

## 2001 ASSEMBLY BILL 107

February 8, 2001 – Introduced by Representatives MORRIS-TATUM, TURNER, COGGS, WILLIAMS, POWERS, SYKORA and YOUNG, cosponsored by Senators MOORE and GEORGE. Referred to Committee on Small Business and Consumer Affairs.

1     **AN ACT** *to repeal* 157.115 (1) (b) 2., 157.115 (1) (c), 157.625, 157.63, 157.64 (2) (f),  
2             440.91 (6m) and (7), 440.92 (9) and 440.95 (4) (d); *to renumber* 157.115 (1) (b)  
3             1.; *to renumber and amend* 440.03 (13); *to amend* 69.18 (1) (bm) (intro.),  
4             69.22 (1) (a), 157.062 (9), 157.08 (5), 157.10, 157.11 (11), 157.115 (2) (b), 157.128  
5             (3) (b), 157.19 (5) (a), 157.62 (1) (a) (intro.), 157.62 (2) (a), 157.62 (6), 157.64 (3),  
6             440.91 (1), 440.91 (2) (intro.), 440.92 (1) (a) and 440.92 (10); and *to create*  
7             20.165 (1) (q), 25.17 (1) (at), 25.85, 69.22 (1) (d) and (e), 69.22 (1r), 157.065 (1)  
8             (b) 8., 157.105, 157.117, 157.61, 157.62 (2) (b) 8., 157.62 (2) (e), 157.64 (2) (h),  
9             440.03 (13) (b) and 445.12 (1m) of the statutes; **relating to:** creating a cemetery  
10            management reserve fund, regulation of cemetery authorities, salespersons  
11            and preneed sellers, appointment of trustees for certain cemeteries and

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1           mausoleums, identification of human remains, granting rule-making  
2           authority, making an appropriation, and providing a penalty.

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***Analysis by the Legislative Reference Bureau***

This bill provides for the appointment of trustees that are responsible for the operation of certain abandoned or neglected cemeteries and mausoleums. The bill also establishes a cemetery management reserve fund that may be used by trustees to carry out their responsibilities under the bill. In addition, the bill makes certain changes to the registration of cemetery authorities, cemetery salespersons, and preneed sellers under current law and makes other changes to requirements regarding cemeteries and the burial of human remains.

***Cemetery and mausoleum trustees***

Under current law, if the operator of a cemetery fails to care for the cemetery for one year or more, the city, village, or town in which the cemetery is located may, but is not required to, take control of the cemetery. However, if the operator has failed to care for the cemetery for five years or more, the city, village, or town is required to take control of the cemetery. In addition, under certain circumstances, the town board of a town in which an abandoned or neglected cemetery is located may be required to operate the cemetery.

This bill repeals the above provisions and allows the circuit court for the county in which a cemetery or mausoleum is located to appoint the department of regulation and licensing (DORL) or another person as a trustee to operate the cemetery or mausoleum. The attorney general, city, village, town, county, or six or more residents of the city, village, town, or county in which the cemetery or mausoleum is located may petition the court for such an appointment. The court is required to appoint a trustee if the court finds, after a hearing, that the cemetery or mausoleum is neglected, abandoned, in disuse, improperly maintained, or financially unsound. The bill also allows the owner of the cemetery or mausoleum to petition the court to transfer title of the cemetery or mausoleum to the trustee that is appointed.

The bill requires a trustee that is appointed to operate the cemetery or mausoleum and comply with the record-keeping, audit, and reporting requirements that apply to operators of cemeteries under current law. The bill allows a trustee to seek a new owner or operator of the cemetery or mausoleum, to use the procedure under current law for assessing cemetery lots for cleaning, care, or improvement purposes, and to take any other action necessary or useful to the management or trusteeship of the cemetery or mausoleum. In addition, the trustee may petition the court for the following: 1) transfer of ownership of the cemetery or mausoleum to the state under the trustee's management or to a new owner; 2) reversion of ownership and operation of the cemetery or mausoleum to the previous owner; or 3) closure of the cemetery or mausoleum after removal and reinternment of human remains.

The court that appointed a trustee under the bill is required to terminate the trusteeship if the owner or operator of the cemetery or mausoleum demonstrates that the conditions that necessitated the trusteeship have been remedied. The court may

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also terminate the trusteeship if the court finds that a new owner or operator is competent and capable of managing the cemetery or mausoleum or if the court approves the closure of the cemetery or mausoleum.

