

CHAPTER 2023-142

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 49

An act relating to abandoned and historic cemeteries; creating s. 267.21, F.S.; creating the Historic Cemeteries Program within the Division of Historical Resources of the Department of State; designating the State Historic Preservation Officer as the program's director and requiring him or her to hire employees, subject to legislative appropriation; providing the duties and responsibilities of the program; requiring the program to provide grants, subject to legislative appropriation, to certain entities for certain purposes; authorizing the division to adopt rules; creating s. 267.22, F.S.; creating the Historic Cemeteries Program Advisory Council within the division; providing for membership, terms, and duties of the council; providing that members shall serve without compensation but may receive per diem and reimbursement for travel expenses; amending s. 497.005, F.S.; revising the definition of the term "legally authorized person" to include a member of a representative community organization; amending s. 704.06, F.S.; revising the definition of the term "conservation easement" to include a right or interest in real property which is appropriate to retaining the structural integrity or physical appearance of certain cemeteries; authorizing certain entities to acquire conservation easements to preserve certain cemeteries; providing appropriations and authorizing positions; providing an effective date.

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

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

267.21 Historic Cemeteries Program.—

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

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

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

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

organizations to facilitate collaboration and the sharing of information relating to abandoned and historic cemeteries.

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

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

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

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

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

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

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

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

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

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

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

267.22 Historic Cemeteries Program Advisory Council.—

(1) The Historic Cemeteries Program Advisory Council, an advisory council as defined in s. 20.03(7), is created within the division and shall consist of nine members appointed by the Secretary of State after considering the recommendations of the director of the division. The council must be composed of an inclusive group of members who are regionally distributed and representative of communities throughout this state. Members shall serve 4-year terms; however, for the purpose of providing

staggered terms, four of the appointees initially shall be appointed to 2-year terms and the remaining five shall be appointed to 4-year terms. All subsequent appointments shall be for 4-year terms. As soon as practicable after July 1, 2023, the council shall meet to elect a chair from its membership. Except as otherwise provided in this section, the council shall operate in a manner consistent with s. 20.052.

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

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

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

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

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

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

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

(c) 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 resulted in or contributed to the death of the deceased;

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

(e) A parent;

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

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

(h) A grandparent; or

(i) 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, including a member of a representative community organization, 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 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.

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

704.06 Conservation easements; creation; acquisition; enforcement.—

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

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

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

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

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

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

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

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

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

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

Section 5. For the 2023-2024 fiscal year, three full-time equivalent positions with associated salary rate of \$145,000 are authorized and the sums of \$242,433 in recurring funds and \$12,021 in nonrecurring funds from the General Revenue Fund are appropriated to the Department of State to be used for the Historic Cemeteries Program.

Section 6. For the 2023-2024 fiscal year, the sum of \$1 million in nonrecurring funds from the General Revenue Fund is appropriated to the Department of State to be used for grants for qualifying entities under the Historic Cemeteries Program.

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

Approved by the Governor May 25, 2023.

Filed in Office Secretary of State May 25, 2023.