

2001 ASSEMBLY BILL 776

February 7, 2002 – Introduced by Representatives MORRIS-TATUM, YOUNG, COGGS and WILLIAMS, cosponsored by Senators GEORGE, MOORE and DARLING. Referred to Committee on Small Business and Consumer Affairs.

1 **AN ACT** *to repeal* 157.062 (9), 157.065 (1) (b) 4., 157.11 (8), 157.11 (11), 157.115
2 (1) (b) 2., 157.115 (1) (c), 157.62 (1) (a) (intro.), (b) and (c), 157.625, 440.90 (14),
3 440.91 (2) (b) and (c), 440.91 (8), 440.92 (3) (a) 1. and 2., 440.92 (10) and 440.95
4 (4) (a); *to renumber* 157.62 (1) (a) 1., 2., 3., 4. and 5., 157.62 (4), 157.62 (5),
5 440.90 (1), 440.92 (2) (title), 440.92 (2) (b), 440.92 (2) (cm), 440.92 (2) (d), 440.92
6 (2) (e), 440.92 (2) (g) and (h), 440.92 (2) (j), 440.92 (5), 440.92 (6) (b) and (c),
7 440.92 (6) (e) and (f) and 440.947 (1) (c); *to renumber and amend* 157.061 (1),
8 157.08 (2) (b), 157.10, 157.11 (9) (a), 157.115 (1) (b) 1., 157.62 (2) (b) 7., 157.62
9 (6), 440.03 (13), 440.91 (1), 440.91 (7), 440.92 (2) (a), 440.92 (2) (am), 440.92 (2)
10 (c), 440.92 (2) (f), 440.92 (2) (i), 440.92 (2) (k), 440.92 (3) (a) (intro.), 440.92 (6)
11 (title), 440.92 (6) (a), 440.92 (6) (d), 440.92 (6) (g), 440.92 (6) (h), 440.92 (6) (i),
12 440.92 (6) (j), 440.92 (6) (k) and 440.92 (7); *to amend* 15.07 (1) (cm), 15.07 (1)
13 (cs), 15.07 (3) (b), 62.23 (7) (c), 69.18 (1) (bm) (intro.), 69.18 (1) (bm) (intro.),
14 69.22 (1) (a), 157.061 (2m), 157.061 (3), 157.061 (11r), 157.061 (15), 157.061

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1 (17), 157.062 (1), 157.062 (2), 157.062 (3), 157.062 (4) (a), 157.062 (5), 157.062
2 (6) (b), 157.062 (6) (c), 157.064 (2), 157.064 (6), 157.07 (1), 157.07 (5), 157.07 (6),
3 157.08 (1), 157.08 (2) (a), 157.08 (5), 157.10 (title), 157.11 (title), 157.11 (2),
4 157.11 (3), 157.11 (4), 157.11 (5), 157.11 (7) (a), 157.11 (7) (b), 157.11 (7) (c),
5 157.11 (7) (d), 157.11 (9g) (title), 157.11 (9g) (a) 1. (intro.), 157.11 (9g) (a) 1. c.,
6 157.11 (9g) (a) 2., 157.11 (9g) (c), 157.11 (10), 157.115 (title), 157.115 (2) (title),
7 157.115 (2) (a) 1. (intro.), 157.115 (2) (a) 1. a., 157.115 (2) (a) 1. b., 157.115 (2)
8 (a) 1. c., 157.115 (2) (a) 1. d., 157.115 (2) (a) 1. e., 157.115 (2) (a) 1. g., 157.115
9 (2) (a) 2., 157.115 (2) (a) 3., 157.115 (2) (b), 157.115 (2) (c), 157.115 (2) (d) (intro.),
10 157.115 (2) (d) 1., 157.115 (2) (d) 3., 157.115 (2) (e), 157.115 (2) (f), 157.115 (2)
11 (g), 157.115 (2) (h), 157.12 (2) (b), 157.12 (3) (b), 157.125 (title), 157.125 (2),
12 157.128 (2) (a), (b) and (c), 157.128 (3) (b), 157.19 (2) (c), 157.19 (5) (a), 157.60,
13 157.62 (2) (a), 157.62 (2) (b) 1., 157.62 (2) (b) 2., 157.62 (3) (a), 157.62 (3) (b) 3.,
14 157.62 (4) (title), 157.63 (title), 157.63 (1), 157.63 (2) (b), 157.63 (3), 157.63 (4),
15 157.63 (6), 157.635, 157.64 (2) (d), 157.64 (2) (e), 157.65 (1) (a), 157.65 (1) (b),
16 157.65 (2), 423.102, 440.03 (1), 440.03 (3), 440.03 (7m), 440.04 (1), 440.04 (2),
17 440.04 (3), 440.04 (4), 440.04 (5) (intro.), 440.04 (5) (c), 440.045, 440.05 (intro.),
18 440.08 (2) (a) 21., 440.14 (1) (a), 440.14 (2), (3), (4) and (5), 440.22 (1), 440.91 (2)
19 (intro.), 440.91 (4), 440.91 (9), 440.91 (10), 440.92 (1) (a), 440.92 (1) (b) (intro.),
20 440.92 (1) (e), 440.92 (3) (c) (intro.), 440.92 (4) (title), 440.92 (4) (a) (intro.),
21 440.92 (4) (b), 440.92 (9) (title), 440.92 (9) (a), 440.92 (9) (b) 3., 440.92 (9) (c),
22 440.92 (9) (e), 440.92 (9) (f), 440.93 (1) (intro.), 440.93 (1) (b), 440.93 (1) (c),
23 440.93 (1) (d), 440.93 (1) (f), 440.93 (1) (g), 440.93 (2), 440.945 (1) (a), 440.945
24 (2) (a), 440.945 (2) (c), 440.945 (3) (a) (intro.), 440.945 (4) (a) 1., 440.945 (4) (a)
25 2., 440.945 (4) (a) 3., 440.945 (4) (a) 4., 440.945 (5) (a), 440.945 (5) (b), 440.947

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1 (5), 440.95 (1), 440.95 (2), 440.95 (4) (c) and 440.95 (5); **to repeal and recreate**
2 157.11 (9) (title), 440.91 (2) (a), 440.91 (6m) and 440.92 (1) (title); and **to create**
3 15.07 (1) (b) 23., 15.07 (3) (bm) 5., 15.07 (5) (z), 15.405 (3m), 20.165 (1) (q), 25.17
4 (1) (at), 25.86, 60.61 (2) (j), 69.22 (1) (e) and (f), 69.22 (1r), 157.061 (1b), 157.061
5 (1d), 157.061 (1j), 157.061 (1p), 157.061 (3g), 157.061 (3r), 157.061 (8g), 157.061
6 (8r), 157.061 (14m), 157.061 (15m), 157.063, 157.066, 157.08 (2) (b) 1. a., b., c.
7 and d., 157.08 (2) (b) 2., 157.10 (1) (b), 157.10 (4), 157.11 (1m), 157.11 (9) (am),
8 157.115 (1) (d), 157.117, 157.19 (4m), 157.19 (5) (c), 157.61, 157.62 (2) (b) 1m.,
9 157.62 (3) (c), 157.62 (4) (b), 157.62 (5) (a), 157.62 (6) (b), 157.637, 157.64 (2) (h),
10 157.65 (1) (am), 440.03 (13) (b), 440.08 (2) (a) 21m., 440.13 (2) (d), 440.90 (1b),
11 440.90 (1c), 440.90 (1g), 440.90 (1r), 440.90 (3g), 440.90 (3r), 440.90 (4e), 440.90
12 (4m), 440.90 (4r), 440.90 (10m), 440.90 (10r), 440.91 (1) (b), (c), (d) and (e),
13 440.91 (1m), 440.91 (7) (b), 440.92 (1) (bm), 440.922 (1) (title), (4) (title), (5)
14 (title), (6) (title), (8) (title) and (10) (title), 440.926 (1) (title), (2) (title) and (3)
15 (title), 440.928, 440.929, 440.93 (1) (cm), 440.93 (1m), 440.945 (5) (am), 440.948,
16 440.949, 440.95 (1m) and 440.95 (2m) of the statutes; **relating to:** regulating
17 cemeteries, cemetery associations, cemetery authorities, and cemetery
18 salespersons, sales of certain funeral and burial merchandise and services,
19 creating a cemetery board and a cemetery management insurance fund,
20 granting rule-making authority, requiring the exercise of rule-making
21 authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes changes regarding each of the following: 1) the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers; 2) the care of abandoned or neglected cemeteries and mausoleums; 3) reporting and record-keeping requirements applicable to cemetery authorities; 4) care fund

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requirements for cemetery lots; and 5) various other requirements applicable to cemeteries.

Cemetery authorities, cemetery salespersons, and cemetery preneed sellers

Under current law, the department of regulation and licensing (DRL) has various duties regarding the regulation of cemeteries, cemetery salespersons, and cemetery preneed sellers. DRL is also responsible for taking disciplinary action against cemetery authorities, cemetery salespersons, and cemetery preneed sellers who violate certain statutory requirements and rules promulgated by DRL. In addition, with certain exceptions, current law requires cemetery authorities, cemetery salespersons, and cemetery preneed sellers to register with DRL. A “cemetery authority” is a person who owns or operates a cemetery; a “cemetery salesperson” is a person who sells ten or more cemetery lots or mausoleum spaces in a calendar year; and a “cemetery preneed seller” is a person who sells cemetery merchandise and undeveloped mausoleum spaces under preneed contracts. A cemetery authority is exempt from registration under current law if it sells less than ten cemetery lots or mausoleum spaces per year. Also, cemetery salespersons for religious cemeteries do not have to register with DRL and cemetery preneed sellers who work for religious cemeteries do not have to register if the operator of the cemetery files an annual certification with DRL. Other exemptions apply to municipal and nonprofit cemeteries.

This bill creates a cemetery board attached to DRL to investigate and take disciplinary action against cemetery authorities, cemetery salespersons, and preneed sellers. However, the cemetery board has no authority over religious cemeteries, cemetery salespersons who work for religious cemeteries, and cemetery preneed sellers who work for religious cemeteries that file an annual certification with DRL. In addition, the cemetery board does not have any rule-making authority. Instead, the bill allows the cemetery board to comment on any rules that DRL proposes to promulgate regarding cemeteries, cemetery salespersons, or cemetery preneed sellers, except for rules that relate exclusively to religious cemeteries. The cemetery board consists of four business representatives of cemetery authorities, one representative of the department of justice, and two public members. Of the business representative members, one must represent a cemetery authority operated for profit, one must represent a nonprofit cemetery authority, and one must represent a municipal cemetery.

This bill also replaces the registration requirement for cemetery authorities with a licensure requirement. Under the bill, except for a cemetery authority that operates a religious cemetery, a cemetery authority must obtain a separate license from DRL for each cemetery at which it sells 20 or more cemetery lots or other burial spaces in a calendar year or for which it has \$100,000 or more in trust fund accounts. Also, except for a cemetery authority that operates a religious cemetery, a cemetery authority must obtain a license for each cemetery that is five acres or more in size. A cemetery authority that is not required to be licensed under the bill must register with DRL, unless the cemetery authority receives no income, other than gifts, from the sale of lots or services or from trust fund earnings or unless the cemetery authority operates a religious cemetery. There is no exception from the licensure or

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registration requirements for municipal or nonprofit cemeteries. If a cemetery authority licensed under the bill engages in certain transactions regarding changes in ownership or control of the cemetery authority, it must obtain a new license or registration.

The bill also requires cemetery salespersons and preneed sellers to be licensed, rather than registered, by DRL. In addition, the bill requires a person to obtain a cemetery salesperson license if he or she sells 20 or more burial spaces during two calendar years. However, no license is required for a cemetery salesperson who works for a religious cemetery. Also, no license is required for a cemetery preneed seller who works for a religious cemetery if the operator of the cemetery files an annual certification with DRL. Also, the following persons who are exempt from registration under current law must be licensed under the bill: 1) cemetery salespersons who sell cemetery lots or mausoleum spaces in nonreligious cemeteries that are not required to register as cemetery authorities; and 2) preneed sellers for nonprofit cemeteries. However, the bill creates an exception to the requirement to have a cemetery salesperson license for an individual who is supervised by a licensed cemetery salesperson. This exception only applies to individuals who act as cemetery salespersons for cemeteries operated by towns, villages, cities, or fraternal or benevolent societies.