The bill also creates a cemetery management reserve fund that may be used by a trustee to exercise its powers and carry out its duties under the bill. The fund consists of moneys collected from the following: 1) a \$10 filing fee for death certificates; 2) a \$1 surcharge on copies of death certificates; and 3) a \$10 surcharge on the sale of cemetery lots and mausoleums. DORL is required to promulgate rules that establish procedures and requirements for disbursements from the fund to trustees.

***Cemetery authorities, cemetery salespersons, and preneed sellers***

With certain exceptions, current law requires cemetery authorities, cemetery salespersons, and preneed sellers to register with DORL. A “cemetery authority” is any person that owns or operates a cemetery, a “cemetery salesperson” is person that sells ten or more cemetery lots or mausoleum spaces in a calendar year, and a “preneed seller” is a person that sells certain cemetery merchandise or undeveloped mausoleum spaces under preneed contracts. There is an exemption from the registration requirements for each of the following:

1. A cemetery authority that sells less than ten cemetery lots or mausoleum spaces per year.

2. A cemetery authority of a cemetery organized or operated by a town, village, city, church, synagogue, mosque, religious, fraternal or benevolent society, or incorporated college of a religious order.

3. A cemetery salesperson that sells cemetery lots or mausoleum spaces in a cemetery described in item 2.

4. A preneed seller for a cemetery that is affiliated with an organized religious society or a religious society that files an annual certification statement with DORL.

This bill eliminates each of the above exemptions. The bill also requires DORL to investigate to determine whether any person that applies for registration as a cemetery authority, cemetery salesperson, or preneed seller, or whether certain business representatives that are related to such a person, have been convicted of an offense the circumstances of which substantially relate to the sale of a cemetery lot, mausoleum space, or cemetery merchandise.

***Other requirements for cemeteries and the burial of human remains***

Under current law, with certain exceptions, cemetery authorities must submit reports to DORL that include certain financial and other information. The following cemetery authorities are exempt from the reporting requirement: 1) certain cemetery authorities that are exempt from other requirements regarding care and preneed trust funds; 2) cemetery authorities with annual operating budgets of \$2,500 or less; 3) cemetery authorities that sell less than ten cemetery lots or mausoleum spaces per year; and 4) cemetery authorities of cemeteries organized or operated by a town, village, city, church, synagogue, mosque, religious, fraternal or benevolent society, or incorporated college of a religious order. In addition, cemetery authorities of cemeteries that are affiliated with an organized religious society or a religious society are required to submit an annual certification to DORL, rather than

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an annual report. This bill eliminates each of these exemptions from the reporting requirement. The bill also requires a cemetery authority affiliated with an organized religious society or a religious society to submit the annual report, rather than the annual certification.

The bill also requires a cemetery authority to include in the annual report information that identifies the location of all human remains that are buried at the cemetery. DORL is required to promulgate rules that establish requirements for providing such information in the report. In addition, the bill requires DORL to provide a copy of the annual report to each city, village, or town in which the cemetery is located. Also under the bill, DORL is required to conduct certain financial audits of cemetery authorities. Under current law, DORL is allowed, but not required, to conduct the audits.

In addition, the bill makes certain changes to current law regarding the burial of human remains. Under the bill, a cemetery may not accept human remains for burial unless a tag that identifies the decedent has been attached to the remains and to the exterior of the casket or burial vault or, in the case of remains that have been cremated, attached to the interior and exterior of the cemetery merchandise and mausoleum space that contain the remains. Under the bill, the tags must be attached by the funeral director who prepares the human body for burial or the person who cremates the human remains. Also, the bill prohibits a cemetery authority from prohibiting the burial in a cemetery lot of any of the following: 1) a relative of person with an interest in the lot; 2) the husband or wife of such a person; or 3) a relative of the husband or wife of such a person.

Finally, the bill increases the penalty under current law that is applicable to a cemetery authority that violates certain requirements regarding the reburial of human remains. Under current law, the penalty is a forfeiture of no more than \$200. Under the bill, the penalty is a forfeiture of no more than \$1,000 or imprisonment for no more than 90 days, or both.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 20.165 (1) (q) of the statutes is created to read:

2           20.165 (1) (q) *Cemetery and mausoleum trustee disbursements.* From the  
3 cemetery management reserve fund, a sum sufficient to make disbursements to  
4 trustees under the rules promulgated under s. 157.117 (4) (a).

