



CEMETERY BOARD
Room 121C, 1400 E. Washington Avenue, Madison
Contact: Dan Williams (608) 266-2112
August 30, 2016

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions of the Board.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes of April 21, 2016 (4-5)

C. Administrative Matters

- 1) Staff Updates
- 2) Board Members – Term Expiration Dates
 - a) Kathleen Cantu – 07/01/2012
 - b) Patricia Grathen – 07/01/2018
 - c) Francis Groh – 07/01/2020
 - d) John Reinemann – 07/01/2016
 - e) Clyde Rupnow – 07/01/2016
 - f) Bernard Schroedl – 07/01/2018

D. 2017 Proposed Meeting Schedule (6)

- 1) February 22, 2017
- 2) May 9, 2017
- 3) August 9, 2017
- 4) November 14, 2017

E. Legislative and Administrative Rule Matters – Discussion and Consideration (7-22)

- 1) CB 1 – 5, Cemetery Authorities, Salespersons and Preneed Sellers
- 2) Update on Pending and Possible Rulemaking Projects

F. Discussion and Consideration of Items Received After Preparation of the Agenda

- 1) Introductions, Announcements and Recognition
- 2) Election of Board Officers
- 3) Appointment of Board Liaison(s)
- 4) Administrative Matter

- 5) Education and Examination Matters
- 6) Credentialing Matters
- 7) Practice Matters
- 8) Legislation/Administrative Rule Matters
- 9) Liaison Report(s)
- 10) Informational Item(s)
- 11) Disciplinary Matters
- 12) Presentations of Petitions for Summary Suspension
- 13) Petitions for Designation of Hearing Examiner
- 14) Presentation of Proposed Stipulations, Final Decisions and Orders
- 15) Presentation of Proposed Final Decision and Orders
- 16) Presentation of Interim Orders
- 17) Petitions for Re-Hearing
- 18) Petitions for Assessments
- 19) Petitions to Vacate Orders
- 20) Requests for Disciplinary Proceeding Presentations
- 21) Motions
- 22) Petitions
- 23) Appearances from Requests Received or Renewed
- 24) Speaking Engagement(s), Travel, or Public Relation Request(s)

G. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

H. Deliberation of Items Received After Preparation of the Agenda

- 1) Education and Examination Matters
- 2) Credentialing Matters
- 3) Disciplinary Matters
- 4) Monitoring Matters
- 5) Professional Assistance Procedure (PAP) Matters
- 6) Petitions for Summary Suspensions
- 7) Petitions for Designation of Hearing Examiner
- 8) Proposed Stipulations, Final Decisions and Orders
- 9) Administrative Warnings
- 10) Review of Administrative Warnings
- 11) Proposed Final Decision and Orders
- 12) Matters Relating to Costs/Orders Fixing Costs
- 13) Case Closings
- 14) Proposed Interim Orders
- 15) Petitions for Assessments and Evaluations
- 16) Petitions to Vacate Orders
- 17) Remedial Education Cases

- 18) Motions
- 19) Petitions for Re-Hearing
- 20) Appearances from Requests Received or Renewed

I. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

J. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

K. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING DATE NOVEMBER 9, 2016

**CEMETERY BOARD
TELECONFERENCE/VIRTUAL
MEETING MINUTES
April 21, 2016**

PRESENT: Francis Groh, Patricia Grathen, John Reinemann (*arrived at 10:07 a.m.,*) Clyde Rupnow, Bernard Schroedl

EXCUSED: Kathleen Cantu

STAFF: Brittany Lewin, Executive Director; Nifty Lynn Dio, Bureau Assistant and other Department Staff.

CALL TO ORDER

Clyde Rupnow, called the meeting to order at 10:05 a.m. A quorum of four (4) members was confirmed.

ADOPTION OF AGENDA

MOTION: Bernard Schroedl moved, seconded by Patricia Grathen, to approve the agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES OF FEBRUARY 24, 2016

MOTION: Patricia Grathen moved, seconded by Francis Groh, to approve the minutes of February 24, 2016 as published. Motion carried unanimously.

CONVENE TO CLOSED SESSION

MOTION: Francis Groh moved seconded by Patricia Grathen, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Clyde Rupnow read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Patricia Grathen-yes; Francis Groh-yes; Clyde Rupnow-yes; Bernard Schroedl-yes. Motion carried unanimously.

The Board convened into Closed Session at 10:07 a.m.

(John Reinemann joined the meeting via GoToMeeting at 10:07 a.m.)

RECONVENE TO OPEN SESSION

MOTION: Francis Groh moved, seconded by Bernard Schroedl, to reconvene in open session. Motion carried unanimously.

The Board reconvened into open session at 10:27 a.m.

**VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION,
IF VOTING IS APPROPRIATE**

MOTION: Bernard Schroedl moved, seconded by John Reinemann, to affirm all motions made in closed session. Motion carried unanimously.

CONVEYANCE REQUEST

MOTION: John Reinemann moved, seconded by Bernard Schroedl, to approve the conveyance request by StoneMor submitted February 23, 2016. Motion carried unanimously.

ADJOURNMENT

MOTION: Francis Groh moved, seconded by Patricia Grathen, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:28 a.m.

Dio, Nifty L - DSPS

From: Dio, Nifty L - DSPS
Sent: Friday, July 15, 2016 3:25 PM
Cc: Wood, Kimberly - DSPS; Williams, Dan - DSPS
Subject: Cemetery - Proposed 2017 Meeting Schedule - Response Requested by 07/22/2016

Good afternoon!

Each year DSPS works to book board meeting dates early to promote board member availability. We truly appreciate the service of our members and their dedication to regular meeting attendance. If you have any conflicts with the proposed meeting dates below please notify us as soon as possible so that we can anticipate any potential quorum issues.

Please see the proposed 2017 meeting dates outlined below and respond with your attendance availability by July 22, 2016.

February 22, 2017

May 9, 2017

August 9, 2017

November 14, 2017

Thanks again for your time, attention and response to this message. Please let us know if you have any question about the content of this message.

Have a great weekend!

Nifty Lynn Dio | Bureau Assistant | Division of Policy Development | Wisconsin Department of Safety and Professional Services | 1400 E Washington Ave | Madison, WI 53703 | Nifty.Dio@wisconsin.gov | ☎ 608-261-0450

The DSPS is committed to service excellence. Visit our survey at https://www.surveymonkey.com/s/dpd_admin to evaluate your experience with the DSPS.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Greg DiMiceli, Administrative Rules Coordinator		2) Date When Request Submitted: August 17, 2016	
		Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Cemetery Board			
4) Meeting Date: August 30, 2016	5) Attachments: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Administrative Rule Matters – Discussion and Consideration CB 1 – 5, cemetery authorities, salespersons, and preneed sellers	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes (Fill out Board Appearance Request) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Review draft rule for purposes of discussion and additional drafting input.			
11) Authorization			
Greg DiMiceli		August 17, 2016	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