The bill also does each of the following: 1) eliminates references to sale solicitations and applies instead only to actual sales; 2) requires a preneed seller to deposit 40% of each payment of principal received under preneed sales contracts into a preneed trust fund and eliminates the option to deposit a different percentage based on the wholesale cost of the item sold; 3) requires DRL to promulgate rules establishing a code of ethics for operators of licensed cemetery authorities, cemetery salespersons, and cemetery preneed sellers; 4) allows the cemetery board to assess forfeitures against licensed cemetery authorities, cemetery salespersons, and preneed sellers that violate certain requirements and; 5) requires DRL to investigate whether an applicant and specified business associates of the applicant have violated any law relating to the operation or management of a cemetery.

Care of abandoned or neglected cemeteries and mausoleums

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 provides instead that, if a city, village, or town determines that a cemetery authority, including the cemetery authority for a religious cemetery, has failed to care for a cemetery for six months or more, the city, village, or town may notify the cemetery authority that it has 90 days to correct the failure. The city, village, or town may give the cemetery authority one 90-day extension of this deadline. If the city, village, or town finds that the cemetery authority failed to correct the failure within the deadline, the city, village, or town

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may, after a public hearing, take control of the cemetery or any other action necessary to provide for the care of the cemetery. A city, village, or town may collect from the cemetery authority any costs incurred in caring for the cemetery.

The bill also provides for the appointment of trustees for cemeteries and mausoleums, except for religious cemeteries and mausoleums. Under the bill, the circuit court for the county in which a cemetery or mausoleum is located may appoint a person, other than DRL or the cemetery board, as a trustee to operate the cemetery or mausoleum. A trustee may be appointed for a cemetery only if a city, village, or town has not adopted a resolution or enacted an ordinance that has the effect of assuming ownership, control, or management of the cemetery. The attorney general 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 a new owner, other than the state.

The bill requires a trustee that is appointed to operate the cemetery or mausoleum and comply with the reporting requirements that apply to operators of cemeteries under current law as affected by the bill. 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 a new owner, other than the state; 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 also terminate the trusteeship if the court finds that a new owner or operator, other than the state, 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 insurance 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; and 2) a \$1 surcharge on copies of death certificates. DRL is required to promulgate rules that establish procedures and requirements for the cemetery board to make disbursements from the fund to trustees.

Cemetery reports and records

Under current law, with certain exceptions, cemetery authorities must submit annual reports to DRL that include financial and other information. Exempt from such requirements are cemetery authorities with annual operating budgets of \$2,500 or less and certain nonprofit cemetery authorities. In addition, cemetery authorities

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for religious cemeteries may submit an annual certification to DRL, rather than the annual report.

Under this bill, any cemetery authority that is required to be licensed by DRL must submit the annual report. In addition, as under current law, a religious cemetery authority must submit an annual report unless the cemetery authority submits an annual certification to DRL. Also, the bill makes other changes regarding the reports, including the following: 1) the bill allows DRL to promulgate rules establishing minimum standards for certain records used to prepare the reports; 2) the bill eliminates a requirement under current law for certain cemetery associations to submit annual reports to the department of financial institutions; and 3) the bill requires licensed cemetery authorities to maintain records regarding the location of burial spaces.

Care funds and preneed trust funds

The bill also makes changes to current law regarding care funds for cemetery lots and preneed trust funds that are paid to preneed sellers under preneed contracts.

With respect to care funds, the requirements that apply to cemetery lots under current law apply to any burial space under the bill. Also, the bill eliminates the exemption from the requirements under current law that applies to nonprofit cemeteries. However, the bill maintains the exemption under current law that applies to religious cemeteries. In addition, the bill makes other changes, including the following: 1) the bill eliminates the exemption for certain nonprofit cemeteries from the requirement under current law to deposit 15% of each payment of principal on a cemetery lot into a care fund; and 2) the bill requires similar deposits into care funds for sales of lawn crypts or columbarium spaces, in addition to sales of cemetery lots.

The bill also requires DRL to request proposals from financial institutions located in this state for the purpose of selecting a financial institution that cemetery authorities and preneed sellers may use as the trustee for care funds and preneed trust funds. A cemetery authority or preneed seller is not required to use the trustee selected by DRL, unless DRL determines that the cemetery authority or preneed seller has violated any requirement regarding care funds or preneed trust funds.

Other changes

The bill makes other changes to current law regarding cemeteries, including the following:

1. The bill replaces certain references to “cemetery lot” with “burial space” and defines “burial space” as any space used or intended to be used for the burial of human remains, including by entombment, inurnment, interment, or placement in a mausoleum, vault, crypt, or columbarium.

2. The bill requires DRL approval before a cemetery authority may do any of the following: sell or encumber cemetery land; transfer ownership or control of 50% or more of the assets or stock of the cemetery; engage in a transaction that results in a person acquiring ownership or control of 50% or more of the stock of the cemetery; or transfer responsibility for management or operation of the cemetery authority.

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Only religious cemetery authorities and cemetery authorities that are not required to be licensed are exempt from this requirement.

3. The bill allows DRL to apply to a court for an injunction to prohibit a person from acquiring ownership or control of a cemetery, including a religious cemetery, if the person has abandoned another cemetery or has owned or operated another cemetery that is subsequently controlled by a municipality.

4. The bill imposes certain requirements on agreements for purchasing burial spaces from cemetery authorities, other than religious cemetery authorities.

5. The bill requires DRL to promulgate rules for the approval of cemetery merchandise warehouses located in and outside the state. Under current law, authority to approve in-state warehouses rests primarily with the department of agriculture, trade and consumer protection.

6. The bill allows DRL or the cemetery board to require registered or licensed cemetery authorities to conduct independent audits if DRL has cause to believe that the cemetery authority has not complied with certain requirements regarding trust funds and accounts.

7. The bill allows a person to convey an interest in a burial space to a spouse, child, brother, sister, or parent without the consent of a cemetery authority, which is required under current law. However, this provision does not apply if the spouse, child, brother, sister, or parent is in a class whose burial is prohibited in a religious cemetery.

8. The bill creates an exception for religious cemeteries from a current law that provides that the human remains of a husband, wife, or relative of a person with an interest in a burial space may be buried in the space. Under the bill, this provision does not apply if the husband, wife, or relative is in a class whose burial is prohibited in a religious cemetery. Also, the bill clarifies that “relative” includes a brother or sister.

9. The bill requires DRL to promulgate rules interpreting the requirements regarding interests in burial spaces. In addition, DRL must promulgate rules that require a person who transfers an interest in a burial space to provide the transferee with a written notice, prepared by DRL, that describes those requirements.

10. The bill requires a cemetery authority, other than a religious cemetery authority, to maintain a cemetery in a reasonable manner at all times.

11. The bill eliminates a requirement under current law for a cemetery authority to increase its surety bonds to cover gifts that are received and requires instead that a cemetery authority maintain a gift ledger accounting for all receipts and disbursements of gifts.

12. The bill requires a person who provides an outer burial container or casket to a cemetery authority for the burial of human remains to identify the decedent on the exterior of the container or casket. This requirement does not apply to outer burial containers and caskets provided to religious cemetery authorities.

13. The bill allows a city, village, or town to enact and enforce an ordinance that allows a person to bury human remains in a burial space that is not located in a cemetery. If a city, village, or town has not enacted such an ordinance, a person may

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not bury human remains in the city, village, or town in a burial space that is not located in a cemetery.

14. The bill increases the penalty for violating requirements regarding the reburial of human remains to a fine of no more than \$1,000, imprisonment for no more than 90 days, or both. Under current law, the penalty is a forfeiture of no more than \$200.

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

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

1 **SECTION 1.** 15.07 (1) (b) 23. of the statutes is created to read:

2 15.07 (1) (b) 23. Cemetery board.

3 **SECTION 2.** 15.07 (1) (cm) of the statutes is amended to read:

4 15.07 (1) (cm) The term of one member of the ethics board shall expire on each
5 May 1. The terms of 3 members of the development finance board appointed under
6 s. 15.155 (1) (a) 6. shall expire on May 1 of every even-numbered year and the terms
7 of the other 3 members appointed under s. 15.155 (1) (a) 6. shall expire on May 1 of
8 every odd-numbered year. The terms of the 3 members of the land and water
9 conservation board appointed under s. 15.135 (4) (b) 2. shall expire on January 1.
10 The term of the member of the land and water conservation board appointed under
11 s. 15.135 (4) (b) 2m. shall expire on May 1 of an even-numbered year. The terms of
12 members of the real estate board shall expire on July 1. The terms of the appraiser
13 members of the real estate appraisers board and the terms of the auctioneer and
14 auction company representative members of the auctioneer board shall expire on
15 May 1 in an even-numbered year. The terms of the cemetery authority business
16 representative members of the cemetery board shall expire on May 1 in an
17 even-numbered year.

18 **SECTION 3.** 15.07 (1) (cs) of the statutes is amended to read:

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1 15.07 (1) (cs) No member of the auctioneer board, cemetery board, real estate
2 appraisers board, or real estate board may be an officer, director, or employee of a
3 private organization that promotes or furthers any profession or occupation
4 regulated by that board.

5 **SECTION 4.** 15.07 (3) (b) of the statutes is amended to read:

6 15.07 (3) (b) Except as provided in par. (bm), each board not covered under par.
7 (a) shall meet annually, and may meet at other times on the call of the chairperson
8 or a majority of its members. The auctioneer board, the cemetery board, the real
9 estate board, and the real estate appraisers board shall also meet on the call of the
10 secretary of regulation and licensing or his or her designee within the department.

11 **SECTION 5.** 15.07 (3) (bm) 5. of the statutes is created to read:

12 15.07 (3) (bm) 5. The cemetery board shall meet at least 4 times each year.

13 **SECTION 6.** 15.07 (5) (z) of the statutes is created to read:

14 15.07 (5) (z) Members of the cemetery board, \$25 per day.

15 **SECTION 7.** 15.405 (3m) of the statutes is created to read:

16 15.405 (3m) CEMETERY BOARD. (a) In this subsection:

- 17 1. “Business representative” has the meaning given in s. 452.01 (3k).
18 2. “Licensed cemetery authority” has the meaning given in s. 157.061 (8r).
19 3. “Religious cemetery authority” has the meaning given s. 157.061 (15m).

20 (b) There is created a cemetery board, attached to the department of regulation
21 and licensing under s. 15.03, consisting of the following members appointed for
22 4-year terms:

- 23 1. Four members, each of whom is a business representative of a licensed
24 cemetery authority.

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1 2. A representative of the department of justice designated by the attorney
2 general.

3 3. Two public members.

4 (c) Of the members appointed under par. (b) 1., one member shall be a business
5 representative of a licensed cemetery authority organized or conducted for pecuniary
6 profit, one member shall be a business representative of a licensed cemetery
7 authority not organized or conducted for pecuniary profit, one member shall be a
8 business representative of a licensed cemetery authority that is a city, village, town,
9 or county, and no member may be a business representative of a religious cemetery
10 authority.

11 (d) No member of the cemetery board may serve more than 2 terms.

12 **SECTION 8.** 20.165 (1) (q) of the statutes is created to read:

13 20.165 **(1)** (q) *Cemetery and mausoleum trustee disbursements.* From the
14 cemetery management insurance fund, a sum sufficient to make disbursements to
15 trustees under the rules promulgated under s. 157.117 (4) (a).

16 **SECTION 9.** 25.17 (1) (at) of the statutes is created to read:

17 25.17 **(1)** (at) Cemetery management insurance fund (s. 25.86);

18 **SECTION 10.** 25.86 of the statutes is created to read:

19 **25.86 Cemetery management insurance fund.** There is established a
20 separate nonlapsible trust fund designated as the cemetery management insurance
21 fund, to consist of each of the following:

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

23 **(2)** The moneys received from the issuance of copies of death certificates under
24 s. 69.22 (1) (f).

25 **SECTION 11.** 60.61 (2) (j) of the statutes is created to read:

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1 60.61 (2) (j) Authorize burials under s. 157.066.

2 **SECTION 12.** 62.23 (7) (c) of the statutes is amended to read:

3 62.23 (7) (c) *Purposes in view.* Such regulations shall be made in accordance
4 with a comprehensive plan and designed to lessen congestion in the streets; to secure
5 safety from fire, panic and other dangers; to promote health and the general welfare;
6 to provide adequate light and air, including access to sunlight for solar collectors and
7 to wind for wind energy systems; to encourage the protection of groundwater
8 resources; to prevent the overcrowding of land; to avoid undue concentration of
9 population; to facilitate the adequate provision of transportation, water, sewerage,
10 schools, parks and other public requirements; to authorize burials if an ordinance is
11 enacted under s. 157.066; and to preserve burial sites, as defined in s. 157.70 (1) (b).
12 Such regulations shall be made with reasonable consideration, among other things,
13 of the character of the district and its peculiar suitability for particular uses, and
14 with a view to conserving the value of buildings and encouraging the most
15 appropriate use of land throughout such city.

