESTABLISHMENTS.—

(f) A direct disposal establishment shall retain all signed contracts for a period of at least 2 years.

Section 49. Paragraphs (f), (h), and (j) of subsection (2), paragraph (b) of subsection (3), subsection (7), and paragraphs (i), (j), and (k) of subsection (9) of section 497.606, Florida Statutes, as renumbered and amended by section 131 of chapter 2004-301, Laws of Florida, are amended to read:

497.606 Cinerator facility, licensure required; licensing procedures and criteria; license renewal; regulation.—

(2) APPLICATION PROCEDURES.—

(f) ~~The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142. The application shall require the applicant to disclose whether the applicant or any of the applicant's principals including its proposed supervising licensee has ever been convicted or found guilty of, or entered a plea of no contest to, regardless of adjudication, any crime in any jurisdiction.~~

(h) ~~The applicant shall submit fingerprints in accordance with s. 497.142. The application shall require the applicant and its principals to provide fingerprints in accordance with part I of this chapter.~~

(j) ~~The application shall be signed in accordance with s. 497.141(12) by the applicant if a natural person or by the president of an applicant that is not a natural person.~~

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure under this section, accompanied by the required fee, shall be approved if the licensing authority determines that the following conditions are met:

(b) ~~The applicant is a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company formed prior to January 1, 2006, which limited liability company already holds a license under this chapter.~~

(7) CHANGES SUBSEQUENT TO LICENSURE.—Each licensee under this section ~~shall~~ must provide notice as required by rule prior to any change in location ~~or~~ control of the licensee, or licensed person in charge ~~of the licensee's operations. A Any such change in control is subject to approval by the licensing authority and disapproval or to reasonable conditions imposed by the licensing authority, for the protection of the public to ensure compliance with this chapter. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities, pursuant to rules of the licensing authority, has been conducted and passed at the new location.~~

(9) REGULATION OF CINERATOR FACILITIES.—

~~(i) There shall be adopted by rule criteria for acceptable cremation and alternative containers.~~

~~(i)(j)~~ (j) There shall be rules adopted requiring each facility to submit periodic reports to the department ~~that which~~ include the names of persons cremated, the date and county of death, the name of each person supervising each cremation, the name and license number of the establishment requesting cremation, and the types of containers used to hold the body during cremation.

~~(j)(k)~~ (k) Each cinerator facility ~~shall~~ must be inspected prior to the initial issuance ~~and renewal~~ of its license and annually thereafter and shall:

1. Maintain one or more retorts for the reduction of dead human bodies.

2. Maintain refrigeration that satisfies the standards set by the Department of Health and contains a sufficient ~~refrigerated space number of shelves~~ for the average daily number of bodies stored, if unembalmed bodies are kept at the site.

3. Maintain sufficient pollution control equipment to comply with requirements of the Department of Environmental Protection in order to secure annual approved certification.

4. Either have on site or immediately available sufficient ~~gasketed sealed~~ containers of a type required for the transportation of bodies as specified in applicable state rules.

5. Maintain the premises in a clean and sanitary condition.

6. Have appropriate Department of Environmental Protection permits.

~~7. Retain all signed contracts for a period of at least 2 years.~~

Section 50. Subsection (3) of section 497.607, Florida Statutes, as renumbered and amended by section 132 of chapter 2004-301, Laws of Florida, is amended, and subsection (4) is added to said section, to read:

497.607 Cremation; procedure required.—

(3) Pursuant to the request of a legally authorized person and incidental to final disposition, cremation may be performed on parts of human remains. ~~This subsection does not authorize the cremation of body parts as defined in s. 497.005.~~

(4) In regard to human remains delivered to the control of the anatomical board of this state headquartered at the University of Florida Health Science Center, the provisions of this subsection and chapter shall not be construed to prohibit the anatomical board from causing the final disposition of such human remains through cremation or otherwise when performed in facilities owned and operated by such anatomical board or the University of Florida Health Science Center pursuant to and using such processes, equipment, and procedures as said anatomical board determines to be proper and adequate.

Section 51. Section 152 of chapter 2004-301, Laws of Florida, is amended to read:

Section 152. (1) The rules of the Board of Funeral Directors and Embalmers and of the Department of Business and Professional Regulation relating to the Board of Funeral Directors and Embalmers or implementation of chapter 470, Florida Statutes, ~~that which~~ were in effect at 11:59 p.m. on the day prior to this act taking effect shall become, on the subjects they address, the rules of the Department of Financial Services and the Board of Funeral, Cemetery, and Consumer Services and shall remain in effect until amended or repealed in the manner provided by law.

(2) The rules of the Board of Funeral and Cemetery Services ~~that which~~ were in effect at 11:59 p.m. on the day prior to this act taking effect shall

become, on the subjects they address, the rules of the Department of Financial Services and the Board of Funeral, Cemetery, and Consumer Services and shall remain in effect until specifically amended or repealed in the manner provided by law.

(3) The rules of the Department of Financial Services relating to chapter 497, Florida Statutes, ~~that which~~ were in effect at 11:59 p.m. on the day prior to this act taking effect shall continue in force until thereafter repealed or amended pursuant to chapter 120, Florida Statutes, and this act.

Section 52. Subsection (3) of section 626.785, Florida Statutes, is amended to read:

626.785 Qualifications for license.—

(3) Notwithstanding any other provisions of this chapter, a funeral director, a direct disposer, or an employee of a funeral establishment ~~that which~~ holds a certificate of authority pursuant to s. ~~497.452~~ ~~497.405~~ may obtain an agent's license to sell only policies of life insurance covering the expense of a prearrangement for funeral services or merchandise so as to provide funds at the time the services and merchandise are needed. The face amount of insurance covered by any such policy shall not exceed \$12,500, plus an annual percentage increase based on the Annual Consumer Price Index compiled by the United States Department of Labor, beginning with the Annual Consumer Price Index announced by the United States Department of Labor for 2003 ~~\$7,500~~.

Section 53. Sections 497.275, 497.388, and 497.556, Florida Statutes, are repealed.

Section 54. This act shall take effect October 1, 2005.

Approved by the Governor June 8, 2005.

Filed in Office Secretary of State June 8, 2005.