State of Wisconsin



2015 Senate Bill 302

Date of enactment: **March 1, 2016**
Date of publication*: **March 2, 2016**

2015 WISCONSIN ACT 237

AN ACT *to repeal* 157.061 (5), 157.061 (7), 157.11 (9g) (a) 1. b., 157.62 (3) (b) 2., 157.625 (2) and 440.91 (1) (c) 2.; *to renumber and amend* 157.061 (12), 157.061 (13), 157.10, 157.12 (4), 157.62 (5), 440.90 (7), 440.90 (8), 440.90 (9), 440.91 (1) (c) 1. and 979.10 (1) (c); *to amend* 15.07 (1) (cs), 15.405 (3m) (d), 71.07 (5r) (a) 3., 71.28 (5r) (a) 3., 71.47 (5r) (a) 3., 157.061 (3), 157.061 (4), 157.061 (11r), 157.061 (14), 157.061 (15), 157.062 (1), 157.062 (2), 157.062 (6) (b), 157.062 (6m), 157.062 (9), 157.064 (6), 157.064 (7), 157.07 (1), 157.07 (4), 157.07 (6), 157.08 (2) (b), 157.08 (5), 157.10 (title), 157.11 (2), 157.11 (9g) (a) 1. c., 157.11 (9g) (a) 2., 157.11 (9g) (c), 157.11 (9m), 157.11 (10), 157.112 (3m), 157.115 (2) (a) 1. (intro.), 157.115 (2) (a) 3., 157.115 (2) (b), 157.115 (2) (c), 157.115 (2) (d) (intro.), 157.12 (title), 157.12 (2) (a), 157.12 (2) (b), 157.12 (3) (a) 3., 157.12 (3) (b), 157.125 (1), 157.125 (2), 157.19 (5) (a), 157.19 (5) (b), 157.60, 157.62 (1) (a) (intro.), 157.62 (1) (c), 157.62 (2) (d), 157.62 (4), 157.62 (6), 157.62 (7), 157.63 (title), 157.63 (1), 157.63 (2) (intro.), 157.63 (2) (b), 157.63 (5), 157.635, 157.637, 157.64 (2) (intro.) and (a), 157.65 (1) (a), 157.65 (1) (b), 157.65 (2), 440.90 (3), 440.90 (14), 440.91 (1) (a), 440.91 (1m) (a), 440.91 (2) (d), 440.91 (3), 440.91 (4), 440.91 (10), 440.92 (1) (a), 440.92 (1) (b) 1., 440.92 (1) (b) 3., 440.92 (1) (b) 4., 440.92 (1) (c), 440.92 (2) (a) (intro.), 440.92 (2) (d), 440.92 (3) (c) 3., 440.92 (6) (j), 440.92 (9) (title), 440.92 (9) (a), 440.92 (9) (b) (intro.), 440.92 (9) (b) 2., 440.92 (9) (b) 3., 440.92 (9) (d), 440.92 (9) (e), 440.92 (9) (f), 440.93 (2), 440.945 (5) (a), 440.945 (5) (b), 440.947 (5), 440.95 (3), 440.95 (4) (intro.), 815.18 (3) (a) and 895.04 (5); and *to create* 157.061 (1p), 157.10 (1), 157.10 (2) (a) 1. to 4., 157.10 (2) (b), 157.10 (3), 157.10 (6), 157.10 (7), 157.62 (2) (b) 6m., 157.62 (3) (b) 2g., 157.62 (3) (b) 2r., 157.62 (5) (a) to (j), 182.0175 (2) (c) and 440.97 of the statutes; **relating to:** powers and duties of cemetery authorities; inheritance of cemetery lots in which human remains are buried; exemption of cemeteries from certain requirements concerning excavation; the powers and duties of the Cemetery Board, the Department of Safety and Professional Services, and the Department of Financial institutions; requiring the exercise of rule-making authority; and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.07 (1) (cs) of the statutes is amended to read:

15.07 (1) (cs) No member of the auctioneer board, cemetery board, or real estate appraisers board may be an officer, director, or employee of a private organization

that promotes or furthers any profession or occupation regulated by that board.

SECTION 2. 15.405 (3m) (d) of the statutes is amended to read:

15.405 (3m) (d) No member of the cemetery board may serve more than 2 consecutive terms.

SECTION 3. 71.07 (5r) (a) 3. of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

71.07 (5r) (a) 3. “Family member” ~~has the meaning given in s. 157.061 (7)~~ means a spouse or an individual related by blood, marriage, or adoption within the 3rd degree of kinship as computed under s. 990.001 (16).

SECTION 4. 71.28 (5r) (a) 3. of the statutes is amended to read:

71.28 (5r) (a) 3. “Family member” has the meaning given in s. ~~157.061 (7)~~ 71.07 (5r) (a) 3.

SECTION 5. 71.47 (5r) (a) 3. of the statutes is amended to read:

71.47 (5r) (a) 3. “Family member” has the meaning given in s. ~~157.061 (7)~~ 71.07 (5r) (a) 3.

SECTION 6. 157.061 (1p) of the statutes is created to read:

157.061 (1p) “Cemetery” means any land, including any mausoleum on the land, that is used or intended to be used, exclusively for the burial of human remains.

SECTION 7. 157.061 (3) of the statutes is amended to read:

157.061 (3) “Cemetery services and merchandise” means goods associated with the burial of human remains, including monuments, markers, nameplates, vases, and urns, and any services that are associated with supplying or delivering those goods or with the burial of human remains, including the burial or entombment, and that may be lawfully provided by a cemetery authority. The term does not include caskets or outer burial containers.

SECTION 8. 157.061 (4) of the statutes is amended to read:

157.061 (4) “Dedicated” means ~~platted for use exclusively as a cemetery and qualified for the exemption from general property taxes under s. 70.11 (13).~~

SECTION 9. 157.061 (5) of the statutes is repealed.

SECTION 10. 157.061 (7) of the statutes is repealed.

SECTION 11. 157.061 (11r) of the statutes is amended to read:

157.061 (11r) “Payment of principal” means the portion of a payment for the purchase of a cemetery lot, cemetery services and merchandise, or a mausoleum space that represents the principal amount owed by the purchaser for the cemetery lot, cemetery services and merchandise, or mausoleum space, and does not include any portion of the payment that represents any taxes, finance or interest charges, administrative fees, or insurance premiums.

SECTION 12. 157.061 (12) of the statutes is renumbered 157.061 (3g) and amended to read:

157.061 (3g) “Preneed sales contract” means an agreement for the sale of cemetery services and merchandise that is to be delivered after the date of the initial payment for the cemetery services and merchandise, or for the sale of an undeveloped space.

SECTION 13. 157.061 (13) of the statutes is renumbered 157.061 (3r) and amended to read:

157.061 (3r) “Preneed trust fund” means an account or other investment in which a portion of the ~~proceeds~~ cemetery services and merchandise received under a pre-need sales contract is deposited.

SECTION 14. 157.061 (14) of the statutes is amended to read:

157.061 (14) “Public mausoleum” means a mausoleum ~~that holds or is intended to hold more than 10 human remains or a mausoleum~~ in which at least one mausoleum space is offered for sale to the general public.

SECTION 15. 157.061 (15) of the statutes is amended to read:

157.061 (15) “Religious association” means any church, synagogue, or mosque ~~or~~ any religious society organized under ch. 187; and any corporation whose articles of organization provide, subject to s. 182.030, that it shall be under the supervision and control of a church, synagogue, mosque, or religious society.

SECTION 16. 157.062 (1) of the statutes is amended to read:

157.062 (1) ORGANIZATION. Seven or more residents of the same county may form a cemetery association. They shall meet, select a chairperson and secretary, choose a name, fix the annual meeting date, and elect by ballot not less than 3 nor more than 9 trustees whom the chairperson and secretary shall immediately divide by lot into 3 classes, who shall hold their offices for 1, 2, and 3 years, respectively. Within 3 days, the chairperson and secretary shall certify the corporate name, the names, home addresses, and business addresses of the organizers and of the trustees, and their classification, and the annual meeting date acknowledged by them, and, except as provided in sub. (9), deliver the certification to the ~~department of financial institutions~~ cemetery board. The association then has the powers of a corporation.

SECTION 17. 157.062 (2) of the statutes is amended to read:

157.062 (2) AMENDMENTS. The association may change its name, the number of trustees, or the annual meeting date by resolution at an annual meeting, or special meeting called for such purpose, by a majority vote of the members present, and, except as provided in sub. (9), by delivering to the ~~department of financial institutions~~ cemetery board a copy of the resolution, with the date of adoption, certified by the president and secretary or corresponding officers.

SECTION 18. 157.062 (6) (b) of the statutes is amended to read:

157.062 (6) (b) If an association that has been dissolved under par. (a), or any group that was never properly organized as a cemetery association, has cemetery grounds and human remains are buried in the cemetery grounds, 5 or more members, or persons interested as determined by order of the circuit judge under par. (c), may publish a class 3 notice, under ch. 985, in the municipi-

pality in which the cemetery is located, of the time, place, and object of the meeting, assemble and reorganize by the election of trustees and divide them into classes as provided in sub. (1), the commencement of the terms to be computed from the next annual meeting date. The secretary shall enter the proceedings of the meeting on the records. The association is reorganized upon delivery of a copy of the proceedings to the ~~department of financial institutions~~ cemetery board, except as provided in sub. (9). Upon reorganization, the title to the cemetery grounds, trust funds, and all other property of the association or group vests in the reorganized association, under the control of the trustees. The reorganized association may continue the name of the dissolved association or may adopt a new name.

SECTION 19. 157.062 (6m) of the statutes is amended to read:

157.062 (6m) FORMS. The ~~department of financial institutions~~ cemetery board may prescribe and furnish forms for providing the information required under subs. (1) to (6).