5           **SECTION 2.** 25.17 (1) (at) of the statutes is created to read:

6           25.17 (1) (at) Cemetery management reserve fund (s. 25.85);

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1           **SECTION 3.** 25.85 of the statutes is created to read:

2           **25.85 Cemetery management reserve fund.** There is established a  
3 separate nonlapsible trust fund designated as the cemetery management reserve  
4 fund, to consist of each of the following:

5           **(1)** The moneys received from death certificate filing fees under s. 69.22 (1) (d).

6           **(2)** The moneys received from the issuance of copies of death certificates under  
7 s. 69.22 (1) (e).

8           **(3)** The moneys received from surcharges on the sale of cemetery lots and  
9 mausoleum spaces under s. 157.105.

10          **SECTION 4.** 69.18 (1) (bm) (intro.) of the statutes is amended to read:

11          69.18 **(1)** (bm) (intro.) A person required to file a certificate of death under par.  
12 (b) shall obtain the information required for the certificate of death from the next of  
13 kin or the best qualified person or source available. The person filing the certificate  
14 of death shall enter his or her signature on the certificate and include his or her  
15 address and the date of signing and shall present or mail the certificate, within 24  
16 hours after being notified of the death, to the physician, coroner, or medical examiner  
17 responsible for completing and signing the medical certification under sub. (2).  
18 Within 2 days after receipt of the medical certification under sub. (2), the person  
19 filing the certificate of death shall mail or present the certificate of death, together  
20 with the fee required under s. 69.22 (1) (d), in:

21          **SECTION 5.** 69.22 (1) (a) of the statutes is amended to read:

22          69.22 **(1)** (a) Except as provided under ~~par.~~ pars. (c) and (e), \$7 for issuing one  
23 certified copy of a vital record and \$2 for any additional certified copy of the same  
24 vital record issued at the same time.

25          **SECTION 6.** 69.22 (1) (d) and (e) of the statutes are created to read:

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1           69.22 (1) (d) Ten dollars for receiving a death certificate filed by a person  
2 required to file a certificate of death under s. 69.18 (1) (b), which shall be forwarded  
3 to the state treasurer under sub. (1r).

4           (e) Eight dollars for issuing a copy of a death certificate, \$1 of which shall be  
5 forwarded to the state treasurer under sub. (1r).

6           **SECTION 7.** 69.22 (1r) of the statutes is created to read:

7           69.22 (1r) By the 15th day of the first month following the end of a calendar  
8 quarter, the state registrar and any person acting under this subchapter shall  
9 forward to the state treasurer the amounts specified in sub. (1) (d) and (e) that are  
10 received during the calendar quarter. The state treasurer shall credit all amounts  
11 received under this subsection to the cemetery management reserve fund.

12           **SECTION 8.** 157.062 (9) of the statutes is amended to read:

13           157.062 (9) EXEMPTIONS FOR CERTAIN NONPROFIT CEMETERIES. In lieu of  
14 delivering a certification, resolution, or copy of proceedings to the department of  
15 financial institutions under sub. (1), (2), or (6) (b), a cemetery association that is not  
16 required to be registered under s. 440.91 (1) and that is not organized or conducted  
17 for pecuniary profit shall deliver the certification, resolution, or copy of proceedings  
18 to the office of the register of deeds of the county in which the cemetery is located.

19           **SECTION 9.** 157.065 (1) (b) 8. of the statutes is created to read:

20           157.065 (1) (b) 8. A trustee appointed under s. 157.117 (2) (b).

21           **SECTION 10.** 157.08 (5) of the statutes is amended to read:

22           157.08 (5) Subsections (1) and (2) (b) do not apply to a religious society  
23 organized under ch. 187, and sub. (2) (b) does not apply to a cemetery authority that  
24 is not required to be registered under s. 440.91 (1) and that is not organized or  
25 conducted for pecuniary profit.