16 **SECTION 13.** 69.18 (1) (bm) (intro.) of the statutes is amended to read:

17 69.18 (1) (bm) (intro.) A person required to file a certificate of death under par.
18 (b) shall obtain the information required for the certificate of death from the next of
19 kin or the best qualified person or source available. The person filing the certificate
20 of death shall enter his or her signature on the certificate and include his or her
21 address and the date of signing and shall present or mail the certificate, within 24
22 hours after being notified of the death, to the physician, coroner or medical examiner
23 responsible for completing and signing the medical certification under sub. (2).
24 Within 2 days after receipt of the medical certification under sub. (2), the person

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1 filing the certificate of death shall mail or present the certificate of death, together
2 with the fee required under s. 69.22 (1) (e), in:

3 **SECTION 14.** 69.18 (1) (bm) (intro.) of the statutes, as affected by 2001 Wisconsin
4 Act 16, is amended to read:

5 69.18 (1) (bm) (intro.) A person required to file a certificate of death under par.
6 (b) shall obtain the information required for the certificate of death from the next of
7 kin or the best qualified person or source available. The person filing the certificate
8 of death shall enter his or her signature on the certificate and include his or her
9 address and the date of signing and shall present or mail the certificate, within 24
10 hours after being notified of the death, to the physician, coroner or medical examiner
11 responsible for completing and signing the medical certification. Within 2 days after
12 receipt of the medical certification, the person filing the certificate of death shall mail
13 or present the certificate of death, together with the fee required under s. 69.22 (1)
14 (e), in:

15 **SECTION 15.** 69.22 (1) (a) of the statutes, as affected by 2001 Wisconsin Act 16,
16 is amended to read:

17 69.22 (1) (a) Except as provided under ~~par.~~ pars. (c) and (f), \$7 for issuing one
18 certified copy of a vital record and \$3 for any additional certified copy of the same
19 vital record issued at the same time.

20 **SECTION 16.** 69.22 (1) (e) and (f) of the statutes are created to read:

21 69.22 (1) (e) Ten dollars for receiving a death certificate filed by a person
22 required to file a certificate of death under s. 69.18 (1) (b), which shall be forwarded
23 to the state treasurer under sub. (1r).

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

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1 **SECTION 17.** 69.22 (1r) of the statutes is created to read:

2 69.22 **(1r)** By the 15th day of the first month following the end of a calendar
3 quarter, the state registrar and any person acting under this subchapter shall
4 forward to the state treasurer the amounts specified in sub. (1) (e) and (f) that are
5 received during the calendar quarter. The state treasurer shall credit all amounts
6 received under this subsection to the cemetery management insurance fund.

7 **SECTION 18.** 157.061 (1) of the statutes is renumbered 157.061 (1c) and
8 amended to read:

9 157.061 **(1c)** “Burial” means entombment, inurnment ~~or~~, interment, or
10 placement in a mausoleum, vault, crypt, or columbarium.

11 **SECTION 19.** 157.061 (1b) of the statutes is created to read:

12 157.061 **(1b)** “Board” means the cemetery board.

13 **SECTION 20.** 157.061 (1d) of the statutes is created to read:

14 157.061 **(1d)** “Burial space” means a space that is used or intended to be used
15 for the burial of human remains and, when used in reference to the sale, purchase,
16 or ownership of a burial space, includes the right to bury human remains in the
17 burial space.

18 **SECTION 21.** 157.061 (1j) of the statutes is created to read:

19 157.061 **(1j)** “Business representative” has the meaning given in s. 452.01 (3k).

20 **SECTION 22.** 157.061 (1p) of the statutes is created to read:

21 157.061 **(1p)** “Cemetery” means a place that is dedicated to and used or
22 intended to be used for the final disposition of human remains.

23 **SECTION 23.** 157.061 (2m) of the statutes is amended to read:

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1 157.061 **(2m)** “Cemetery lot” means a grave or 2 or more contiguous graves and,
2 when used in reference to the sale, purchase or ownership of a cemetery lot, includes
3 the right to bury human remains in that cemetery lot.

4 **SECTION 24.** 157.061 (3) of the statutes is amended to read:

5 157.061 **(3)** “Cemetery merchandise” means goods associated with the burial
6 of human remains, including monuments, markers, nameplates, vases, and urns,
7 and any services that are associated with supplying or delivering those goods or with
8 the burial of human remains and that may be lawfully provided by a cemetery
9 authority, including opening and closing of a burial space. The term does not include
10 caskets or outer burial containers.

11 **SECTION 25.** 157.061 (3g) of the statutes is created to read:

12 157.061 **(3g)** “Columbarium” means a building, structure, or part of a building
13 or structure that is used or intended to be used for the inurnment of cremains.

14 **SECTION 26.** 157.061 (3r) of the statutes is created to read:

15 157.061 **(3r)** “Columbarium space” means a niche, crypt, or specific place in a
16 columbarium that contains or is intended to contain cremains.

17 **SECTION 27.** 157.061 (8g) of the statutes is created to read:

18 157.061 **(8g)** “Lawn crypt” means an interment space in chambers that are
19 preplaced at either a single depth or multiple depths and that are located primarily
20 underground.

21 **SECTION 28.** 157.061 (8r) of the statutes is created to read:

22 157.061 **(8r)** “Licensed cemetery authority” means a cemetery authority that
23 is licensed under s. 440.91 (1).

24 **SECTION 29.** 157.061 (11r) of the statutes is amended to read:

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1 157.061 (11r) “Payment of principal” means the portion of a payment for the
2 purchase of a cemetery lot, cemetery merchandise or a mausoleum burial space that
3 represents the principal amount owed by the purchaser for the ~~cemetery lot,~~
4 cemetery merchandise or ~~mausoleum~~ burial space, and does not include any portion
5 of the payment that represents any taxes, finance or interest charges, or insurance
6 premiums.

7 **SECTION 30.** 157.061 (14m) of the statutes is created to read:

8 157.061 (14m) “Registered cemetery authority” means a cemetery authority
9 that is registered under s. 440.91 (1m).

10 **SECTION 31.** 157.061 (15) of the statutes is amended to read:

11 157.061 (15) “Religious association” means any church, synagogue, or mosque
12 ~~or any, incorporated college of a religious order, or~~ religious society organized under
13 ch. 187.

14 **SECTION 32.** 157.061 (15m) of the statutes is created to read:

15 157.061 (15m) “Religious cemetery authority” means a cemetery authority of
16 a cemetery owned and operated by a religious association.

17 **SECTION 33.** 157.061 (17) of the statutes is amended to read:

18 157.061 (17) “Undeveloped space” means a mausoleum space, columbarium
19 space, or lawn crypt that is not ready for the burial of human remains on the date
20 of the sale of the mausoleum space, columbarium space, or lawn crypt.

21 **SECTION 34.** 157.062 (1) of the statutes is amended to read:

22 157.062 (1) ORGANIZATION. Seven or more residents of the same county may
23 form a cemetery association. They shall meet, select a chairperson and secretary,
24 choose a name, fix the annual meeting date, and elect by ballot not less than 3 nor
25 more than 9 trustees whom the chairperson and secretary shall immediately divide

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1 by lot into 3 classes, who shall hold their offices for 1, 2, and 3 years, respectively.
2 Within 3 days, the chairperson and secretary shall certify the corporate name, the
3 names, home addresses and business addresses of the organizers and of the trustees,
4 and their classification, and the annual meeting date acknowledged by them, and,
5 ~~except as provided in sub. (9),~~ deliver the certification to the department of financial
6 institutions. The association then has the powers of a corporation.

7 **SECTION 35.** 157.062 (2) of the statutes is amended to read:

8 157.062 (2) AMENDMENTS. The association may change its name, the number
9 of trustees or the annual meeting date by resolution at an annual meeting, or special
10 meeting called for such purpose, by a majority vote of the members present, and,
11 ~~except as provided in sub. (9),~~ by delivering to the department of financial
12 institutions a copy of the resolution, with the date of adoption, certified by the
13 president and secretary or corresponding officers.

14 **SECTION 36.** 157.062 (3) of the statutes is amended to read:

15 157.062 (3) VALIDATION. When there shall have been a bona fide attempt to
16 organize a cemetery association, but a failure to record a properly drawn and
17 executed certificate of organization, and it has in good faith bought and platted
18 grounds and conveyed cemetery lots burial spaces and carried on business for over
19 25 years, the same shall be a body corporate from the date of conveyance to it of real
20 estate, and its transfers and other transactions are validated.

21 **SECTION 37.** 157.062 (4) (a) of the statutes is amended to read:

22 157.062 (4) (a) An annual election shall be held during the annual meeting.
23 The annual meeting, and any special meeting described in sub. (2), shall be held at
24 a place in the county chosen by the trustees upon public notice as required by the
25 bylaws. Trustees chosen after the first election shall be proprietors of cemetery lots

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1 burial spaces in the cemetery, residents of the state, and hold office for 3 years.
2 Election shall be by ballot and a plurality shall elect. Each owner of one or more
3 ~~cemetery lots~~ burial spaces is entitled to one vote, and one of several owners of a
4 ~~cemetery lot~~ burial space, designated by the majority of them, shall cast the vote.

5 **SECTION 38.** 157.062 (5) of the statutes is amended to read:

6 157.062 (5) TRUSTEES; DUTIES, REPORT. The trustees may fill vacancies for the
7 unexpired term. One shall be chosen president, and they shall appoint a secretary
8 and treasurer, and may require security of the treasurer. The trustees shall manage
9 the affairs and property of the association and control and beautify the cemetery, and
10 may establish regulations for those purposes. The trustees shall make and file
11 written reports as required in s. 157.62 (1) ~~and~~ (2).

12 **SECTION 39.** 157.062 (6) (b) of the statutes is amended to read:

13 157.062 (6) (b) If an association that has been dissolved under par. (a), or any
14 group that was never properly organized as a cemetery association, has cemetery
15 grounds and human remains are buried in the cemetery grounds, 5 or more
16 members, or persons interested as determined by order of the circuit judge under par.
17 (c), may publish a class 3 notice, under ch. 985, in the municipality in which the
18 cemetery is located, of the time, place, and object of the meeting, assemble, and
19 reorganize by the election of trustees and divide them into classes as provided in sub.
20 (1), the commencement of the terms to be computed from the next annual meeting
21 date. The secretary shall enter the proceedings of the meeting on the records. The
22 association is reorganized upon delivery of a copy of the proceedings to the
23 department of financial institutions, ~~except as provided in sub. (9).~~ Upon
24 reorganization, the title to the cemetery grounds, trust funds, and all other property
25 of the association or group vests in the reorganized association, under the control of

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1 the trustees. The reorganized association may continue the name of the dissolved
2 association or may adopt a new name.

3 **SECTION 40.** 157.062 (6) (c) of the statutes is amended to read:

4 157.062 **(6)** (c) If an association is dissolved under par. (a) or any group has
5 never been properly organized as cemetery association, and there are fewer than 5
6 members living or residing in the county where the cemetery is located, the circuit
7 judge for the county shall upon the petition of any person interested, make an order
8 determining who are persons interested in the cemetery. Any adult person who owns
9 an interest in any ~~cemetery lot~~ burial space in the cemetery, who is related to any
10 person buried in the cemetery, or who is a descendant, brother, sister, nephew, niece,
11 or surviving spouse of a member of the dissolved association, is an interested person.
12 The circuit judge may make the order upon evidence he or she deems sufficient, with
13 or without hearing. The order need not contain the names of all persons interested,
14 but shall contain the names of at least 5 such persons.

15 **SECTION 41.** 157.062 (9) of the statutes is repealed.

16 **SECTION 42.** 157.063 of the statutes is created to read:

17 **157.063 General duties and powers of board. (1)** In addition to the other
18 duties and powers of the board under this subchapter, the board shall do each of the
19 following:

20 (a) Advise the secretary of regulation and licensing on matters relating to
21 cemeteries, to this subchapter or subch. VIII of ch. 440, or to the board.

22 (b) Independently exercise its powers, duties, and functions that are specified
23 in this subchapter and subch. VIII of ch. 440.

24 (c) Be the supervising authority of all personnel, other than shared personnel,
25 engaged in the review, investigation, or handling of information regarding

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1 investigations and disciplinary matters affecting persons who are registered or
2 licensed by the department under subch. VIII of ch. 440, or in the exercise of
3 administrative discretion with regard to the discipline of those persons.