SECTION 20. 157.062 (9) of the statutes is amended to read:

157.062 (9) EXEMPTIONS FOR CERTAIN CEMETERIES. In lieu of delivering a certification, resolution, or copy of proceedings to the ~~department of financial institutions~~ cemetery board under sub. (1), (2), or (6) (b), a cemetery association that is not required to be licensed under s. 440.91 (1) or registered under s. 440.91 (1m) shall deliver the certification, resolution, or copy of proceedings to the office of the register of deeds of the county in which the cemetery is located.

SECTION 21. 157.064 (6) of the statutes is amended to read:

157.064 (6) Whenever the majority of the members of a cemetery association, or of a religious association authorized to hold lands for cemetery purposes, present at an annual meeting or special meeting called for such purpose vote to convey all of the cemetery association's or religious association's cemetery property, trust funds and other property used for cemetery purposes to another cemetery association or religious association, the trustees of the association shall transfer the property upon the acceptance of the transfer by the other association by affirmative vote of a majority of its members present at an annual meeting or special meeting called for that purpose. Upon such acceptance, the title to the cemetery property, trust funds and other property of the transferring association vests in the accepting association under the control of the trustees of the accepting association. A conveyance under this subsection is subject to s. 157.08 (2). ~~This subsection does not apply to a religious society organized under ch. 187.~~

SECTION 22. 157.064 (7) of the statutes is amended to read:

157.064 (7) Not more than 30 days after a transfer under sub. (6), the transferring association shall notify the ~~department of financial institutions~~ cemetery board in writing of the transfer, including the name and address of the accepting association or its treasurer. The ~~department of financial institutions~~ cemetery board may prescribe and furnish forms for providing the information required under this subsection.

SECTION 23. 157.07 (1) of the statutes is amended to read:

157.07 (1) A cemetery authority shall cause to be surveyed and platted by a professional land surveyor those portions of the lands that are from time to time required for burial, into cemetery lots, drives, and walks, and record a plat or map of the land in the office of the register of deeds. ~~The plat or map may not be recorded unless laid out and platted to the satisfaction of the county board of the county, and the town board of the town in which the land is situated, or, if the land is situated within a 1st class city, then only by the common council of that city.~~

SECTION 24. 157.07 (4) of the statutes is amended to read:

157.07 (4) The cemetery authority shall cause the plat or map to be recorded ~~within 30 days of the date of its approval, together with the evidence of the town and county board's or common council's approval, which shall be a copy of the resolution adopted by the county board and by the town board, or by the common council, certified by the county clerk and the town clerk, respectively, or city clerk, and affixed to the map or plat.~~ For failure to do so, the plat shall be void, and no sale of a cemetery lot or mausoleum space may be made before the plat is recorded.

SECTION 25m. 157.07 (6) of the statutes is amended to read:

157.07 (6) This section does not apply to a religious ~~society organized under ch. 187~~ association or a cemetery authority of a cemetery that is affiliated with a religious association.

SECTION 26. 157.08 (2) (b) of the statutes is amended to read:

157.08 (2) (b) Before a cemetery authority sells or encumbers any cemetery land, except for a sale described in par. (a), the cemetery authority shall notify the cemetery board in writing of the proposed sale or encumbrance. If within ~~60~~ 90 days after the cemetery board is notified of the proposed sale or encumbrance the cemetery board notifies the cemetery authority in writing that the cemetery board objects to the sale or encumbrance the cemetery authority may not sell or encumber the cemetery land unless the cemetery board subsequently notifies the cemetery authority in writing that the objection is withdrawn. The cemetery board may object to a sale or encumbrance only if it determines that the cemetery authority will not be financially solvent or that the rights

and interests of owners of cemetery lots and mausoleum spaces will not be adequately protected if the sale or encumbrance occurs. The cemetery board may, before the expiration of the ~~60-day~~ 90-day period, notify the cemetery authority in writing that the cemetery board approves of the sale or encumbrance. Upon receipt of the cemetery board's written approval, the cemetery authority may sell or encumber the cemetery land and is released of any liability under this paragraph. The cemetery board shall make every effort to make determinations under this paragraph in an expeditious manner.

SECTION 27m. 157.08 (5) of the statutes is amended to read:

157.08 (5) Subsections (1) and (2) (b) do not apply to a religious ~~society organized under ch. 187~~ association or a cemetery authority of a cemetery that is affiliated with a religious association, and sub. (2) (b) does not apply to a cemetery authority that is not required to be licensed under s. 440.91 (1) or registered under s. 440.91 (1m).

SECTION 28. 157.10 (title) of the statutes is amended to read:

157.10 (title) Alienation, disposition, and use of cemetery lots and mausoleum spaces.

SECTION 29. 157.10 of the statutes is renumbered 157.10 (2) (a) (intro.) and amended to read:

157.10 (2) (a) (intro.) While any person is buried in a cemetery lot or mausoleum space, the cemetery lot or mausoleum space shall be inalienable, without the consent of the cemetery authority, and on the death of the last owner, full ownership of the cemetery lot or mausoleum space shall descend ~~to the owner's heirs; but any as follows:~~

~~(4) Any one or more of such heirs persons under sub. (2) (a) 1. to 3. may, only with the consent of the cemetery authority, convey to any other heir person under sub. (2) (a) 1. to 3. his or her interest in the cemetery lot or mausoleum space.~~

~~(5) No human remains may be buried in a cemetery lot or mausoleum space except the human remains of one having an interest in owner of the cemetery lot or mausoleum space, or a relative, or the husband or wife spouse of such person an owner, or his or her relative, except by the consent of all persons having an interest in a majority of the owners of the cemetery lot or mausoleum space.~~

SECTION 30. 157.10 (1) of the statutes is created to read:

157.10 (1) In this section, "owner" means a person named in the records of the cemetery authority who has an ownership interest in a cemetery lot or mausoleum space and a right to bury human remains in the cemetery lot or mausoleum space.

SECTION 31. 157.10 (2) (a) 1. to 4. of the statutes are created to read:

157.10 (2) (a) 1. To the owner's surviving spouse or domestic partner under ch. 770.

2. If there is no living member of the class designated in subd. 1., to that owner's children, including by adoption.

3. If there is no living member of the class designated in subd. 1. or 2., to the owner's grandchildren, including by adoption.

4. If there is no living member of the class designated in subd. 1., 2., or 3., to the cemetery authority for the cemetery in which the cemetery lot or mausoleum space is located.

SECTION 32. 157.10 (2) (b) of the statutes is created to read:

157.10 (2) (b) A cemetery lot or mausoleum space is not part of a decedent's net estate for purposes of s. 852.01.

SECTION 33. 157.10 (3) of the statutes is created to read:

157.10 (3) If ownership of a cemetery lot or mausoleum space descends to the cemetery authority under sub. (2) (a), the cemetery authority shall comply with s. 157.115 (2) (c) to (h) for any grave in the cemetery lot or mausoleum space in which human remains are not buried.

SECTION 34. 157.10 (6) of the statutes is created to read:

157.10 (6) The cemetery authority shall be held harmless for any decision made by a majority of the owners of a cemetery lot or mausoleum space.

SECTION 35. 157.10 (7) of the statutes is created to read:

157.10 (7) A cemetery authority that is a religious association or that is the cemetery authority of a cemetery affiliated with a religious association may adopt a written policy for the disposition of cemetery lots and mausoleum spaces in a cemetery organized and operated by, or affiliated with, the religious association that is different from sub. (2) (a).

SECTION 36. 157.11 (2) of the statutes is amended to read:

157.11 (2) REGULATIONS. The cemetery authority may make regulations for management and care of the cemetery. No person may plant, in the cemetery, trees or shrubs, nor erect wooden fences or structures or offensive or dangerous structures or monuments, nor maintain them if planted or erected in violation of the regulations. The cemetery authority may require any person owning or controlling a cemetery lot to do anything necessary to comply with the regulations by giving reasonable personal notice in writing if the person is a resident of the state, otherwise by publishing a class ~~3- 1~~ notice, under ch. 985, in the county. If the person fails to comply within 20 days thereafter, the cemetery authority may cause it to be done and recover from the person the expense. The cemetery authority may also impose a forfeiture not exceeding \$10 \$100 for violation of the regulations posted in 3 conspicuous places in the cemetery, recover-

able under ch. 778. Each employee and agent of the cemetery authority shall have constable powers in enforcing the regulations.

SECTION 37. 157.11 (9g) (a) 1. b. of the statutes is repealed.

SECTION 38. 157.11 (9g) (a) 1. c. of the statutes is amended to read:

157.11 (9g) (a) 1. c. If not invested as provided in subd. 1. a. or b., otherwise deposited by the cemetery authority in an investment approved by the cemetery board if the care funds are segregated and invested separately from all other moneys held by the cemetery authority.