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1           **SECTION 11.** 157.10 of the statutes is amended to read:

2           **157.10 Alienation and use of cemetery lots.** While any person is buried in  
3 a cemetery lot, the cemetery lot shall be inalienable, without the consent of the  
4 cemetery authority, and on the death of the owner, ownership of the cemetery lot  
5 shall descend to the owner's heirs; but any one or more of such heirs may convey to  
6 any other heir his or her interest in the cemetery lot. No human remains may be  
7 buried in a cemetery lot except the human remains of one having an interest in the  
8 cemetery lot, or a relative, or the husband or wife of such person, or his or her relative,  
9 except by the consent of all persons having an interest in the cemetery lot. A  
10 cemetery authority may not prohibit the burial in a cemetery lot of a relative of a  
11 person with an interest in the cemetery lot, husband or wife of such a person, or  
12 relative of a husband or wife of such a person.

13           **SECTION 12.** 157.105 of the statutes is created to read:

14           **157.105 Surcharge on cemetery lot and mausoleum space sales.** A  
15 cemetery authority that sells a cemetery lot or a person operating a mausoleum that  
16 sells a mausoleum space shall assess a surcharge of \$10 on each cemetery lot or  
17 mausoleum space sold by the seller. By the 15th day of the first month following the  
18 end of a calendar quarter, a cemetery authority or person operating a mausoleum  
19 shall forward to the state treasurer the surcharges assessed under this section  
20 during the calendar quarter. The state treasurer shall credit all amounts received  
21 under this section to the cemetery management reserve fund.

22           **SECTION 13.** 157.11 (11) of the statutes is amended to read:

23           **157.11 (11) EXEMPTION FOR CERTAIN NONPROFIT CEMETERIES.** Subsection (9g) does  
24 not apply to a cemetery authority ~~that is not required to be registered under s. 440.91~~  
25 ~~(1) and~~ that is not organized or conducted for pecuniary profit.



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1           **SECTION 14.** 157.115 (1) (b) 1. of the statutes is renumbered 157.115 (1) (b).

2           **SECTION 15.** 157.115 (1) (b) 2. of the statutes is repealed.

3           **SECTION 16.** 157.115 (1) (c) of the statutes is repealed.

4           **SECTION 17.** 157.115 (2) (b) of the statutes is amended to read:

5           157.115 **(2)** (b) No cemetery authority may resell an abandoned cemetery lot  
6 unless the cemetery authority complies with the requirements in this subsection or  
7 the cemetery lot is sold by a trustee under s. 157.117.

8           **SECTION 18.** 157.117 of the statutes is created to read:

9           **157.117 Trustees for certain cemeteries and mausoleums. (1)**

10          DEFINITIONS. In this section:

11           (a) “Cemetery” does not include a cemetery the ownership, control, or  
12 management of which has been assumed by a municipality under s. 157.115 (1) (b)  
13 or (c), 1999 stats., or a predecessor statute.

14           (b) “Local governmental unit” means a municipality or county.

15           (c) “Municipality” means a city, village, or town.

16           (d) “Trustee” means a trustee appointed under sub. (2) (b).

17           **(2) APPOINTMENT OF TRUSTEE.** (a) The attorney general, a local governmental  
18 unit, or 6 or more residents of a municipality in which a cemetery or mausoleum is  
19 located may petition the circuit court for the county in which the cemetery or  
20 mausoleum is located for the appointment of a trustee for the cemetery or  
21 mausoleum. A petitioner under this subsection shall serve a copy of the petition on  
22 the attorney general and the department.

23           (b) A court shall schedule a hearing on a petition filed under par. (a) within 90  
24 days after the petition is filed with the court. If the court finds after a hearing that  
25 a cemetery or mausoleum is neglected, abandoned, in disuse, improperly



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1 maintained, or financially unsound, the court shall appoint as a trustee for the  
2 cemetery or mausoleum the department or another capable and competent person  
3 to serve as trustee of the cemetery or mausoleum under this section.

4 (c) An owner of a cemetery or mausoleum may petition the court in a proceeding  
5 under par. (b) for an order surrendering title to the cemetery or mausoleum if the  
6 owner believes itself to be incapable of continuing to operate the cemetery or  
7 mausoleum. The court may grant the petition if it finds that the cemetery or  
8 mausoleum is neglected, abandoned, in disuse, improperly maintained, or  
9 financially unsound. If the court grants the petition, it shall transfer title to the  
10 cemetery or mausoleum to the state and appoint a trustee under par. (b).