4 (d) Maintain, in conjunction with the board's operations, in central locations
5 designated by the department, all records pertaining to the functions independently
6 retained by the board.

7 (e) Compile and keep current a register of the names and addresses of all
8 persons who are registered or licensed by the department under subch. VIII of ch. 440
9 that is retained by the department and that is available for public inspection during
10 the days specified in s. 230.35 (4) (a). The department may also make the register
11 available to the public by electronic transmission.

12 (2) The board does not have rule-making authority.

13 **SECTION 43.** 157.064 (2) of the statutes is amended to read:

14 157.064 (2) A cemetery or religious association incorporated in this state and
15 having a cemetery in or near a 1st or 2nd class city and any cemetery described under
16 s. 157.065 (3m) (d) may acquire by gift or purchase up to 30 acres of adjoining lands
17 for cemetery purposes, and may pay for it wholly or partly from its ~~cemetery lot~~ burial
18 space sales.

19 **SECTION 44.** 157.064 (6) of the statutes is amended to read:

20 157.064 (6) Whenever the majority of the members of a cemetery association,
21 or of a religious association authorized to hold lands for cemetery purposes, present
22 at an annual meeting or special meeting called for such purpose vote to convey all
23 of the cemetery association's or religious association's cemetery property, trust funds
24 and other property used for cemetery purposes to another cemetery association or
25 religious association, the trustees of the association shall transfer the property upon

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1 the acceptance of the transfer by the other association by affirmative vote of a
2 majority of its members present at an annual meeting or special meeting called for
3 that purpose. Upon such acceptance, the title to the cemetery property, trust funds
4 and other property of the transferring association vests in the accepting association
5 under the control of the trustees of the accepting association. A conveyance under
6 this subsection is subject to s. 157.08 (2). This subsection does not apply to a religious
7 ~~society organized under ch. 187~~ cemetery authority.

8 **SECTION 45.** 157.065 (1) (b) 4. of the statutes is repealed.

9 **SECTION 46.** 157.066 of the statutes is created to read:

10 **157.066 Burial spaces not located in cemeteries. (1)** A city, village, or
11 town may enact and enforce an ordinance that allows a person to bury human
12 remains in a burial space that is not located in a cemetery.

13 **(2)** Unless a city, village, or town has enacted an ordinance under sub. (1), no
14 person may bury human remains in the city, village, or town in a burial space that
15 is not located in a cemetery.

16 **SECTION 47.** 157.07 (1) of the statutes is amended to read:

17 157.07 **(1)** A cemetery authority shall cause to be surveyed and platted by a
18 land surveyor registered in this state those portions of the lands that are ~~from time~~
19 ~~to time required for burial used, after the effective date of this subsection [revisor~~
20 ~~inserts date], for burials, into cemetery lots~~ burial spaces, drives, and walks, and
21 record a plat or map of the land in the office of the register of deeds. The plat or map
22 may not be recorded unless laid out and platted to the satisfaction of the county board
23 of the county, and the town board of the town, in which the land is situated, or, if the
24 land is situated within a 1st class city, then only by the common council of that city.

25 **SECTION 48.** 157.07 (5) of the statutes is amended to read:

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1 157.07 (5) The cemetery authority may vacate or replat any portion of its
2 cemetery upon the filing of a petition with the circuit court describing the portion and
3 setting forth the facts and reasons therefor. The court shall fix a time for hearing and
4 direct publication of a class 3 notice, under ch. 985, and the court shall order a copy
5 of the notice to be mailed to at least one interested person, as to each separate parcel
6 involved, whose post-office address is known or can be ascertained with reasonable
7 diligence, at least 20 days before such hearing. If the court finds that the proposed
8 vacating or replatting is for the best interest of the cemetery authority and that the
9 rights of none to whom cemetery lots burial spaces have been conveyed will be
10 injured, it shall enter an order reciting the jurisdictional facts and its findings and
11 authorizing the vacating or replatting of the lands of the cemetery. The order shall
12 be effective when recorded by the register of deeds.

13 **SECTION 49.** 157.07 (6) of the statutes is amended to read:

14 157.07 (6) This section does not apply to a religious ~~society organized under ch.~~
15 ~~187~~ cemetery authority.

16 **SECTION 50.** 157.08 (1) of the statutes is amended to read:

17 157.08 (1) After the plat or map is recorded under s. 157.07, the cemetery
18 authority may sell and convey ~~cemetery lots~~ burial spaces. Conveyances shall be
19 signed by the chief officer of the cemetery authority, and by the secretary or clerk of
20 the cemetery authority, if any. Before delivering the conveyance to the grantee, the
21 cemetery authority shall enter on records kept for that purpose, the date and
22 consideration and the name and residence of the grantee. The conveyances may be
23 recorded with the register of deeds.

24 **SECTION 51.** 157.08 (2) (a) of the statutes is amended to read:

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1 157.08 (2) (a) If a ~~cemetery lot or mausoleum~~ burial space is sold by a cemetery
2 authority and used or intended to be used for the burial of the human remains of the
3 purchaser or the purchaser's family members, the purchaser's interests in the
4 ownership of, title to, or right to use the ~~cemetery lot or mausoleum~~ burial space are
5 not affected or limited by any claims or liens of other persons against the cemetery
6 authority.

7 **SECTION 52.** 157.08 (2) (b) of the statutes is renumbered 157.08 (2) (b) 1. (intro.)
8 and amended to read:

9 157.08 (2) (b) 1. (intro.) Before a cemetery authority ~~sells or encumbers any~~
10 ~~cemetery land, except for a sale described in par. (a)~~ takes any of the following
11 actions, the cemetery authority shall notify the department in writing ~~of the~~
12 ~~proposed sale or encumbrance.~~

13 3. If within 60 days after the department is notified ~~of the proposed sale or~~
14 ~~encumbrance~~ under subd. 1. the department notifies the cemetery authority in
15 writing that the department objects to the ~~sale or encumbrance~~ proposed action, the
16 cemetery authority may not ~~sell or encumber the cemetery land~~ take the action
17 unless the department subsequently notifies the cemetery authority in writing that
18 the objection is withdrawn.

19 4. The department may object to ~~a sale or encumbrance~~ an action under subd.
20 3. only if it determines that the cemetery authority will not be financially solvent or
21 that the rights and interests of owners of ~~cemetery lots and mausoleum~~ burial spaces
22 will not be adequately protected if the ~~sale or encumbrance occurs~~ action is taken.
23 The department shall promulgate rules that establish requirements and procedures
24 for making a determination under this subdivision.

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1 5. The department may, before the expiration of the 60-day period under subd.
2 3., notify the cemetery authority in writing that the department approves of the sale
3 ~~or encumbrance~~ action. Upon receipt of the department's written approval, the
4 cemetery authority may ~~sell or encumber the cemetery land~~ take the action and is
5 released of any liability under this paragraph.

6 6. The department shall make every effort to make determinations under this
7 paragraph in an expeditious manner.

8 **SECTION 53.** 157.08 (2) (b) 1. a., b., c. and d. of the statutes are created to read:

9 157.08 (2) (b) 1. a. Sells or encumbers any cemetery land, except for a sale
10 described in par. (a).

11 b. Transfers ownership or control of 50% or more of the assets or stock of the
12 cemetery.

13 c. Engages in a transaction that results in a person acquiring ownership or
14 control of 50% or more of the stock of the cemetery.

15 d. Transfers responsibility for management or operation of the cemetery
16 authority.

17 **SECTION 54.** 157.08 (2) (b) 2. of the statutes is created to read:

18 157.08 (2) (b) 2. The department shall promulgate rules that specify the
19 documentation that must be submitted with a notification under subd. 1.

20 **SECTION 55.** 157.08 (5) of the statutes is amended to read:

21 157.08 (5) Subsections (1) and (2) (b) do not apply to a religious society
22 ~~organized under ch. 187, cemetery authority~~ and sub. (2) (b) does not apply to a
23 cemetery authority that is not required to be ~~registered~~ licensed under s. 440.91 (1)
24 ~~and that is not organized or conducted for pecuniary profit.~~

25 **SECTION 56.** 157.10 (title) of the statutes is amended to read:

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1 **157.10** (title) **Alienation and use of cemetery lots burial spaces.**

2 **SECTION 57.** 157.10 of the statutes is renumbered 157.10 (1) (a) and amended
3 to read:

4 157.10 **(1)** (a) ~~While Except as provided in par. (b), while any person is buried~~
5 ~~in a cemetery lot, the cemetery lot burial space, the burial space shall be inalienable,~~
6 ~~without the consent of unless the cemetery authority, and on the consents to a~~
7 ~~conveyance of an interest in the burial space.~~

8 **(2)** ~~Upon the death of the owner of a burial space, ownership of the cemetery~~
9 ~~lot burial space shall descend to the owner's heirs; but and any one or more of such~~
10 ~~heirs may convey to any other heir his or her interest in the cemetery lot. burial~~
11 ~~space.~~

12 **(3)** No human remains may be buried in a cemetery lot burial space except the
13 human remains of one having an interest in the cemetery lot burial space, or a
14 brother, sister, or other relative, or the husband or wife of such person, or his or her
15 brother, sister, or other relative, except by the consent of all persons having an
16 interest in the cemetery lot burial space. This subsection does not apply to the burial
17 of human remains of an individual who is in a class of individuals who are prohibited
18 under regulations adopted by a religious cemetery authority or affiliated religious
19 association from being buried in a cemetery.

20 **SECTION 58.** 157.10 (1) (b) of the statutes is created to read:

21 157.10 **(1)** (b) A person having an interest in a burial space may, after providing
22 written notice to the cemetery authority, convey the interest to his or her spouse,
23 child, brother, sister, or parent without the consent of the cemetery authority. This
24 paragraph does not apply if the spouse, child, brother, sister, or parent is in a class
25 of individuals who are prohibited under regulations adopted by a religious cemetery

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1 authority or affiliated religious association from being buried in the cemetery in
2 which the burial space is located.

3 **SECTION 59.** 157.10 (4) of the statutes is created to read:

4 157.10 (4) The department shall promulgate rules that interpret the
5 requirements of this section and require any person who transfers an interest in a
6 burial space to provide the transferee with a written notice, prepared by the
7 department, that describes the requirements of this section.

8 **SECTION 60.** 157.11 (title) of the statutes is amended to read:

9 **157.11 (title) Improvement and care of cemetery lots burial spaces and**
10 **grounds.**

11 **SECTION 61.** 157.11 (1m) of the statutes is created to read:

12 157.11 (1m) DUTY TO MAINTAIN. A cemetery authority shall maintain a
13 cemetery, including burial spaces, grounds, landscaping, roads, parking lots, fences,
14 buildings, and other structures, in a reasonable manner at all times.

15 **SECTION 62.** 157.11 (2) of the statutes is amended to read:

16 157.11 (2) REGULATIONS. The cemetery authority may make regulations for
17 management and care of the cemetery. No person may plant, in the cemetery, trees
18 or shrubs, nor erect wooden fences or structures or offensive or dangerous structures
19 or monuments, nor maintain them if planted or erected in violation of the
20 regulations. The cemetery authority may require any person owning or controlling
21 a cemetery lot burial space to do anything necessary to comply with the regulations
22 by giving reasonable personal notice in writing if the person is a resident of the state,
23 otherwise by publishing a class 3 notice, under ch. 985, in the county. If the person
24 fails to comply within 20 days thereafter, the cemetery authority may cause it to be
25 done and recover from the person the expense. The cemetery authority may also

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1 impose a forfeiture not exceeding \$10 for violation of the regulations posted in 3
2 conspicuous places in the cemetery, recoverable under ch. 778. Each employee and
3 agent of the cemetery authority shall have constable powers in enforcing the
4 regulations.

5 **SECTION 63.** 157.11 (3) of the statutes is amended to read:

6 157.11 (3) CONTRACTS. The cemetery authority may contract with persons who
7 own or are interested in a ~~cemetery lot~~ burial space for its care. The contract shall
8 be in writing, may provide that the ~~cemetery lot~~ burial space shall be forever exempt
9 from taxes, assessments, or charges for its care and the care and preservation of the
10 grounds, shall express the duty of the cemetery authority, shall be recorded in a book
11 kept for that purpose, and shall be effective when the consideration is paid or
12 secured.