SECTION 39. 157.11 (9g) (a) 2. of the statutes is amended to read:

157.11 (9g) (a) 2. The manner in which the care funds are invested may not permit the cemetery authority to withdraw the care fund's principal amount. The income from the investment of a care fund for the care of cemetery lots may be used only to maintain the cemetery lots and grounds, except that if the amount of income exceeds the amount necessary to maintain the cemetery lots or grounds properly, the excess amount may be used to maintain any other portion of the cemetery, including mausoleums. ~~If the care funds are deposited with a city or county, or previously deposited with a village, there shall be paid to the cemetery authority annually interest on funds so deposited of not less than 2% per year. The governing body of any city or county, or any village or town in the case of previous deposits, may determine to return all or a part of any funds deposited by a cemetery authority, and that cemetery authority shall accept the returned funds within 30 days after receiving written notice of that action. If the cemetery authority is dissolved or becomes inoperative, the county or city shall use the interest on the funds for the care and upkeep of the cemetery. Deposit shall be made and the income paid over from time to time, not less frequently than once each year, and receipts in triplicate shall be given, one filed with the county clerk, one with the cemetery authority and one given to the person making the deposit. Deposits shall be in the amount of \$5 or a multiple thereof. Records and receipts shall specify the cemetery lot for the care of which the deposit is made. Reports of money received for care and of money and property received as gifts shall be made annually as provided in s. 157.62 (2).~~

SECTION 40. 157.11 (9g) (c) of the statutes is amended to read:

157.11 (9g) (c) Except as provided in sub. (11), any cemetery authority that sells a cemetery lot on or after November 1, 1991, shall deposit ~~15%~~ 15 percent of each payment of principal into a care fund under par. (a) within 30 business days after the last day of the month in which the payment is received, except as provided in sub. (7) (d) and s. 157.115 (2) (f). The total amount deposited must

equal ~~15%~~ 15 percent of the total amount of all payments of principal that have been received, but not less than \$25.

SECTION 41. 157.11 (9m) of the statutes is amended to read:

157.11 (9m) ACTION BY DISTRICT ATTORNEY. If any money or property is not turned over when required by this section, or default occurs under a bond, the district attorney, upon the request of the ~~department of safety and professional services~~ cemetery board, shall bring action to recover.

SECTION 42. 157.11 (10) of the statutes is amended to read:

157.11 (10) EXEMPTION FOR RELIGIOUS SOCIETIES ASSOCIATIONS. Subsections (1) to (9), (9g) (a) and (b), (9m) and (9r) do not apply, but sub. (9g) (c) does apply, to a religious society ~~organized under ch. 187~~ association or a cemetery authority of a cemetery that is affiliated with a religious association, for that cemetery.

SECTION 43. 157.112 (3m) of the statutes is amended to read:

157.112 (3m) If none of the persons specified in sub. (3) (b) 1. to 4. are available for notification under sub. (3) (b), the cemetery authority shall maintain a record of its attempt to provide notification under sub. (3) (b) ~~for not less than 10 years from the date of the reburial of the human remains under sub. (2)~~ as a part of the cemetery authority's permanent records.

SECTION 44. 157.115 (2) (a) 1. (intro.) of the statutes is amended to read:

157.115 (2) (a) 1. (intro.) "Abandoned lot" means ~~one or more graves~~ any grave or mausoleum space of a cemetery lot that is not owned by the cemetery authority of the cemetery in which the cemetery lot is located if ~~those graves have that grave or that mausoleum space has~~ not been used for the burial of human remains and if, according to the records of the cemetery authority, all of the following apply during the 50-year period immediately preceding the date on which the notice requirement under par. (c) is satisfied:

SECTION 45. 157.115 (2) (a) 3. of the statutes is amended to read:

157.115 (2) (a) 3. "Owner" means a person who, according to the records of the cemetery authority of the cemetery in which an abandoned cemetery lot is located, owns or partially owns the abandoned cemetery lot has the meaning given in s. 157.10 (1).

SECTION 46. 157.115 (2) (b) of the statutes is amended to read:

157.115 (2) (b) No cemetery authority may resell an abandoned cemetery lot unless the cemetery authority complies with the requirements in this subsection.

SECTION 47. 157.115 (2) (c) of the statutes is amended to read:

157.115 (2) (c) The cemetery authority shall mail to each owner, at each owner's last-known address, a notice

of the cemetery authority's intent to resell the abandoned cemetery lot as provided in this subsection. If an owner is buried in the cemetery in which the abandoned cemetery lot is located or if the cemetery authority has any other evidence that reasonably supports a determination by the cemetery authority that the owner is deceased, no notice is required under this paragraph.

SECTION 48. 157.115 (2) (d) (intro.) of the statutes is amended to read:

157.115 (2) (d) (intro.) If no notice is required under par. (c) or if, within 60 days after notice is mailed under par. (c), no owner or assignee contacts the cemetery authority to express an intent to use the abandoned cemetery lot for a future burial of human remains, the cemetery authority shall publish in a newspaper of general circulation in the county in which the abandoned lot is located, a class 3 notice under ch. 985 that includes all of the following:

SECTION 49. 157.12 (title) of the statutes is amended to read:

157.12 (title) Mausoleums and crematoriums.

SECTION 50. 157.12 (2) (a) of the statutes is amended to read:

157.12 (2) (a) Any person who constructs a mausoleum or converts a building or other structure to a mausoleum shall comply with the rules of the ~~department cemetery board~~ and shall receive ~~department the cemetery board's~~ approval in writing of the plans and specifications prior to construction or conversion. No person may modify plans or specifications ~~which that~~ have been approved under this paragraph without approval in writing from the ~~department cemetery board~~, unless such modifications are cosmetic in nature. The ~~department cemetery board~~ shall promulgate rules providing reasonable requirements governing the location, material, and construction of a mausoleum, in accordance with the requirements in par. (d). Any municipality may enact ordinances governing mausoleums at least as stringent as this section.

SECTION 51. 157.12 (2) (b) of the statutes is amended to read:

157.12 (2) (b) The ~~department cemetery board~~ shall supervise construction of any public mausoleum and conversion of any building to a public mausoleum. Within 30 days after receiving written notice from the cemetery authority that the construction or conversion has been completed, the ~~department cemetery board~~ shall inspect the public mausoleum and provide the cemetery authority with a written certification as to whether the construction or conversion complies with approved plans. If the ~~department cemetery board~~ determines that, except for certain minor defects, the construction or conversion complies with the approved plans, the ~~department cemetery board~~ may provide the cemetery authority with a written temporary certification of compliance that is contingent on the correction of those minor defects. A

temporary certification is valid for a period designated by the ~~department cemetery board~~, not to exceed 6 months. No person may sell a mausoleum space, except an undeveloped space that is sold in accordance with s. 440.92, or bury human remains in a public mausoleum unless a care fund has been established for the mausoleum under sub. (3) and the ~~department cemetery board~~ has provided the cemetery authority with a certification or a temporary certification under this paragraph. If a cemetery authority that has been provided with a temporary certification notifies the ~~department cemetery board~~ in writing before the date on which the temporary certification expires that the defects in the construction or conversion of the public mausoleum have been corrected, the ~~department cemetery board~~ shall, within 30 days after receiving the notice, reinspect the public mausoleum and provide the cemetery authority with a written certification as to whether the construction or conversion complies with the approved plans. If a cemetery authority that has been provided with a temporary certification does not receive a written certification from the ~~department cemetery board~~ before the date on which the temporary certification expires that the construction or conversion complies with the approved plans, then, beginning on the date on which the certification expires, no person may sell a mausoleum space, except an undeveloped space that is sold in accordance with s. 440.92, or bury human remains in the public mausoleum until the defects are corrected and the ~~department cemetery board~~ subsequently inspects the public mausoleum and provides the cemetery authority with a certification that the construction or conversion complies with the approved plans. The ~~department cemetery board~~ may charge a reasonable fee to the cemetery authority for each inspection and certification provided under this paragraph if the inspection and certification are provided within the applicable 30-day period prescribed under this paragraph.

SECTION 52. 157.12 (3) (a) 3. of the statutes is amended to read:

157.12 (3) (a) 3. The operator shall make deposits required under subds. 1. and 2. within 30 days after the last day of the month in which the payment is received. The municipality in which the mausoleum is located may, by ordinance, require a larger fund, but only if the ~~department cemetery board~~ notifies the municipality in writing that the ~~department cemetery board~~ approves of the requirement. The ~~department cemetery board~~ may promulgate rules establishing uniform standards for approvals under this subdivision.