11 (d) All disputes relating to the appointment of a trustee or the actions of a  
12 trustee appointed under this section shall be resolved by the court that appointed the  
13 trustee.

14 **(3) TRUSTEE POWERS AND DUTIES.** (a) A trustee shall do each of the following:

15 1. Be responsible for the management, maintenance, and operation for each  
16 cemetery or mausoleum under trusteeship.

17 2. Comply with the record-keeping, audit, and reporting requirements of s.  
18 157.62 (2). A trustee shall provide the court with a copy of all records, audits, and  
19 reports filed under this subdivision.

20 3. Provide the court with any additional information, records, or reports that  
21 the court may direct.

22 (b) A trustee may petition the court that appointed the trustee for any of the  
23 following:

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1           1. Transfer of ownership of a cemetery or mausoleum and all tangible and  
2 intangible real and personal property to the state under the management of the  
3 trustee.

4           2. Termination of the trusteeship and reversion of ownership and operation of  
5 a cemetery or mausoleum to the previous owner.

6           3. Termination of the trusteeship and transfer of ownership and operation of  
7 a cemetery or mausoleum to the state or a new owner.

8           4. Removal and reinternment of human remains in accordance with the  
9 requirements of this subchapter.

10          5. Termination of the trusteeship and closure of a cemetery or mausoleum after  
11 removal and reinternment of human remains under subd. 4.

12          (c) A trustee may do any of the following:

13           1. Seek a new owner or operator of a cemetery or mausoleum, including actively  
14 marketing the cemetery or mausoleum and taking any other action necessary or  
15 useful to effect the sale of the cemetery or mausoleum.

16           2. Assess cemetery lots for cleaning, care, or improvement under s. 157.11 (7).

17           3. Expend funds disbursed from the cemetery management reserve fund for the  
18 purpose of exercising its powers or carrying out its duties under this section.

19           4. Employ professional, legal, and technical experts, any such other managers,  
20 management personnel, agents, and employees as may be required to exercise the  
21 trustee's powers or carry out the trustee's duties under this section.

22           5. Take any other action necessary or useful to the management or trusteeship  
23 of a cemetery or mausoleum.

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1           **(4) DEPARTMENT POWERS AND DUTIES.** (a) The department shall promulgate rules  
2 establishing requirements and procedures to make disbursements from the  
3 appropriation under s. 20.165 (1) (q) to trustees.

4           (b) If appointed as a trustee under sub. (2) (b), the department shall have all  
5 the powers and duties specified in sub. (3).

6           (c) The department may promulgate rules to carry out the purposes of this  
7 section.

8           **(5) TERMINATION OF TRUSTEESHIP.** A court that appointed a trustee shall  
9 terminate the trusteeship if any of the following applies:

10          (a) The owner or operator of a cemetery or mausoleum demonstrates to the  
11 satisfaction of the court that the conditions that necessitated the trusteeship have  
12 been remedied and that it is competent and capable of managing the cemetery or  
13 mausoleum.

14          (b) The court finds that a new operator is competent and capable of managing  
15 the cemetery or mausoleum. Upon making a finding under this paragraph, the court  
16 shall approve the transfer of the management of the cemetery or mausoleum to the  
17 new operator.

18          (c) The court approves the sale or transfer of a cemetery or mausoleum to the  
19 state, or to another public or private owner that the court finds is capable and  
20 competent to manage the cemetery or mausoleum on a financially sound basis.

21          (d) The court approves the closure of a cemetery or mausoleum after all human  
22 remains have been removed and reinterred.

23           **SECTION 19.** 157.128 (3) (b) of the statutes is amended to read:

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1           157.128 **(3)** (b) A cemetery consisting of less than 20 contiguous acres may be  
2 dedicated by a cemetery authority ~~that is not required to be registered under s.~~  
3 ~~440.91 (1) and~~ that is not organized or conducted for pecuniary profit.