13 **SECTION 64.** 157.11 (4) of the statutes is amended to read:

14 157.11 (4) ASSOCIATIONS OF RELATIVES. Persons owning a ~~cemetery lot~~ burial
15 space or having relatives buried in a cemetery may incorporate an association to hold
16 and occupy a previously constituted cemetery, and to preserve and care for the same.
17 Section 157.062 shall apply to the association. Nothing in this subsection shall give
18 rights of burial. A municipality may lease a municipal cemetery to a cemetery
19 association for preservation and may contract to permit the association to use
20 cemetery funds therefor. Such leases and contracts may be revoked at will by the
21 municipal board.

22 **SECTION 65.** 157.11 (5) of the statutes is amended to read:

23 157.11 (5) SUM REQUIRED. The cemetery authority shall annually fix the sum
24 necessary for the care of ~~cemetery lots~~ burial spaces and care and improvement of
25 the cemetery, or to produce a sufficient income for those purposes.

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1 **SECTION 66.** 157.11 (7) (a) of the statutes is amended to read:

2 157.11 (7) (a) The cemetery authority may annually assess upon the cemetery
3 ~~lots~~ burial spaces amounts not to exceed the amounts reasonably required for actual
4 and necessary costs for cleaning and care of ~~cemetery lots~~ burial spaces and care and
5 improvement of the cemetery. Notice of the assessment, along with a copy of this
6 section, shall be mailed to each owner or person having charge of a ~~cemetery lot~~
7 burial space, at the owner's or person's last-known post-office address, directing
8 payment to the cemetery authority within 30 days and specifying that such
9 assessments are a personal liability of the owner or person.

10 **SECTION 67.** 157.11 (7) (b) of the statutes is amended to read:

11 157.11 (7) (b) The cemetery authority may fix and determine the sum
12 reasonably necessary for the care of the ~~grave or cemetery lot~~ burial space in
13 reasonable and uniform amounts, which amounts shall be subject to the approval of
14 the court, and may collect those amounts as part of the funeral expenses.

15 **SECTION 68.** 157.11 (7) (c) of the statutes is amended to read:

16 157.11 (7) (c) Before ordering distribution of the estate of a deceased person,
17 the court shall order paid any assessment under this section, or the sum so fixed for
18 the care of the ~~cemetery lot or grave~~ burial space of the deceased.

19 **SECTION 69.** 157.11 (7) (d) of the statutes is amended to read:

20 157.11 (7) (d) When uniform care of a ~~cemetery lot~~ burial space has been given
21 for 2 consecutive years or more, for which assessments are unpaid, after notice as
22 provided in sub. (2), right to burial is forfeited until delinquent assessments are paid.
23 When uniform care has been given for 5 consecutive years or more and the
24 assessments are unpaid, upon like notice, title to all unoccupied parts of the ~~cemetery~~
25 lot burial space shall pass to the cemetery authority and may be sold, the payment

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1 of principal to be deposited into the care fund. Before depositing the payment of
2 principal into the care fund, the cemetery authority may retain an amount necessary
3 to cover the cemetery authority's administrative and other expenses related to the
4 sale, but the amount retained may not exceed 50% of the proceeds.

5 **SECTION 70.** 157.11 (8) of the statutes is repealed.

6 **SECTION 71.** 157.11 (9) (title) of the statutes is repealed and recreated to read:

7 157.11 **(9)** (title) GIFTS.

8 **SECTION 72.** 157.11 (9) (a) of the statutes is renumbered 157.11 (9) (b) and
9 amended to read:

10 157.11 **(9)** (b) ~~Before a cemetery authority receives a gift, the surety bonds of~~
11 ~~the cemetery authority shall be increased to cover such amount if it does not then do~~
12 ~~so. If the bonds are not filed, or the~~ If a cemetery authority fails to do anything
13 required by this subsection, the judge may appoint a trustee, and all property and
14 money so given in the manner described under par. (am) and evidences of title and
15 securities shall be delivered to the trustee.

16 **SECTION 73.** 157.11 (9) (am) of the statutes is created to read:

17 157.11 **(9)** (am) If a cemetery authority receives a gift for the improvement,
18 maintenance, repair, preservation, or ornamentation of any burial space or structure
19 in the cemetery, it shall either expend the income and proceeds of the gift or deposit
20 the proceeds into a trust account at a financial institution, as defined in s. 705.01 (3),
21 according to the terms of the gift and regulations of the cemetery authority. A
22 cemetery authority that receives a gift shall maintain a gift ledger that accounts for
23 all receipts and disbursements of gifts.

24 **SECTION 74.** 157.11 (9g) (title) of the statutes is amended to read:

25 157.11 **(9g)** (title) CARE FUND FOR ~~CEMETERY LOTS~~ BURIAL SPACES.

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1 **SECTION 75.** 157.11 (9g) (a) 1. (intro.) of the statutes, as affected by 2001
2 Wisconsin Act (Assembly Bill 513), is amended to read:

3 157.11 **(9g)** (a) 1. (intro.) Except as provided in ss. 66.0603 (1m) (c) and 157.19
4 (5) (b), funds that are received by a cemetery authority for the care of a cemetery lot
5 burial space shall be invested in one or more of the following manners:

6 **SECTION 76.** 157.11 (9g) (a) 1. c. of the statutes is amended to read:

7 157.11 **(9g)** (a) 1. c. If not invested as provided in subd. 1. a. or b., otherwise
8 deposited by the cemetery authority in an investment ~~approved by the department~~
9 if the care funds are segregated and invested separately from all other moneys held
10 by the cemetery authority and if the cemetery authority submits to the department
11 a written statement by an investment advisor licensed under ch. 551, or a broker, as
12 defined in s. 408.102 (1) (c), that the investment is made in accordance with the
13 standards specified in s. 881.01.

14 **SECTION 77.** 157.11 (9g) (a) 2. of the statutes is amended to read:

15 157.11 **(9g)** (a) 2. The manner in which the care funds are invested may not
16 permit the cemetery authority to withdraw the care fund's principal amount, but
17 may permit the withdrawal of interest, dividends, or capital gains earned during the
18 most recently completed calendar year. The income from the investment of a care
19 fund for the care of ~~cemetery lots~~ burial spaces may be used only to maintain the
20 ~~cemetery lots~~ burial spaces and grounds, except that if the amount of income exceeds
21 the amount necessary to maintain the ~~cemetery lots~~ burial spaces or grounds
22 properly, the excess amount may be used to maintain any other portion of the
23 cemetery, including mausoleums. If the care funds are deposited with a city or
24 county, or previously deposited with a village, there shall be paid to the cemetery
25 authority annually interest on funds so deposited of not less than 2% per year. The

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1 governing body of any city or county, or any village or town in the case of previous
2 deposits, may determine to return all or a part of any funds deposited by a cemetery
3 authority, and that cemetery authority shall accept the returned funds within 30
4 days after receiving written notice of that action. If the cemetery authority is
5 dissolved or becomes inoperative, the county or city shall use the interest on the
6 funds for the care and upkeep of the cemetery. Deposit shall be made and the income
7 paid over from time to time, not less frequently than once each year, and receipts in
8 triplicate shall be given, one filed with the county clerk, one with the cemetery
9 authority and one given to the person making the deposit. Deposits shall be in the
10 amount of \$5 or a multiple thereof. Records and receipts shall specify the cemetery
11 lot burial space for the care of which the deposit is made. Reports of money received
12 for care and of money and property received as gifts shall be made annually as
13 provided in s. 157.62 (2).

14 **SECTION 78.** 157.11 (9g) (c) of the statutes is amended to read:

15 157.11 (9g) (c) ~~Except as provided in sub. (11), any~~ Any cemetery authority that
16 sells a cemetery lot, lawn crypt, or columbarium space on or after ~~November 1, 1991~~
17 the effective date of this paragraph [revisor inserts date], shall deposit 15% of each
18 payment of principal into a care fund under par. (a) within 30 days after the last day
19 of the month in which the payment is received, except as provided in sub. (7) (d) and
20 s. 157.115 (2) (f). The total amount deposited must equal 15% of the total amount of
21 all payments of principal that have been received, but not less than \$25.

22 **SECTION 79.** 157.11 (10) of the statutes is amended to read:

23 157.11 (10) EXEMPTION FOR RELIGIOUS SOCIETIES CEMETERY AUTHORITIES.
24 Subsections (1) to (9), (9g) (a) and (b), (9m) and (9r) do not apply, but sub. (9g) (c) does
25 apply, to a religious society ~~organized under ch. 187~~ cemetery authority.

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1 **SECTION 80.** 157.11 (11) of the statutes is repealed.

2 **SECTION 81.** 157.115 (title) of the statutes is amended to read:

3 **157.115** (title) **Abandonment of cemeteries and cemetery lots burial**
4 **spaces.**

5 **SECTION 82.** 157.115 (1) (b) 1. of the statutes is renumbered 157.115 (1) (b) and
6 amended to read:

7 157.115 (1) (b) ~~When a~~ If a municipality in which a cemetery is located
8 determines that the cemetery authority fails ~~has failed~~ to care for the cemetery for
9 a period of one or more years ~~6 months or more,~~ the municipality in which the
10 cemetery is located shall notify the cemetery authority that it has 90 days to correct
11 the failure. Upon a showing of good cause, the municipality may grant the cemetery
12 authority one 90-day extension to correct the failure. If the municipality finds that
13 the cemetery authority has failed to correct the failure within the deadline specified
14 in the notice or extension, the municipality may, after a public hearing, take control
15 of the cemetery, manage and care for the cemetery and, collect and manage all trust
16 funds connected with the cemetery other than trust funds received by a will, or take
17 any other action necessary to provide for the care of the cemetery. The municipality
18 may collect from the cemetery authority any costs incurred by the municipality in
19 exercising its authority under this paragraph.

20 **SECTION 83.** 157.115 (1) (b) 2. of the statutes is repealed.

21 **SECTION 84.** 157.115 (1) (c) of the statutes is repealed.

22 **SECTION 85.** 157.115 (1) (d) of the statutes is created to read:

23 157.115 (1) (d) Upon application by the department, a court may enjoin a
24 person from acquiring ownership or control of a cemetery if the person has

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1 abandoned another cemetery, or has owned or operated another cemetery that is
2 subsequently controlled by a municipality under par. (b).

3 **SECTION 86.** 157.115 (2) (title) of the statutes is amended to read:

4 157.115 (2) (title) ABANDONMENT OF ~~CEMETERY LOTS~~ BURIAL SPACES.

5 **SECTION 87.** 157.115 (2) (a) 1. (intro.) of the statutes is amended to read:

6 157.115 (2) (a) 1. (intro.) “Abandoned ~~lot~~ space” means one or more graves of
7 a cemetery ~~lot~~ burial spaces that is are not owned by the cemetery authority of the
8 cemetery in which the ~~cemetery lot~~ burial spaces are located if those graves burial
9 spaces have not been used for the burial of human remains and if, according to the
10 records of the cemetery authority, all of the following apply during the 50-year period
11 immediately preceding the date on which the notice requirement under par. (c) is
12 satisfied:

13 **SECTION 88.** 157.115 (2) (a) 1. a. of the statutes is amended to read:

14 157.115 (2) (a) 1. a. No owner has transferred any ownership interest in the
15 cemetery ~~lot~~ burial space to any other person.

16 **SECTION 89.** 157.115 (2) (a) 1. b. of the statutes is amended to read:

17 157.115 (2) (a) 1. b. No owner has purchased or sold another cemetery ~~lot~~ or a
18 mausoleum burial space in the cemetery.

19 **SECTION 90.** 157.115 (2) (a) 1. c. of the statutes is amended to read:

20 157.115 (2) (a) 1. c. No other grave in that ~~cemetery lot~~ burial space or adjoining
21 cemetery ~~lot~~ or adjoining mausoleum burial space that is owned or partially owned
22 by an owner has been used for the burial of human remains.

23 **SECTION 91.** 157.115 (2) (a) 1. d. of the statutes is amended to read:

24 157.115 (2) (a) 1. d. No grave marker, monument, or other memorial has been
25 installed on the cemetery ~~lot~~ burial space.

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1 **SECTION 92.** 157.115 (2) (a) 1. e. of the statutes is amended to read:

2 157.115 (2) (a) 1. e. No grave marker, monument, or other memorial has been
3 installed on any other ~~cemetery lot~~ burial space, in the same cemetery, that is owned
4 or partially owned by an owner.

5 **SECTION 93.** 157.115 (2) (a) 1. g. of the statutes is amended to read:

6 157.115 (2) (a) 1. g. The cemetery authority has not been contacted by an owner
7 or assignee or received any other notice or evidence to suggest that an owner or
8 assignee intends to use the ~~cemetery lot~~ burial space for a future burial of human
9 remains.