SECTION 53. 157.12 (3) (b) of the statutes is amended to read:

157.12 (3) (b) The cemetery's treasurer is the custodian of the fund. The treasurer shall file with the cemetery, at the cemetery's expense, a bond with sureties approved by the ~~department of safety and professional services~~ ~~cemetery board~~ to indemnify the cemetery

against loss if the treasurer fails to maintain the fund. No indemnity is required if the terms of sale of a mausoleum space require the purchaser to pay directly to a trust company in the state, designated by the cemetery as custodian of the fund. The fund shall be invested as provided in s. 157.19. Income from investment may be used only to maintain the mausoleum, except that if the amount of income exceeds the amount necessary to properly maintain the mausoleum the excess amount may be used to maintain any portion of the cemetery.

SECTION 54. 157.12 (4) of the statutes is renumbered 440.78 (10) and amended to read:

440.78 (10) CONSTRUCTION OF CREMATORIUMS ~~A CREMATORY~~. (a) Any person who constructs a ~~crematorium~~ crematory or converts a building or other structure to a ~~crematorium~~ crematory shall comply with the rules of the department and shall receive department approval in writing of the plans and specifications prior to construction or conversion. The department may promulgate rules governing the location, material, and construction of any ~~crematorium~~ crematory. Any municipality may enact ordinances governing ~~crematoriums~~ the construction of a crematory that are at least as stringent as this subsection.

(b) The department shall supervise construction of any ~~crematorium~~ crematory and conversion of any building or other structure to a ~~crematorium~~ crematory. No person may modify departmental construction or conversion requirements without written approval of the department. No ~~person~~ crematory authority may operate a ~~crematorium~~ crematory unless the department certifies in writing that construction or conversion complied with approved plans.

SECTION 55. 157.125 (1) of the statutes is amended to read:

157.125 (1) If a trust is created for the care of a burial place or grave but no trustee is named in the will to administer the trust, the circuit court having jurisdiction may name the county treasurer of the county in which the burial place or grave is situated as trustee, except as provided in sub. (2). If not contrary to the terms of the trust, the county treasurer may contract with the person in charge of the burial place or grave for its care and pay to that person the income from the trust property or the part of the income that may be necessary for that purpose, and if if there is no person in charge of the burial place or grave, then the income shall be paid to the city, village, or town, in which the burial place or grave is situated, and for the purposes of this subsection, the governing body of that municipality has the duty of caring for the burial place or grave to the extent of money received for that purpose. The county treasurer shall annually render an account to the circuit court as provided in ch. 701 and the person or municipality receiving money for such care shall also render an annual accounting to the circuit court

and the ~~department~~ cemetery board as provided in s. 157.62 (2) (b) 3. to 7.

SECTION 56. 157.125 (2) of the statutes is amended to read:

157.125 (2) If the burial place or grave is located in a cemetery owned and operated by, or affiliated with, a religious ~~society organized under ch. 187~~ association, the court shall name the religious ~~society~~ association as the trustee unless the religious ~~society~~ association petitions the court to name the county treasurer as the trustee.

SECTION 57. 157.19 (5) (a) of the statutes is amended to read:

157.19 (5) (a) This section does not apply to ~~care funds under s. 157.11 (9g) that are deposited with a city or county as provided under s. 157.11 (9g) (a),~~ to care funds of a cemetery for which a certification under s. 157.63 is effective, to preneed trust funds of a cemetery for which a certification under s. 440.92 (9) is effective, or to care funds or preneed trust funds of a cemetery authority that is not required to be licensed under s. 440.91 (1) or registered under s. 440.91 (1m).

SECTION 58. 157.19 (5) (b) of the statutes is amended to read:

157.19 (5) (b) If the cemetery board determines that care funds under s. 157.11 (9g) ~~that have not been deposited with a city or county as provided in s. 157.11 (9g) (a)~~ are not being properly segregated from other moneys held by the cemetery authority or that those care funds are not being properly invested as required in s. 157.11 (9g) (a), the cemetery board may require the cemetery authority to deposit those care funds with a financial institution for investment under this section.

SECTION 59. 157.60 of the statutes is amended to read:

157.60 Public easement in cemetery. Any person who ~~shall open or make~~ opens or makes any highway, town way, or private way or ~~shall construct~~ constructs any railroad, turnpike, or canal or anything in the nature of a public easement over, through, in, or upon such part of any enclosure, being the property of any ~~town, city, village or municipality,~~ religious society association, or of private ~~proprietors~~ proprietor, as may be used for the burial of the dead, unless an authority for that purpose ~~shall be~~ is specially granted by law or unless the consent of such ~~town, city, village~~ municipality, religious ~~society~~ association, or private ~~proprietors,~~ respectively, shall be ~~proprietor is~~ proprietor is first obtained by the person, shall be punished by imprisonment in the county jail not more than one year ~~or and~~ by fine not exceeding \$300 \$3,000.

SECTION 60. 157.62 (1) (a) (intro.) of the statutes is amended to read:

157.62 (1) (a) (intro.) Except as provided in par. (b) and s. 157.625, every cemetery association shall file an annual report with the ~~department of financial institutions~~ cemetery board. The report shall be made on a

calendar-year basis unless the ~~department of financial institutions cemetery board~~, by rule, provides for other reporting periods. The report is due on the 60th day after the last day of the reporting period. The annual report shall include all of the following:

SECTION 61. 157.62 (1) (c) of the statutes is amended to read:

157.62 (1) (c) The ~~department of financial institutions cemetery board~~ may prescribe and furnish forms for reports required under this subsection. If the ~~department of financial institutions cemetery board~~ prescribes forms under this paragraph, the ~~department of financial institutions cemetery board~~ shall mail the forms to cemetery associations required to file under par. (a) no later than 60 days before the reports are due.

SECTION 62. 157.62 (2) (b) 6m. of the statutes is created to read:

157.62 (2) (b) 6m. The names of the officers of the cemetery authority.

SECTION 63. 157.62 (2) (d) of the statutes is amended to read:

157.62 (2) (d) The ~~department~~ board shall review each report filed under par. (a) to determine whether the cemetery authority is complying with this subchapter.

SECTION 64. 157.62 (3) (b) 2. of the statutes is repealed.

SECTION 65. 157.62 (3) (b) 2g. of the statutes is created to read:

157.62 (3) (b) 2g. All records supporting the accounting under sub. (2) (b) 3., including records that show, for each deposit, the name of the purchaser or beneficiary of the contract relating to the deposit and the item purchased.

SECTION 66. 157.62 (3) (b) 2r. of the statutes is created to read:

157.62 (3) (b) 2r. All records supporting the accounting under sub. (2) (b) 4., including records that show, for each deposit, the name of the purchaser or beneficiary of the contract relating to the deposit and the item purchased.

SECTION 67. 157.62 (4) of the statutes is amended to read:

157.62 (4) RECORDS MAINTENANCE. The records under sub. (3) (b) 1. shall be permanently maintained by the cemetery authority or licensee. Each record under sub. (3) (b) 2. 2g. shall be maintained for not less than 3 15 years after the date of the deposit. Each record under sub. (3) (b) 2r. shall be permanently maintained by the cemetery authority or licensee. Each copy of a contract under sub. (3) (b) 3. shall be maintained for not less than 3 years after all of the obligations of the contract have been fulfilled. The ~~department cemetery board~~ may promulgate rules to establish longer time periods for maintaining records under sub. (3) (b) 2, 2g. and 3.

SECTION 68. 157.62 (5) of the statutes is renumbered 157.62 (5) (intro.) and amended to read:

157.62 (5) RULES; RECORDS. (intro.) The ~~department cemetery board~~ may shall promulgate rules requiring cemetery authorities and licensees to maintain other records and establishing minimum time periods for the maintenance of those records. The records shall include detailed information for each deceased person buried in a cemetery, including all of the following:

SECTION 69. 157.62 (5) (a) to (j) of the statutes are created to read:

157.62 (5) (a) The name of the deceased.

(b) The last-known address of the deceased.

(c) The date of birth of the deceased.

(d) The date of death.

(e) The date of burial.

(f) The exact location in the cemetery where the deceased is buried.

(g) The name of the person authorizing the burial and his or her relationship to the deceased.

(h) The name of the funeral establishment, as defined in s. 445.01 (6).