4           **SECTION 20.** 157.19 (5) (a) of the statutes is amended to read:

5           157.19 **(5)** (a) This section does not apply to care funds under s. 157.11 (9g) that  
6 are deposited with a city or county as provided under s. 157.11 (9g) (a), ~~to care funds~~  
7 ~~of a cemetery for which a certification under s. 157.63 is effective, to preneed trust~~  
8 ~~funds of a cemetery for which a certification under s. 440.92 (9) is effective, or to care~~  
9 funds or preneed trust funds of a cemetery authority ~~that is not required to be~~  
10 ~~registered under s. 440.91 (1) and~~ that is not organized or conducted for pecuniary  
11 profit.

12           **SECTION 21.** 157.61 of the statutes is created to read:

13           **157.61 Identification of human remains. (1)** In this section, “identification  
14 tag” means a tag that identifies a decedent.

15           **(2)** The department shall promulgate rules that require a funeral director who  
16 prepares a dead human body for burial to attach an identification tag to the human  
17 remains and to the exterior of a casket or burial vault that is used for burial of the  
18 human remains. The rules shall also require a person who cremates human remains  
19 to attach an identification tag to the interior and exterior of the cemetery  
20 merchandise and mausoleum space that is used to contain the human remains.

21           **(3)** No cemetery authority may accept human remains for burial unless the  
22 identification tags specified in sub. (2) have been attached to the casket and burial  
23 vault, or cemetery merchandise and mausoleum space, that is used for burial of the  
24 human remains.

25           **SECTION 22.** 157.62 (1) (a) (intro.) of the statutes is amended to read:

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1           157.62 (1) (a) (intro.) Except as provided in par. (b) and ~~s. 157.625~~, every  
2 cemetery association shall file an annual report with the department of financial  
3 institutions. The report shall be made on a calendar-year basis unless the  
4 department of financial institutions, by rule, provides for other reporting periods.  
5 The report is due on the 60th day after the last day of the reporting period. The  
6 annual report shall include all of the following:

7           **SECTION 23.** 157.62 (2) (a) of the statutes is amended to read:

8           157.62 (2) (a) ~~Except as provided in ss. 157.625 and 157.63 (1), every~~ Every  
9 cemetery authority shall file an annual report with the department. The report shall  
10 be made on a form prescribed and furnished by the department. The report shall be  
11 made on a calendar-year basis unless the department, by rule, provides for other  
12 reporting periods. The report is due on the 60th day after the last day of the reporting  
13 period.

14           **SECTION 24.** 157.62 (2) (b) 8. of the statutes is created to read:

15           157.62 (2) (b) 8. Information that identifies the location of all human remains  
16 that are buried at the cemetery operated by the cemetery authority. The department  
17 shall promulgate rules that establish requirements for providing information under  
18 this subdivision.

19           **SECTION 25.** 157.62 (2) (e) of the statutes is created to read:

20           157.62 (2) (e) The department shall provide a copy of each report filed under  
21 par. (a) to the city, village, or town in which the cemetery that the cemetery authority  
22 operates is located.

23           **SECTION 26.** 157.62 (6) of the statutes is amended to read:

24           157.62 (6) AUDIT. ~~Except as provided in ss. 157.625, 157.63 (5) and 440.92 (9)~~  
25 ~~(e), the~~ The department may shall audit, at reasonable times and frequency, the

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1 records, trust funds, and accounts of any cemetery authority, including records, trust  
2 funds, and accounts pertaining to services provided by a cemetery authority which  
3 are not otherwise subject to the requirements under this chapter. The department  
4 ~~may~~ shall conduct audits under this subsection on a random basis, and shall conduct  
5 all audits under this subsection without providing prior notice to the cemetery  
6 authority.

7 **SECTION 27.** 157.625 of the statutes is repealed.

8 **SECTION 28.** 157.63 of the statutes is repealed.

9 **SECTION 29.** 157.64 (2) (f) of the statutes is repealed.

10 **SECTION 30.** 157.64 (2) (h) of the statutes is created to read:

11 157.64 (2) (h) Violates s. 157.112.

12 **SECTION 31.** 157.64 (3) of the statutes is amended to read:

13 157.64 (3) Any person who intentionally commits an act specified under sub.  
14 (2) (a) to ~~(f)~~ (e) with intent to defraud may be punished for theft under s. 943.20.

15 **SECTION 32.** 440.03 (13) of the statutes is renumbered 440.03 (13) (a) and  
16 amended to read:

17 440.03 (13) (a) ~~The Except as provided in par. (b), the~~ department may conduct  
18 an investigation to determine whether an applicant for a credential issued under chs.  
19 440 to 480 satisfies any of the eligibility requirements specified for the credential,  
20 including whether the applicant does not have an arrest or conviction record.