10 **SECTION 94.** 157.115 (2) (a) 2. of the statutes is amended to read:

11 157.115 (2) (a) 2. “Assignee” means a person who has been assigned in the
12 deceased owner’s will or in any other legally binding written agreement, or who is
13 entitled to receive under ch. 852, an ownership interest in the abandoned ~~cemetery~~
14 lot space.

15 **SECTION 95.** 157.115 (2) (a) 3. of the statutes is amended to read:

16 157.115 (2) (a) 3. “Owner” means a person who, according to the records of the
17 cemetery authority of the cemetery in which an abandoned ~~cemetery lot~~ space is
18 located, owns or partially owns the abandoned ~~cemetery lot~~ space.

19 **SECTION 96.** 157.115 (2) (b) of the statutes is amended to read:

20 157.115 (2) (b) No cemetery authority may resell an abandoned ~~cemetery lot~~
21 space unless the cemetery authority complies with the requirements in this
22 subsection or the abandoned space is sold by a trustee under s. 157.117.

23 **SECTION 97.** 157.115 (2) (c) of the statutes is amended to read:

24 157.115 (2) (c) The cemetery authority shall mail to each owner, at each owner’s
25 last-known address, a notice of the cemetery authority’s intent to resell the

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1 abandoned cemetery ~~lot~~ space as provided in this subsection. If an owner is buried
2 in the cemetery in which the abandoned cemetery ~~lot~~ space is located or if the
3 cemetery authority has any other evidence that reasonably supports a
4 determination by the cemetery authority that the owner is deceased, no notice is
5 required under this paragraph.

6 **SECTION 98.** 157.115 (2) (d) (intro.) of the statutes is amended to read:

7 157.115 (2) (d) (intro.) If no notice is required under par. (c) or if, within 60 days
8 after notice is mailed under par. (c), no owner or assignee contacts the cemetery
9 authority to express an intent to use the abandoned cemetery ~~lot~~ space for a future
10 burial of human remains, the cemetery authority shall publish in a newspaper of
11 general circulation in the county in which the abandoned ~~lot~~ space is located, a class
12 3 notice under ch. 985 that includes all of the following:

13 **SECTION 99.** 157.115 (2) (d) 1. of the statutes is amended to read:

14 157.115 (2) (d) 1. The location of the abandoned ~~lot~~ space.

15 **SECTION 100.** 157.115 (2) (d) 3. of the statutes is amended to read:

16 157.115 (2) (d) 3. A statement that, unless an owner or assignee contacts the
17 cemetery authority within the period specified in par. (e), the cemetery authority
18 intends to resell the abandoned ~~lot~~ space as provided in this subsection.

19 **SECTION 101.** 157.115 (2) (e) of the statutes is amended to read:

20 157.115 (2) (e) If within 60 days after notice is published under par. (c) no owner
21 or assignee contacts the cemetery authority to express an intent to use the
22 abandoned ~~lot~~ space for a future burial of human remains, the cemetery authority
23 shall bring an action in the circuit court of the county in which the abandoned ~~lot~~
24 space is located for a judgment that the cemetery ~~lot~~ burial space is an abandoned

ASSEMBLY BILL 776**SECTION 101**

1 lot space and an order transferring ownership of the abandoned lot space to the
2 cemetery authority.

3 **SECTION 102.** 157.115 (2) (f) of the statutes is amended to read:

4 157.115 (2) (f) If within one year after the circuit court enters a judgment and
5 order under par. (e) no owner or assignee contacts the cemetery authority to express
6 an intent to use the abandoned lot space for a future burial of human remains, the
7 cemetery authority may resell the abandoned lot space, except as provided in par. (g).
8 The payment of principal shall be deposited into the care fund. Before depositing the
9 payment of principal into the care fund, the cemetery authority may retain an
10 amount necessary to cover the cemetery authority's administrative and other
11 expenses related to the sale, but the amount retained may not exceed 50% of the
12 proceeds.

13 **SECTION 103.** 157.115 (2) (g) of the statutes is amended to read:

14 157.115 (2) (g) If at any time before an abandoned lot space is resold under par.
15 (f) an owner or assignee contacts the cemetery authority to express an intent to use
16 the abandoned lot space for a future burial of human remains, the authority may not
17 resell the abandoned lot space, and ownership of the abandoned lot space shall be
18 transferred to the owner or assignee. The cemetery authority shall pay all costs of
19 transferring ownership under this paragraph.

20 **SECTION 104.** 157.115 (2) (h) of the statutes is amended to read:

21 157.115 (2) (h) Nothing in this subsection prohibits a cemetery authority from
22 seeking the authority to resell more than one abandoned lot space by publishing a
23 single class 3 notice under par. (d) or bringing a single action under par. (e) that
24 applies to all of the abandoned lots spaces for which such authority is sought.

25 **SECTION 105.** 157.117 of the statutes is created to read:

ASSEMBLY BILL 776**157.117 Trustees for certain cemeteries and mausoleums. (1)**

DEFINITIONS. In this section:

(a) “Cemetery” does not include a cemetery the ownership, control, or management of which has been assumed by a municipality. For purposes of this paragraph, a municipality is considered to have assumed the ownership, control, or management of a cemetery only if the municipality has adopted a resolution or enacted an ordinance that has the effect of assuming ownership, control, or management of the cemetery. “Cemetery” also does not include a cemetery owned and operated by a religious cemetery authority.

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

(c) “Mausoleum” does not include a mausoleum owned and operated by a religious cemetery authority.

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

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

(2) APPOINTMENT OF TRUSTEE. (a) In response to a petition from the board or upon his or her own motion, the attorney general may petition the circuit court for the county in which a cemetery or mausoleum is located for the appointment of a trustee for the cemetery or mausoleum. If the attorney general petitions the court on his or her own motion, the attorney general shall serve a copy of the petition on the board and the municipality and county within which the cemetery is located.

(b) A court shall schedule a hearing on a petition filed under par. (a) within 90 days after the petition is filed with the court. If the court finds after a hearing that a cemetery or mausoleum is neglected, abandoned, in disuse, improperly maintained, or financially unsound, the court shall appoint as a trustee for the cemetery or mausoleum a capable and competent person to serve as trustee of the

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1 cemetery or mausoleum under this section, except that the court may not appoint the
2 department or board as a trustee.

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

17 2. Comply with reporting requirements of s. 157.62 (2). A trustee shall provide
18 the court with a copy of all reports filed under this subdivision.

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

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

23 1. Termination of the trusteeship and reversion of ownership and operation of
24 a cemetery or mausoleum to the previous owner.

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1 2. Termination of the trusteeship and transfer of ownership and operation of
2 a cemetery or mausoleum to a new owner other than the state.

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

5 4. Termination of the trusteeship and closure of a cemetery or mausoleum after
6 removal and reinternment of human remains under subd. 3.

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

8 1. Seek a new owner or operator of a cemetery or mausoleum, other than the
9 state, including actively marketing the cemetery or mausoleum and taking any other
10 action necessary or useful to effect the sale of the cemetery or mausoleum.

11 2. Assess burial spaces for cleaning, care, or improvement under s. 157.11 (7).

12 3. Expend funds disbursed from the cemetery management insurance fund for
13 the purpose of exercising its powers or carrying out its duties under this section.

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

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

19 **(4) DEPARTMENT AND BOARD POWERS AND DUTIES.** (a) From the appropriation
20 under s. 20.165 (1) (q), the board shall make disbursements to trustees. The
21 department shall promulgate rules establishing requirements and procedures for
22 making the disbursements.

23 (b) The department may promulgate rules to carry out the purposes of this
24 section.

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

3 (a) The owner or operator of a cemetery or mausoleum demonstrates to the
4 satisfaction of the court that the conditions that necessitated the trusteeship have
5 been remedied and that it is competent and capable of managing the cemetery or
6 mausoleum.

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

11 (c) The court approves the sale or transfer of a cemetery or mausoleum to a new
12 owner, other than the state, that the court finds is capable and competent to manage
13 the cemetery or mausoleum on a financially sound basis.

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

16 **SECTION 106.** 157.12 (2) (b) of the statutes is amended to read:

17 157.12 **(2)** (b) The department shall supervise construction of any public
18 mausoleum and conversion of any building to a public mausoleum. Within 30 days
19 after receiving written notice from the cemetery authority that the construction or
20 conversion has been completed, the department shall inspect the public mausoleum
21 and provide the cemetery authority with a written certification as to whether the
22 construction or conversion complies with approved plans. If the department
23 determines that, except for certain minor defects, the construction or conversion
24 complies with the approved plans, the department may provide the cemetery
25 authority with a written temporary certification of compliance that is contingent on

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1 the correction of those minor defects. A temporary certification is valid for a period
2 designated by the department, not to exceed 6 months. No person may sell a
3 mausoleum space, except an undeveloped space that is sold in accordance with s. ss.
4 440.92 and 440.922, or bury human remains in a public mausoleum unless a care
5 fund has been established for the mausoleum under sub. (3) and the department has
6 provided the cemetery authority with a certification or a temporary certification
7 under this paragraph. If a cemetery authority that has been provided with a
8 temporary certification notifies the department in writing before the date on which
9 the temporary certification expires that the defects in the construction or conversion
10 of the public mausoleum have been corrected, the department shall, within 30 days
11 after receiving the notice, reinspect the public mausoleum and provide the cemetery
12 authority with a written certification as to whether the construction or conversion
13 complies with the approved plans. If a cemetery authority that has been provided
14 with a temporary certification does not receive a written certification from the
15 department before the date on which the temporary certification expires that the
16 construction or conversion complies with the approved plans, then, beginning on the
17 date on which the certification expires, no person may sell a mausoleum space, except
18 an undeveloped space that is sold in accordance with s. ss. 440.92 and 440.922, or
19 bury human remains in the public mausoleum until the defects are corrected and the
20 department subsequently inspects the public mausoleum and provides the cemetery
21 authority with a certification that the construction or conversion complies with the
22 approved plans. The department may charge a reasonable fee to the cemetery
23 authority for each inspection and certification provided under this paragraph if the
24 inspection and certification are provided within the applicable 30-day period
25 prescribed under this paragraph.

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1 **SECTION 107.** 157.12 (3) (b) of the statutes is amended to read:

2 157.12 **(3)** (b) The cemetery's treasurer is the custodian of the fund. The
3 treasurer shall file with the cemetery, at the cemetery's expense, a bond with sureties
4 approved by the department of regulation and licensing to indemnify the cemetery
5 against loss if the treasurer fails to maintain the fund. The amount of the bond shall
6 be no less than the total of all payments of principal required under this section as
7 stated in the most recent annual report filed by the cemetery authority under s.
8 157.62. No indemnity is required if the terms of sale of a mausoleum space require
9 the purchaser to pay directly to a trust company in the state, designated by the
10 cemetery as custodian of the fund. The fund shall be invested as provided in s.
11 157.19, and the manner in which the care funds are invested may not permit the
12 withdrawal of the fund's principal amount, but may permit the withdrawal of
13 interest, dividends, or capital gains earned during the most recently completed
14 calendar year. Income from investment may be used only to maintain the
15 mausoleum, except that if the amount of income exceeds the amount necessary to
16 properly maintain the mausoleum the excess amount may be used to maintain any
17 portion of the cemetery.

18 **SECTION 108.** 157.125 (title) of the statutes is amended to read:

19 **157.125** (title) **Trustees for the care of cemeteries or cemetery lots**
20 **burial spaces.**

21 **SECTION 109.** 157.125 (2) of the statutes is amended to read:

22 157.125 **(2)** If the burial place or grave is located in a cemetery owned and
23 operated by a religious society ~~organized under ch. 187 cemetery authority~~, the court
24 shall name the religious society cemetery authority as the trustee unless the

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1 religious ~~society~~ cemetery authority petitions the court to name the county treasurer
2 as the trustee.

3 **SECTION 110.** 157.128 (2) (a), (b) and (c) of the statutes are amended to read:

4 157.128 **(2)** (a) The cemetery is owned by a religious ~~association~~ cemetery
5 authority.

6 (b) The religious ~~association~~ cemetery authority is responsible for all liabilities
7 of the cemetery.

8 (c) The total acreage of all other cemeteries owned by the religious ~~association~~
9 cemetery authority exceeds 20 acres.