(i) The type of burial vault used, if any.

(j) The type and style of the grave marker, monument, or other memorial used.

SECTION 70. 157.62 (6) of the statutes is amended to read:

157.62 (6) AUDIT. Except as provided in ss. 157.625, 157.63 (5), and 440.92 (9) (e), the ~~department cemetery board~~ may audit, at reasonable times and frequency, the records, trust funds, and accounts of any cemetery authority, including records, trust funds, and accounts pertaining to services provided by a cemetery authority ~~which that~~ are not otherwise subject to the requirements under this chapter. The ~~department cemetery board~~ may conduct audits under this subsection on a random basis, and shall conduct all audits under this subsection without providing prior notice to the cemetery authority.

SECTION 71. 157.62 (7) of the statutes is amended to read:

157.62 (7) RULES; FILING FEE. The ~~department cemetery board~~ may promulgate rules establishing a filing fee to accompany the report required under sub. (2) (a). The filing fee shall be based on the approximate cost of regulating cemetery authorities.

SECTION 72. 157.625 (2) of the statutes is repealed.

SECTION 73. 157.63 (title) of the statutes is amended to read:

157.63 (title) Reporting and auditing exemptions; certification of compliance of cemetery organized and operated by, or affiliated with, a religious society association.

SECTION 74. 157.63 (1) of the statutes is amended to read:

157.63 (1) In lieu of filing an annual report under s. 157.62 (2), a religious association or a cemetery authority of a cemetery that is affiliated with a religious ~~society~~ organized under ch. 187 association, or that religious

society association, may file an annual certification with the department cemetery board as provided in this section.

SECTION 75. 157.63 (2) (intro.) of the statutes is amended to read:

157.63 (2) (intro.) A certification under this section shall be made on a form prescribed and furnished by the department cemetery board and include all of the following:

SECTION 76. 157.63 (2) (b) of the statutes is amended to read:

157.63 (2) (b) A notarized statement of a person who is legally authorized to act on behalf of the religious society association under this section that, during the reporting period under s. 157.62, each cemetery and the cemetery authority of each cemetery specified under par. (a) have either fully complied or have substantially complied with ss. 157.11 (9g) (c) and 157.12 (3).

SECTION 77. 157.63 (5) of the statutes is amended to read:

157.63 (5) During the effective period specified under sub. (4), the department cemetery board may not audit the care funds or any records or accounts relating to the care funds of a cemetery to which a certification under this section applies.

SECTION 78. 157.635 of the statutes is amended to read:

157.635 Regulations of cemetery organized and operated by, or affiliated with, a religious society association. Nothing in this subchapter prohibits a religious association or a cemetery authority of a cemetery that is affiliated with a religious society organized under ch. 187 association from prohibiting the burial of the human remains of an individual in the cemetery if the individual was in a class of individuals who are prohibited under regulations adopted by the cemetery authority or religious society association from being buried in the cemetery.

SECTION 79. 157.637 of the statutes is amended to read:

157.637 Veteran burials. A cemetery authority of a cemetery, other than a cemetery that is organized and operated by, or affiliated with, a religious society organized under ch. 187 association, may not prohibit the burial, as defined in s. 157.061 (1), of the human remains of a person specified in s. 45.61 (2) at the cemetery if the cemetery authority is paid in its usual and customary manner for the burial.

SECTION 80. 157.64 (2) (intro.) and (a) of the statutes are amended to read:

157.64 (2) (intro.) Any person who intentionally does any of the following may be fined not more than \$1,000 \$5,000 or imprisoned for not more than 90 days, or both, for the first offense and may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both, for each subsequent offense:

(a) Violates s. 157.08 (2) (b), 157.11 (9g), or 157.12 (2) (b), (c), or (d) ~~or (4) (b)~~.

SECTION 81. 157.65 (1) (a) of the statutes is amended to read:

157.65 (1) (a) If the department of safety and professional services cemetery board has reason to believe that any person is violating or has violated this subchapter or any rule promulgated under this subchapter and that the continuation of that activity might cause injury to the public interest, the department of safety and professional services cemetery board may investigate.

SECTION 82. 157.65 (1) (b) of the statutes is amended to read:

157.65 (1) (b) If the department of safety and professional services cemetery board has reason to believe that any person is violating s. 157.12 or any rule promulgated under s. 157.12 and that the continuation of that activity might cause injury to the public interest, the department of safety and professional services cemetery board may investigate.

SECTION 83. 157.65 (2) of the statutes is amended to read:

157.65 (2) The department of justice or any district attorney, upon informing the department of justice, may commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction any violation of this subchapter. The court may, prior to entry of final judgment, make such orders or judgments as may be necessary to restore to any person any pecuniary loss suffered because of the acts or practices involved in the action, if proof of such loss is submitted to the satisfaction of the court. The department of justice may subpoena persons and require the production of books and other documents, and may request the cemetery board described in s. 15.405 (3m) or the department of safety and professional services to exercise its authority under sub. (1) to aid in the investigation of alleged violations of this subchapter.

SECTION 84. 182.0175 (2) (c) of the statutes is created to read:

182.0175 (2) (c) *Exemption for cemeteries.* This subsection does not apply to any excavation in connection with the burial, as defined in s. 157.061 (1), of human remains in a cemetery, as defined in s. 157.061 (1p).

SECTION 85. 440.90 (3) of the statutes is amended to read:

440.90 (3) “Cemetery services and merchandise” has the meaning given in s. 157.061 (3).

SECTION 86. 440.90 (7) of the statutes is renumbered 440.90 (3e) and amended to read:

440.90 (3e) “Preneed sales contract” has the meaning given in s. 157.061 ~~(42)~~ (3g).

SECTION 87. 440.90 (8) of the statutes is renumbered 440.90 (3m) and amended to read:

440.90 (3m) “Preneed seller” means an individual who sells or solicits the sale of cemetery services and

merchandise or an undeveloped space under a preneed sales contract or, if such an individual is employed by or acting as an agent for a cemetery authority or any other person, the cemetery authority or other person.

SECTION 88. 440.90 (9) of the statutes is renumbered 440.90 (3s) and amended to read:

440.90 (3s) "Preneed trust fund" has the meaning given in s. 157.061 ~~(13)~~ (3r).

SECTION 89. 440.90 (14) of the statutes is amended to read:

440.90 (14) "Wholesale cost ratio" means the actual cost to a preneed seller to supply and deliver cemetery services and merchandise or to construct an undeveloped space divided by the price paid by the purchaser, excluding sales tax, finance or interest charges, administrative fees, and insurance premiums.

SECTION 90. 440.91 (1) (a) of the statutes is amended to read:

440.91 (1) (a) Any cemetery authority that operates a cemetery ~~that is 5 acres or more in size, that sells 20 or more cemetery lots or mausoleum spaces at a cemetery during a calendar year, or that has \$100,000~~ \$50,000 or more in trust fund accounts for a cemetery shall apply to the board for a license for that cemetery. A cemetery authority that operates more than one cemetery shall apply for a separate license for each cemetery ~~that is 5 acres or more in size and for each cemetery at which it sells 20 or more burial spaces or at which it has \$100,000~~ \$50,000 or more in trust fund accounts.

SECTION 91. 440.91 (1) (c) 1. of the statutes is renumbered 440.91 (1) (c) and amended to read:

440.91 (1) (c) The renewal dates for licenses granted under par. (b) are specified in s. 440.08 (2) (a) and the renewal fees for such licenses are determined by the department under s. 440.03 (9) (a), ~~except that a licensed cemetery authority is not required to renew its license if the cemetery authority sells less than 20 cemetery lots or mausoleum spaces at a cemetery during a calendar year, or that has less than \$100,000 in trust fund accounts for a cemetery.~~

SECTION 92. 440.91 (1) (c) 2. of the statutes is repealed.

SECTION 93. 440.91 (1m) (a) of the statutes is amended to read:

440.91 (1m) (a) Except as provided in sub. (6m), any cemetery authority ~~that operates a cemetery that is less than 5 acres in size, that sells fewer than 20 cemetery lots or mausoleum spaces at a cemetery during a calendar year, or that has less than \$100,000~~ \$50,000 in trust fund accounts for a cemetery shall register with the board. A cemetery authority that operates more than one cemetery shall submit a separate registration to the board for each cemetery ~~that is less than 5 acres in size, that sells fewer than 20 cemetery lots or mausoleum spaces at a cemetery during a calendar year, or that has less than \$100,000~~ \$50,000 in trust fund accounts.