21 (c) In conducting an investigation under ~~this subsection~~ par. (a) or (b), the  
22 department may require an applicant to provide any information that is necessary  
23 for the investigation or, for the purpose of obtaining information related to an arrest  
24 or conviction record of an applicant, to complete forms provided by the department  
25 of justice or the federal bureau of investigation. The department shall charge the

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1 applicant any fees, costs, or other expenses incurred in conducting the investigation  
2 under ~~this subsection par. (a) or (b).~~

3 **SECTION 33.** 440.03 (13) (b) of the statutes is created to read:

4 440.03 (13) (b) Before granting a credential to a cemetery authority, cemetery  
5 salesperson, or preneed seller, or renewing such a credential, the department shall  
6 conduct an investigation to determine whether a person specified in s. 440.93 (1)  
7 (intro.) has been convicted of an offense specified in s. 440.93 (1) (d).

8 **SECTION 34.** 440.91 (1) of the statutes is amended to read:

9 440.91 (1) ~~Except as provided in sub. (6m), every~~ Every cemetery authority that  
10 ~~sells or solicits the sale of a total of 10 or more cemetery lots or mausoleum spaces~~  
11 ~~during a calendar year and that pays any commission or other compensation to any~~  
12 ~~person for selling or soliciting the sale of its cemetery lots or mausoleum spaces shall~~  
13 register with the department. The registration shall be in writing and shall include  
14 the names of the officers of the cemetery authority.

15 **SECTION 35.** 440.91 (2) (intro.) of the statutes is amended to read:

16 440.91 (2) (intro.) ~~Except as provided in subs. (7) and sub. (10), every individual~~  
17 who sells or solicits the sale of, or who expects to sell or solicit the sale of, a total of  
18 10 or more cemetery lots or mausoleum spaces during a calendar year shall register  
19 with the department. An individual may not be registered as a cemetery salesperson  
20 except upon the written request of a cemetery authority and the payment of the fee  
21 specified in s. 440.05 (1). The cemetery authority shall certify in writing to the  
22 department that the individual is competent to act as a cemetery salesperson.  
23 Within 10 days after the certification of any cemetery salesperson, the cemetery  
24 salesperson shall verify and furnish to the department, in such form as the  
25 department prescribes, all of the following information:



**ASSEMBLY BILL 107**

1           **SECTION 36.** 440.91 (6m) and (7) of the statutes are repealed.

2           **SECTION 37.** 440.92 (1) (a) of the statutes is amended to read:

3           440.92 **(1)** (a) Except as provided in subs. (4), ~~(9) (a)~~ and (10), every individual  
4 who sells or solicits the sale of cemetery merchandise or an undeveloped space under  
5 a preneed sales contract and, if the individual is employed by or acting as an agent  
6 for a cemetery authority or any other person, that cemetery authority or other person  
7 is required to be registered under this subsection.

8           **SECTION 38.** 440.92 (9) of the statutes is repealed.

9           **SECTION 39.** 440.92 (10) of the statutes is amended to read:

10          440.92 **(10)** EXEMPTIONS; CERTAIN NONPROFIT CEMETERIES. This section does not  
11 apply to a cemetery authority ~~that is not required to be registered under s. 440.91~~  
12 ~~(1)~~ and that is not organized or conducted for pecuniary profit.

13          **SECTION 40.** 440.95 (4) (d) of the statutes is repealed.

14          **SECTION 41.** 445.12 (1m) of the statutes is created to read:

15          445.12 **(1m)** No funeral director may prepare a dead human body for burial  
16 unless the funeral director attaches identification tags as required under the rules  
17 promulgated under s. 157.61 (2).

18          **SECTION 42. Initial applicability.**

19          (1) The treatment of sections 69.18 (1) (bm) (intro.) and 69.22 (1) (d) of the  
20 statutes first applies to certificates filed on the effective date of this subsection.

21          (2) The treatment of section 69.22 (1) (a) and (e) of the statutes first applies to  
22 certificates issued on the effective date of this subsection.

23          (3) The treatment of section 157.10 of the statutes first applies to burials on the  
24 effective date of this subsection.