10 **SECTION 111.** 157.128 (3) (b) of the statutes is amended to read:

11 157.128 **(3)** (b) A cemetery consisting of less than 20 contiguous acres may be
12 dedicated by a cemetery authority that is not required to be ~~registered~~ licensed under
13 s. 440.91 (1) ~~and that is not organized or conducted for pecuniary profit.~~

14 **SECTION 112.** 157.19 (2) (c) of the statutes is amended to read:

15 157.19 **(2)** (c) Upon request of the financial institution, the preneed seller, as
16 defined in s. 440.90 (8), shall furnish the financial institution with a copy of the
17 preneed sales contract. Except as provided in s. ~~440.92 (2) (c), (f) and (j) and (5) ss.~~
18 440.922 (3), (5) (c), and (8), and 440.924, preneed trust funds, and any interest or
19 dividends that have accumulated on the preneed trust funds, may not be withdrawn
20 until all obligations under the preneed sales contract have been fulfilled. The
21 financial institution is not responsible for the fulfillment of any part of the preneed
22 sales contract, except that the financial institution shall release the preneed trust
23 funds, and any interest or dividends that have accumulated on the preneed trust
24 funds, as provided by the terms of the preneed sales contract. The trustee of a
25 preneed trust fund may not be changed without the department's written approval.

ASSEMBLY BILL 776**SECTION 112**

1 If the trustee or account number of a preneed trust fund is changed, the cemetery
2 authority shall notify the department in writing within 30 days after the change.

3 **SECTION 113.** 157.19 (4m) of the statutes is created to read:

4 157.19 (4m) The department shall request proposals from financial
5 institutions located in this state for the purpose of selecting a financial institution
6 that cemetery authorities and preneed sellers may use as the trustee for care funds
7 under s. 157.11 (9g) and 157.12 (3) and preneed trust funds under s. 440.92. Except
8 as provided in sub. (5) (c), a cemetery authority or preneed seller is not required to
9 use the financial institution selected by the department. The financial institution
10 selected under this subsection shall submit an annual report to the department, in
11 a form and manner satisfactory to the department, that provides an accounting of
12 all care funds and preneed trust funds for which the financial institution is the
13 trustee.

14 **SECTION 114.** 157.19 (5) (a) of the statutes is amended to read:

15 157.19 (5) (a) This section does not apply to care funds under s. 157.11 (9g) that
16 are deposited with a city or county as provided under s. 157.11 (9g) (a), to care funds
17 of a cemetery for which a certification under s. 157.63 is effective, or to preneed trust
18 funds of a cemetery for which a certification under s. 440.92 (9) is effective, ~~or to care~~
19 ~~funds or preneed trust funds of a cemetery authority that is not required to be~~
20 ~~registered under s. 440.91 (1) and that is not organized or conducted for pecuniary~~
21 profit.

22 **SECTION 115.** 157.19 (5) (c) of the statutes is created to read:

23 157.19 (5) (c) If the department determines that a cemetery authority or
24 preneed seller has violated any requirement under this subchapter or subch. VIII of
25 ch. 440 relating to care funds under s. 157.11 (9g) and 157.12 (3) or preneed trust

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1 funds under s. 440.92, the department may require the cemetery authority or
2 preneed seller to use the financial institution selected under sub. (4m) as the trustee
3 for the care funds or preneed trust funds.

4 **SECTION 116.** 157.60 of the statutes is amended to read:

5 **157.60 Public easement in cemetery.** Any person who shall open or make
6 any highway, town way, or private way or shall construct any railroad, turnpike, or
7 canal or anything in the nature of a public easement over, through, in, or upon such
8 part of any enclosure, being the property of any town, city, village, or religious society
9 cemetery authority or of private proprietors, as may be used for the burial of the dead,
10 unless an authority for that purpose shall be specially granted by law or unless the
11 consent of such town, city, village, religious society cemetery authority, or private
12 proprietors, respectively, shall be first obtained, shall be punished by imprisonment
13 in the county jail not more than one year or by fine not exceeding \$300.

14 **SECTION 117.** 157.61 of the statutes is created to read:

15 **157.61 Identification of human remains.** A person may not provide an
16 outer burial container or, if an outer burial container is not used, a casket, to a
17 cemetery authority, other than a religious cemetery authority, for the burial of
18 human remains, unless the person identifies the decedent by name on the exterior
19 of the outer burial container or casket.

20 **SECTION 118.** 157.62 (1) (a) (intro.), (b) and (c) of the statutes are repealed.

21 **SECTION 119.** 157.62 (1) (a) 1., 2., 3., 4. and 5. of the statutes are renumbered
22 157.62 (2) (b) 7. a., b., c., d. and e.

23 **SECTION 120.** 157.62 (2) (a) of the statutes is amended to read:

24 157.62 (2) (a) ~~Except as provided in ss. 157.625 and 157.63 (1), every~~ Every
25 cemetery authority that is licensed under s. 440.91 (1) and, except as provided in s.

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1 157.63 (1), every cemetery authority that is a religious cemetery authority shall file
2 an annual report with the department. The report shall be made on a form
3 prescribed and furnished by the department. The report shall be made on a
4 calendar-year basis unless the department, by rule, provides for other reporting
5 periods. The report is due on the 60th day after the last day of the reporting period.

6 **SECTION 121.** 157.62 (2) (b) 1. of the statutes is amended to read:

7 157.62 (2) (b) 1. A copy of any report required under ~~sub. (1) (a) or s. 180.1622~~
8 or 181.1622.

9 **SECTION 122.** 157.62 (2) (b) 1m. of the statutes is created to read:

10 157.62 (2) (b) 1m. The percentage of burial spaces at the cemetery that are
11 available for sale.

12 **SECTION 123.** 157.62 (2) (b) 2. of the statutes is amended to read:

13 157.62 (2) (b) 2. If the cemetery authority is required to file a report under s.
14 180.1622 or 181.1622, the information specified in ~~sub. (1) (a) 3~~ subd. 7. c.

15 **SECTION 124.** 157.62 (2) (b) 7. of the statutes is renumbered 157.62 (2) (b) 7.
16 (intro.) and amended to read:

17 157.62 (2) (b) 7. (intro.) ~~The information specified in sub. (1) (a), to the extent~~
18 ~~applicable, if~~ If the cemetery is not required to file a report under sub. (1) (a) or s.
19 180.1622 or 181.1622, authority is a cemetery association, all of the following:

20 **SECTION 125.** 157.62 (3) (a) of the statutes is amended to read:

21 157.62 (3) (a) Every cemetery authority shall keep a copy of the report required
22 under sub. (2) (a) at its principal place of business and, except for those records
23 relating to accountings of trust funds described under sub. (2) (b) 3. to 7., shall make
24 the report available for inspection, upon reasonable notice, by any person with an

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1 interest in a cemetery ~~lot or a mausoleum~~ burial space in a cemetery owned or
2 operated by the cemetery authority.

3 **SECTION 126.** 157.62 (3) (b) 3. of the statutes is amended to read:

4 157.62 **(3)** (b) 3. A copy of each contract for the sale of a cemetery ~~lot,~~
5 ~~mausoleum~~ burial space or cemetery merchandise.

6 **SECTION 127.** 157.62 (3) (c) of the statutes is created to read:

7 157.62 **(3)** (c) Every cemetery licensed under s. 440.91 (1) shall maintain
8 records identifying the section, lot, and site of each burial space and showing the
9 location of each burial space on a map.

10 **SECTION 128.** 157.62 (4) (title) of the statutes is amended to read:

11 157.62 **(4)** (title) RECORDS MAINTENANCE; INSPECTION.

12 **SECTION 129.** 157.62 (4) of the statutes is renumbered 157.62 (4) (a).

13 **SECTION 130.** 157.62 (4) (b) of the statutes is created to read:

14 157.62 **(4)** (b) A cemetery authority shall, upon reasonable notice, make the
15 records and contract copies under sub. (3) (b) available for inspection and copying by
16 the board.

17 **SECTION 131.** 157.62 (5) of the statutes is renumbered 157.62 (5) (b).

18 **SECTION 132.** 157.62 (5) (a) of the statutes is created to read:

19 157.62 **(5)** (a) The department may promulgate rules establishing minimum
20 standards for the format and maintenance of records required under this section.

21 **SECTION 133.** 157.62 (6) of the statutes is renumbered 157.62 (6) (a) and
22 amended to read:

23 157.62 **(6)** (a) Except as provided in ss. ~~157.625,~~ 157.63 (5) and 440.92 (9) (e),
24 the department may audit, at reasonable times and frequency, the records, trust
25 funds, and accounts of any registered cemetery authority and shall audit the records.

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

7 **SECTION 134.** 157.62 (6) (b) of the statutes is created to read:

8 157.62 **(6)** (b) If the department or board has cause to believe that a licensed
9 or registered cemetery authority has not complied with the requirements of this
10 subchapter or subch. VIII of ch. 440 pertaining to trust funds and accounts, the
11 department or board may require the cemetery authority to submit an audit
12 conducted at the cemetery authority's expense by an independent certified public
13 accountant in accordance with generally accepted auditing standards.

14 **SECTION 135.** 157.625 of the statutes is repealed.

15 **SECTION 136.** 157.63 (title) of the statutes is amended to read:

16 **157.63 (title) Reporting and auditing exemptions; certification of**
17 **compliance of religious cemetery ~~affiliated with religious society~~**
18 **authority.**

19 **SECTION 137.** 157.63 (1) of the statutes is amended to read:

20 157.63 **(1)** In lieu of filing an annual report under s. 157.62 (2), a religious
21 cemetery authority ~~of a cemetery that is affiliated with a religious society organized~~
22 ~~under ch. 187 or that religious society~~ or the church, synagogue, mosque,
23 incorporated college of a religious order, or religious society organized under ch. 187
24 that is affiliated with a religious cemetery authority may file an annual certification
25 with the department as provided in this section.

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1 **SECTION 138.** 157.63 (2) (b) of the statutes is amended to read:

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

7 **SECTION 139.** 157.63 (3) of the statutes is amended to read:

8 157.63 **(3)** If the statement under sub. (2) (b) includes a statement of
9 substantial compliance, the statement under sub. (2) (b) must also specify those
10 instances when the cemetery or religious cemetery authority did not fully comply
11 with s. 157.11 (9g) or 157.12 (3).

12 **SECTION 140.** 157.63 (4) of the statutes is amended to read:

13 157.63 **(4)** A certification under this section is effective for the 12-month period
14 immediately following the reporting period under s. 157.62 (2) for which the religious
15 cemetery authority is certified under this section to have fully or substantially
16 complied with ss. 157.11 (9g) and 157.12 (3).

17 **SECTION 141.** 157.63 (6) of the statutes is amended to read:

18 157.63 **(6)** The church, synagogue, mosque, incorporated college of a religious
19 order, or religious society that is affiliated with a cemetery to which a certification
20 under this section applies is liable for the damages of any person that result from the
21 failure of the cemetery or religious cemetery authority to fully comply with s. 157.11
22 (9g) or 157.12 (3) during the reporting period under s. 157.62 (2) for which such
23 compliance has been certified under this section.

24 **SECTION 142.** 157.635 of the statutes is amended to read:

ASSEMBLY BILL 776**SECTION 142**

1 **157.635 Regulations of religious cemetery ~~affiliated with religious~~**
2 **society authorities.** Nothing in this subchapter prohibits a religious cemetery
3 authority of a cemetery that is ~~affiliated with a religious society organized under ch.~~
4 ~~187~~ from prohibiting the burial of the human remains of an individual in the
5 cemetery if the individual was in a class of individuals who are prohibited from being
6 buried in the cemetery under regulations adopted by the religious cemetery
7 authority or church, synagogue, mosque, incorporated college of a religious order, or
8 religious society from being buried in the cemetery that is affiliated with the religious
9 cemetery authority.

10 **SECTION 143.** 157.637 of the statutes is created to read:

11 **157.637 Rules; review of rules. (1)** Before submitting to the legislative
12 council staff under s. 227.15 any proposed rules relating to cemeteries or to the board,
13 except for rules relating exclusively to religious cemetery authorities, the
14 department shall submit the proposed rules to the board for comment. The board
15 shall have 30 days to submit comments on the proposed rules to the secretary of
16 regulation and licensing.

17 **(2)** When promulgating emergency rules under s. 227.24 relating to cemeteries
18 or to the board, except for rules relating exclusively to religious cemetery authorities,
19 the department shall provide a copy of the rules to the board prior to publication of
20 the rules in the official state newspaper.

21 **(3)** The chairperson of the board, or his or her designee from the board, may
22 cochair with the secretary of regulation and licensing, or the secretary's designee,
23 any public hearing held by the department on proposed rules relating to cemeteries
24 or to the board other than rules relating exclusively to religious cemetery authorities.