SECTION 95. 440.91 (2) (d) of the statutes is amended to read:

440.91 (2) (d) Any other information which the ~~department~~ board may reasonably require to enable it to determine the competency of the salesperson to transact the business of a cemetery salesperson in a manner which safeguards the interest of the public.

SECTION 96. 440.91 (3) of the statutes is amended to read:

440.91 (3) Any cemetery salesperson may transfer to the employment of a cemetery authority, other than the cemetery authority that certified the salesperson under sub. (2), by filing a transfer form with the ~~department~~ board and paying the transfer fee specified in s. 440.05 (7).

SECTION 97. 440.91 (4) of the statutes is amended to read:

440.91 (4) Renewal applications shall be submitted to the ~~department~~ board on a form provided by the ~~department~~ board on or before the applicable renewal date specified under s. 440.08 (2) (a) and shall include the applicable renewal fee determined by the department under s. 440.03 (9) (a).

SECTION 98. 440.91 (10) of the statutes is amended to read:

440.91 (10) Nothing in this section requires an individual who is licensed as a preneed seller under s. 440.92 (1) to be licensed as a cemetery salesperson under sub. (2) if the individual only sells or solicits the sale of cemetery services and merchandise or undeveloped spaces under preneed sales contracts.

SECTION 99. 440.92 (1) (a) of the statutes is amended to read:

440.92 (1) (a) Except as provided in subs. (4), (9) (a), and (10), every individual who sells or solicits the sale of cemetery services and merchandise or an undeveloped space under a preneed sales contract and, if the individual is employed by or acting as an agent for a cemetery authority or any other person, that cemetery authority or other person is also required to be licensed under this subsection.

SECTION 100. 440.92 (1) (b) 1. of the statutes is amended to read:

440.92 (1) (b) 1. Submits an application to the ~~department~~ board on a form provided by the ~~department~~ board.

SECTION 101. 440.92 (1) (b) 3. of the statutes is amended to read:

440.92 (1) (b) 3. Subject to ss. 111.321, 111.322, and 111.335, submits evidence satisfactory to the ~~department~~ board that the person does not have a conviction record.

SECTION 102. 440.92 (1) (b) 4. of the statutes is amended to read:

440.92 (1) (b) 4. Meets any other reasonable requirements established by the ~~department~~ board by rule to determine fitness to sell cemetery services and merchandise or an undeveloped space under a preneed sales con-

tract. The rules may not require applicants to meet minimum education, experience, or prior employment requirements or to pass any examination.

SECTION 103. 440.92 (1) (c) of the statutes is amended to read:

440.92 (1) (c) Renewal applications shall be submitted to the ~~department board~~ on a form provided by the ~~department board~~ on or before the applicable renewal date specified under s. 440.08 (2) (a) and shall include the applicable renewal fee determined by the department under s. 440.03 (9) (a).

SECTION 104. 440.92 (2) (a) (intro.) of the statutes is amended to read:

440.92 (2) (a) (intro.) A preneed sales contract for the sale of cemetery services and merchandise shall provide for the delivery of cemetery merchandise in one of the following ways:

SECTION 105. 440.92 (2) (d) of the statutes is amended to read:

440.92 (2) (d) A preneed seller may not sell any undeveloped space unless the plans for the construction of the mausoleum have been submitted to the ~~department of safety and professional services board~~ for approval under s. 157.12 (2) (a) and the preneed sales contract includes the following language in not less than 10-point boldface type: “THE PLANS FOR CONSTRUCTING THE MAUSOLEUM SPACE HAVE BEEN SUBMITTED TO THE ~~DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES~~ CEMETERY BOARD FOR APPROVAL. THE SELLER IS RESPONSIBLE FOR ALL COSTS REQUIRED TO OBTAIN APPROVAL OF THE PLANS BY THE ~~DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES~~ CEMETERY BOARD, COMPLETE THE CONSTRUCTION, AND OBTAIN CERTIFICATION OF THE CONSTRUCTION BY THE ~~DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES~~ CEMETERY BOARD.”

SECTION 106. 440.92 (3) (c) 3. of the statutes is amended to read:

440.92 (3) (c) 3. The preneed seller files with the ~~department board~~ a bond furnished by a surety company authorized to do business in this state or files with the ~~department board~~ and maintains an irrevocable letter of credit from a financial institution and the amount of the bond or letter of credit is sufficient to secure the cost to the cemetery authority of constructing the mausoleum.

SECTION 107. 440.92 (6) (j) of the statutes is amended to read:

440.92 (6) (j) The board may audit, at reasonable times and frequency, the records, trust funds and accounts of any preneed seller licensed under sub. (1), including records, trust funds and accounts pertaining to services provided by a preneed seller which are not otherwise subject to the requirements under this section. The ~~department board~~ may conduct audits under this para-

graph on a random basis, and shall conduct all audits under this paragraph without providing prior notice to the preneed seller.

SECTION 108. 440.92 (9) (title) of the statutes is amended to read:

440.92 (9) (title) EXEMPTIONS; CERTIFICATION OF COMPLIANCE OF CEMETERY AFFILIATED WITH RELIGIOUS SOCIETY ASSOCIATION.

SECTION 109. 440.92 (9) (a) of the statutes is amended to read:

440.92 (9) (a) If the cemetery authority of a cemetery that is affiliated with a religious ~~society organized under ch. 187~~ association or that religious ~~society~~ association files an annual certification with the ~~department board~~ as provided in this subsection, neither the cemetery authority nor any employee of the cemetery is required to be licensed as a cemetery preneed seller under sub. (1) during the period for which the certification is effective.

SECTION 110. 440.92 (9) (b) (intro.) of the statutes is amended to read:

440.92 (9) (b) (intro.) A certification under this subsection shall be made on a form prescribed and furnished by the ~~department board~~ and include all of the following:

SECTION 111. 440.92 (9) (b) 2. of the statutes is amended to read:

440.92 (9) (b) 2. The name, address and social security number of each employee of the cemetery who sold or solicited the sale of cemetery merchandise or an undeveloped space under a preneed sales contract for the cemetery during the 12-month period immediately preceding the date on which the certification is filed with the ~~department board~~.

SECTION 112. 440.92 (9) (b) 3. of the statutes is amended to read:

440.92 (9) (b) 3. A notarized statement of a person who is legally authorized to act on behalf of the religious ~~society~~ association under this subsection that, during the 12-month period immediately preceding the date on which the certification is filed with the ~~department board~~, each employee specified under subd. 2. and the cemetery authority have either fully complied or have substantially complied with subs. (2), (3) (a) and (b) and (5).

SECTION 113. 440.92 (9) (d) of the statutes is amended to read:

440.92 (9) (d) A certification under this subsection is effective for the 12-month period immediately following the date on which the certification is filed with the ~~department board~~.

SECTION 114. 440.92 (9) (e) of the statutes is amended to read:

440.92 (9) (e) During the effective period specified under par. (d), the ~~department board~~ may not audit the preneed trust funds or any records or accounts relating to the preneed trust funds of the cemetery authority or any employee of the cemetery to which a certification under this subsection applies.

SECTION 115. 440.92 (9) (f) of the statutes is amended to read:

440.92 (9) (f) The religious ~~society~~ association that is affiliated with a cemetery to which a certification under this subsection applies is liable for the damages of any person that result from the failure of any employee specified under par. (b) 2. or the cemetery authority to fully comply with sub. (2), (3) (a) or (b) or (5) during the 12-month period for which such compliance has been certified under this subsection.

SECTION 116. 440.93 (2) of the statutes is amended to read:

440.93 (2) The ~~department board~~ shall determine in each case the period that a limitation, suspension or revocation of a certificate is effective. This subsection does not apply to a limitation or suspension under s. 440.13 (2) (a).

SECTION 117. 440.945 (5) (a) of the statutes is amended to read:

440.945 (5) (a) If the ~~department board~~ has reason to believe that any person is violating this section and that the continuation of that activity might cause injury to the public interest, the ~~department board~~ may investigate.

SECTION 118. 440.945 (5) (b) of the statutes is amended to read:

440.945 (5) (b) The department of justice or any district attorney, upon informing the department of justice, may commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction any violation of this section. The court may, prior to entry of final judgment, make such orders or judgments as may be necessary to restore to any person any pecuniary loss suffered because of the acts or practices involved in the action, if proof of such loss is submitted to the satisfaction of the court. The department of justice may subpoena persons and require the production of books and other documents, and may request the ~~department of safety and professional services board~~ to exercise its authority under par. (a) to aid in the investigation of alleged violations of this section.

SECTION 119. 440.947 (5) of the statutes is amended to read:

440.947 (5) A person who sells a casket, outer burial container or cemetery merchandise shall retain a copy of the price list specified in sub. (2) (intro.) for at least one year after the date of its last distribution to a prospective buyer and shall retain a copy of each form that is provided to a buyer under sub. (3) (intro.) for at least one year after completion of a sale. A person required to retain a copy under this subsection shall make the copy available for inspection by the ~~department board~~ upon request.

SECTION 120. 440.95 (3) of the statutes is amended to read:

440.95 (3) Except as provided in subs. (1) and (2), any person who violates s. 440.91 or 440.947 or any rule promulgated under s. 440.91 may be fined not more than

~~\$1,000~~ \$5,000 or imprisoned for not more than 6 months, or both, for the first offense and may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both, for each subsequent offense.

SECTION 121. 440.95 (4) (intro.) of the statutes is amended to read:

440.95 (4) (intro.) Any person who intentionally does any of the following may be fined not more than ~~\$1,000~~ \$5,000 or imprisoned for not more than 90 days, or both, for the first offense and may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both, for each subsequent offense:

SECTION 122. 440.97 of the statutes is created to read:

440.97 Injunctive relief. Notwithstanding s. 440.21, if it appears upon complaint to the board by any person, or if it is known to the board, that any person is operating a cemetery, practicing as a cemetery salesperson, or practicing as a cemetery preneed seller without a license required under this subchapter, the board, the attorney general, or the district attorney of the proper county may investigate and may, in addition to any other remedies, bring an action in the name and on behalf of the state against the person to enjoin the person from such practice.

SECTION 123. 815.18 (3) (a) of the statutes is amended to read:

815.18 (3) (a) *Provisions for burial.* Cemetery lots, aboveground burial facilities, burial monuments, tombstones, coffins, cremation urns, urn vaults, outer burial containers, or other articles for the burial of the dead owned by the debtor and intended for the burial of the debtor or the debtor's family.

SECTION 124. 895.04 (5) of the statutes is amended to read:

895.04 (5) If the personal representative brings the action, the personal representative may also recover the reasonable cost of medical expenses, funeral expenses, including the reasonable cost of a cemetery lot and care of the lot, grave marker and care of the lot or other burial monument, coffin, cremation urn, urn vault, outer burial container, or other article intended for the burial of the dead. If a relative brings the action, the relative may recover such those medical expenses, ~~funeral expenses, including the cost of a cemetery lot, grave marker and care of the lot,~~ on behalf of himself or herself or of any person who has paid or assumed liability for such those expenses.

SECTION 125. 979.10 (1) (c) of the statutes is renumbered 157.113 and amended to read:

157.113 Permission to place cremated human remains in a cemetery. No person may deposit any cremated human remains ~~of a corpse~~ in any a cemetery, including in the casket of another person, without the permission of the ~~person who owns or is in charge of the cemetery~~ cemetery authority.

SECTION 126. Nonstatutory provisions.

(1) TRANSFER OF REGULATION OF CEMETERIES AND CEMETERY AUTHORITIES.

(a) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department of safety and professional services and the department of financial institutions that is primarily related to the regulation of cemeteries, cemetery authorities, and cemetery preneed sellers, sales contracts, and trust funds under subchapter II of chapter 157, 2013 stats., and subchapter IX of chapter 440, 2013 stats., as determined by the secretary of safety and professional services and the secretary of financial institutions, as appropriate, is transferred to the cemetery board.

(b) *Contracts.* All contracts entered into by the department of safety and professional services and the department of financial institutions in effect on the effective date of this paragraph that are primarily related to the regulation of cemeteries, cemetery authorities, and cemetery preneed sellers, sales contracts, and trust funds under subchapter II of chapter 157, 2013 stats., and subchapter IX of chapter 440, 2013 stats., as determined by the secretary of safety and professional services and the secretary of financial institutions, as appropriate, remain in effect and are transferred to the cemetery board. The cemetery board shall carry out any obligations under such a contract until the contract is modified or rescinded by the cemetery board to the extent allowed under the contract.

(c) *Rules and orders.* All rules promulgated by the department of safety and professional services and the department of financial institutions that relate to the regulation of cemeteries, cemetery authorities, and cemetery preneed sellers, sales contracts, and trust funds under subchapter II of chapter 157, 2013 stats., and subchapter IX of chapter 440, 2013 stats., as determined by the secretary of safety and professional services and the secretary of financial institutions, as appropriate, that are in effect on the effective date of this paragraph, remain in effect until their specified expiration dates or until amended or repealed by the cemetery board. All orders issued by the department of safety and professional services and the

department of financial institutions relating to the regulation of cemeteries, cemetery authorities, and cemetery preneed sellers, sales contracts, and trust funds under subchapter II of chapter 157, 2013 stats., and subchapter IX of chapter 440, 2013 stats., as determined by the secretary of safety and professional services and the secretary of financial institutions, as appropriate, that are in effect on the effective date of this paragraph remain in effect until their specified expiration dates or until modified or rescinded by the cemetery board.

(d) *Pending matters.* Any matter pending with the department of safety and professional services or the department of financial institutions on the effective date of this paragraph that is primarily related to the regulation of cemeteries, cemetery authorities, and cemetery preneed sellers, sales contracts, and trust funds under subchapter II of chapter 157, 2013 stats., and subchapter IX of chapter 440, 2013 stats., as determined by the secretary of safety and professional services or the secretary of financial institutions, as appropriate, is transferred to the cemetery board, and all materials submitted to and actions taken by the department of safety and professional services or the department of financial institutions, as appropriate, with respect to the pending matter are considered as having been submitted to or taken by the cemetery board.

(2) RETURN OF CARE FUNDS. Within 180 days after the effective date of this subsection, each county, city, village, or town holding care funds under section 157.11 (9g) (a), 2013 stats., shall pay those care funds to the appropriate cemetery authority. The cemetery authority shall invest those care funds under sections 157.11 (9g) (a) and 157.19 of the statutes, as affected by this act.

SECTION 127. Initial applicability.

(1) The treatment of section 440.92 (2) (d) of the statutes first applies to a preneed sales contract entered into on the effective date of this subsection.

SECTION 128. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.

Rules that **SHALL** be promulgated under Act 237:

1. **157.12 (2) (a)** – The cemetery board shall promulgate rules governing the location, material, and construction of a mausoleum in a manner that a mausoleum must be constructed to last as long as possible, taking into consideration the technology and economics applicable to mausoleum construction at the time of construction.
2. **157.62 (5)** – The cemetery board shall promulgate rules requiring cemetery authorities and licensees to maintain records detailing information for each deceased person buried in a cemetery, including:
 - (a) The name of the deceased.
 - (b) The last-known address of the deceased.
 - (c) The date of birth of the deceased.
 - (d) The date of death.
 - (e) The date of burial.
 - (f) The exact location in the cemetery where the deceased is buried.
 - (g) The name of the person authorizing the burial and his or her relationship to the deceased.
 - (h) The name of the funeral establishment, as defined in s. 445.01 (6).
 - (i) The type of burial vault used, if any.
 - (j) The type and style of the grave marker, monument, or other memorial used.

Rules that **MAY** be promulgated under Act 237:

1. **157.12 (3) (a) (3)** The cemetery board may promulgate rules establishing uniform standards for approvals of instances where a local municipality requires a larger mausoleum care fund.
2. **157.62 (1) (a)** The board may, by rule, change the annual reporting periods. (CB 2)
3. **440.78 (10)** The department may promulgate rules governing the location, material, and construction of any crematory. A municipality may enact ordinances governing the construction of a crematory that are at least as stringent as this subsection.
4. **157.62 (4)** The cemetery board may promulgate rules to establish longer time periods for maintaining records for preneed trust funds and copies of each contract for the sale of a cemetery lot, mausoleum space, or cemetery merchandise.
5. **157.62 (7)** The cemetery board may promulgate rules establishing a filing fee to accompany the required annual report.

Notes:

- The cemetery board, as opposed to DSPS, now possesses permissive investigatory authority for instances where there may be violations of certain governing statutes or rules. The board is required to assist the DOJ in certain investigations.
- The cemetery board must now review all preneed sellers' construction plans for mausoleums.
- Preneed sellers must file bonds and letters of credit with the board.
- The board may audit preneed sellers' records.
- The board now receives annual certifications from religious associations.