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1 **(4)** The department shall submit to the board a copy of the report required
2 under s. 227.19 (2) on any proposed final rules relating to cemeteries or to the board
3 other than rules relating exclusively to religious cemetery authorities. The board
4 may prepare a dissenting report stating its recommendations on the proposed final
5 rules. Any dissenting report shall be prepared within 10 days from the date of receipt
6 of the department's report, attached to the department's report and sent to the
7 presiding officer of each house of the legislature and distributed under s. 227.19 (2).
8 The department shall publish a statement to appear in the Wisconsin administrative
9 register indicating that a dissenting report of the board has been submitted to the
10 presiding officer of each house of the legislature.

11 **(5)** The department shall provide staff to assist the board in the review of
12 administrative rules and preparation of comments or dissenting reports.

13 **SECTION 144.** 157.64 (2) (d) of the statutes is amended to read:

14 157.64 **(2)** (d) Fails to file a report or files an incomplete, false, or misleading
15 report under s. 157.62 (1) ~~or~~ (2).

16 **SECTION 145.** 157.64 (2) (e) of the statutes is amended to read:

17 157.64 **(2)** (e) Fails to maintain records as required in s. 157.62 (3) and (4) (a).

18 **SECTION 146.** 157.64 (2) (h) of the statutes is created to read:

19 157.64 **(2)** (h) Violates s. 157.112.

20 **SECTION 147.** 157.65 (1) (a) of the statutes is amended to read:

21 157.65 **(1)** (a) If the ~~department of regulation and licensing board~~ board has reason
22 to believe that any person, other than a religious cemetery authority, is violating or
23 has violated this subchapter or any rule promulgated under this subchapter and that
24 the continuation of that activity might cause injury to the public interest, the
25 ~~department of regulation and licensing may~~ board shall investigate.

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1 **SECTION 148.** 157.65 (1) (am) of the statutes is created to read:

2 157.65 (1) (am) If the department of regulation and licensing has reason to
3 believe that a religious cemetery authority is violating or has violated this
4 subchapter or any rule promulgated under this subchapter and that the continuation
5 of that activity might cause injury to the public interest, the department of
6 regulation and licensing may investigate.

7 **SECTION 149.** 157.65 (1) (b) of the statutes is amended to read:

8 157.65 (1) (b) If the department of commerce has reason to believe that any
9 person is violating s. 157.12 or any rule promulgated under s. 157.12 and that the
10 continuation of that activity might cause injury to the public interest, the
11 department of commerce ~~may~~ shall investigate.

12 **SECTION 150.** 157.65 (2) of the statutes is amended to read:

13 157.65 (2) The department of justice or any district attorney, upon informing
14 the department of justice, may commence an action in circuit court in the name of
15 the state to restrain by temporary or permanent injunction any violation of this
16 subchapter. The court may, prior to entry of final judgment, make such orders or
17 judgments as may be necessary to restore to any person any pecuniary loss suffered
18 because of the acts or practices involved in the action, if proof of such loss is submitted
19 to the satisfaction of the court. The department of justice may subpoena persons and
20 require the production of books and other documents, and may request the board, the
21 department of regulation and licensing, or the department of commerce to exercise
22 its authority under sub. (1) to aid in the investigation of alleged violations of this
23 subchapter.

24 **SECTION 151.** 423.102 of the statutes is amended to read:

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1 **423.102 Scope.** This chapter applies to all consumer transactions, except that
2 subch. II does not apply to cemetery preneed sales under s. ss. 440.92 and 440.922.

3 **SECTION 152.** 440.03 (1) of the statutes is amended to read:

4 440.03 (1) The department may promulgate rules defining uniform procedures
5 to be used by the department, the cemetery board, the real estate board, the real
6 estate appraisers board, and all examining boards and affiliated credentialing
7 boards attached to the department or an examining board, for receiving, filing, and
8 investigating complaints, for commencing disciplinary proceedings and for
9 conducting hearings.

10 **SECTION 153.** 440.03 (3) of the statutes is amended to read:

11 440.03 (3) If the secretary reorganizes the department, no modification may
12 be made in the powers and responsibilities of the examining boards ~~or~~, affiliated
13 credentialing boards, or other boards attached to the department or an examining
14 board under s. 15.03, 15.405, or 15.406.

15 **SECTION 154.** 440.03 (7m) of the statutes is amended to read:

16 440.03 (7m) The department may promulgate rules that establish procedures
17 for submitting an application for a credential or credential renewal by electronic
18 transmission. Any rules promulgated under this subsection shall specify procedures
19 for complying with any requirement that a fee be submitted with the application.
20 The rules may also waive any requirement in chs. 440 to 480 that an application
21 submitted to the department, an examining board or an affiliated credentialing
22 board be executed, verified, certified, signed, sworn, or made under oath,
23 notwithstanding ss. 440.26 (2) (b), 440.42 (2) (intro.), 440.91 (2) (intro.), 443.06 (1)
24 (a), 443.10 (2) (a), 445.04 (2), 445.08 (4), 445.095 (1) (a), 448.05 (7), 450.09 (1) (a),
25 452.10 (1), and 480.08 (2m).

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1 **SECTION 155.** 440.03 (13) of the statutes is renumbered 440.03 (13) (a) and
2 amended to read:

3 440.03 (13) (a) ~~The Except as provided in par. (b), the~~ department may conduct
4 an investigation to determine whether an applicant for a credential issued under chs.
5 440 to 480 satisfies any of the eligibility requirements specified for the credential,
6 including whether the applicant does not have an arrest or conviction record.

7 (c) In conducting an investigation under ~~this subsection~~ par. (a) or (b), the
8 department may require an applicant to provide any information that is necessary
9 for the investigation or, for the purpose of obtaining information related to an arrest
10 or conviction record of an applicant, to complete forms provided by the department
11 of justice or the federal bureau of investigation. The department shall charge the
12 applicant any fees, costs, or other expenses incurred in conducting the investigation
13 under ~~this subsection~~ par. (a) or (b).

14 **SECTION 156.** 440.03 (13) (b) of the statutes is created to read:

15 440.03 (13) (b) Before granting a credential to a cemetery authority, cemetery
16 salesperson, or preneed seller, or renewing such a credential, the department shall
17 conduct an investigation to determine whether a person specified in s. 440.93 (1)
18 (intro.) has been convicted of an offense specified in s. 440.93 (1) (d).

19 **SECTION 157.** 440.04 (1) of the statutes is amended to read:

20 440.04 (1) Centralize, at the capital and in such district offices as the
21 operations of the department and the attached boards, examining boards, and
22 affiliated credentialing boards require, the routine housekeeping functions required
23 by the department, the boards, the examining boards, and the affiliated
24 credentialing boards.

25 **SECTION 158.** 440.04 (2) of the statutes is amended to read:

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1 440.04 (2) Provide the bookkeeping, payroll, accounting, and personnel
2 advisory services required by the department and the legal services, except for
3 representation in court proceedings and the preparation of formal legal opinions,
4 required by the attached boards, examining boards, and affiliated credentialing
5 boards.

6 **SECTION 159.** 440.04 (3) of the statutes is amended to read:

7 440.04 (3) Control the allocation, disbursement, and budgeting of the funds
8 received by the boards, examining boards, and affiliated credentialing boards in
9 connection with their credentialing and, regulation, or other functions.

10 **SECTION 160.** 440.04 (4) of the statutes is amended to read:

11 440.04 (4) Employ, assign, and reassign such staff as are required by the
12 department and the attached boards, examining boards, and affiliated credentialing
13 boards in the performance of their functions.

14 **SECTION 161.** 440.04 (5) (intro.) of the statutes is amended to read:

15 440.04 (5) (intro.) With the advice of the boards, examining boards, or affiliated
16 credentialing boards:

17 **SECTION 162.** 440.04 (5) (c) of the statutes is amended to read:

18 440.04 (5) (c) Provide such other services as the boards, examining boards, or
19 affiliated credentialing boards request.

20 **SECTION 163.** 440.045 of the statutes is amended to read:

21 **440.045 Disputes.** Any dispute between a board in the department, an
22 examining board, or an affiliated credentialing board and the secretary shall be
23 arbitrated by the governor or the governor's designee after consultation with the
24 disputants.

ASSEMBLY BILL 776**SECTION 164**

1 **SECTION 164.** 440.05 (intro.) of the statutes, as affected by 2001 Wisconsin Act
2 16, is amended to read:

3 **440.05 Standard fees.** (intro.) The following standard fees apply to all initial
4 credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 440.91 (1m) (a),
5 444.03, 444.05, 444.11, 447.04 (2) (c) 2., 449.17, 449.18 and 459.46:

6 **SECTION 165.** 440.08 (2) (a) 21. of the statutes is amended to read:

7 440.08 (2) (a) 21. Cemetery authority, licensed: January 1 of each
8 odd-numbered year; \$343.

9 **SECTION 166.** 440.08 (2) (a) 21m. of the statutes is created to read:

10 440.08 (2) (a) 21m. Cemetery authority, registered: January 1 of each
11 odd-numbered year; \$5.

12 **SECTION 167.** 440.13 (2) (d) of the statutes is created to read:

13 440.13 (2) (d) With respect to a credential granted by the department under
14 subch. VIII of ch. 440, the cemetery board shall restrict, limit, or suspend the
15 credential when directed to do so by the department.

16 **SECTION 168.** 440.14 (1) (a) of the statutes is amended to read:

17 440.14 (1) (a) “List” means information compiled or maintained by the
18 department ~~or~~, a credentialing board, or another board in the department that
19 contains the personal identifiers of 10 or more individuals.

20 **SECTION 169.** 440.14 (2), (3), (4) and (5) of the statutes are amended to read:

21 440.14 (2) If a form that the department ~~or~~, a credentialing board, or another
22 board in the department requires an individual to complete in order to apply for a
23 credential or credential renewal or to obtain a product or service from the
24 department ~~or the~~, credentialing board, or other board requires the individual to
25 provide any of the individual’s personal identifiers, the form shall include a place for

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1 the individual to declare that the individual's personal identifiers obtained by the
2 department ~~or the~~, credentialing board, or other board from the information on the
3 form may not be disclosed on any list that the department ~~or the~~, credentialing board,
4 or other board furnishes to another person.

5 (3) If the department ~~or~~, a credentialing board, or another board in the
6 department requires an individual to provide, by telephone or other electronic
7 means, any of the individual's personal identifiers in order to apply for a credential
8 or credential renewal or to obtain a product or service from the department ~~or a~~,
9 credentialing board, or other board, the department ~~or the~~, credentialing board, or
10 other board shall ask the individual at the time that the individual provides the
11 information if the individual wants to declare that the individual's personal
12 identifiers obtained by telephone or other electronic means may not be disclosed on
13 any list that the department ~~or the~~, credentialing board, or other board furnishes to
14 another person.

15 (4) The department ~~or~~, a credentialing board, or another board in the
16 department shall provide to an individual upon request a form that includes a place
17 for the individual to declare that the individual's personal identifiers obtained by the
18 department ~~or~~, credentialing board, or other board may not be disclosed on any list
19 that the department ~~or~~, credentialing board, or other board furnishes to another
20 person.

21 (5) (a) The department ~~or~~, a credentialing board, or another board in the
22 department may not disclose on any list that it furnishes to another person a
23 personal identifier of any individual who has made a declaration under sub. (2), (3),
24 or (4).

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1 (b) Paragraph (a) does not apply to a list that the department or a credentialing
2 board, or another board in the department furnishes to another state agency, a law
3 enforcement agency, or a federal governmental agency. A state agency that receives
4 a list from the department or a credentialing board, or another board in the
5 department containing a personal identifier of any individual who has made a
6 declaration under sub. (2), (3), or (4) may not disclose the personal identifier to any
7 person other than a state agency, a law enforcement agency, or a federal
8 governmental agency.

9 **SECTION 170.** 440.22 (1) of the statutes is amended to read:

10 **440.22 Assessment of costs. (1)** In this section, “costs of the proceeding”
11 means the compensation and reasonable expenses of hearing examiners and of
12 prosecuting attorneys for the department, examining board or affiliated
13 credentialing board, or other board in the department, a reasonable disbursement
14 for the service of process or other papers, amounts actually paid out for certified
15 copies of records in any public office, postage, telephoning, adverse examinations and
16 depositions and copies, expert witness fees, witness fees and expenses, compensation
17 and reasonable expenses of experts and investigators, and compensation and
18 expenses of a reporter for recording and transcribing testimony.

19 **SECTION 171.** 440.90 (1) of the statutes is renumbered 440.90 (1d).

20 **SECTION 172.** 440.90 (1b) of the statutes is created to read:

21 440.90 (1b) “Board” means the cemetery board.

22 **SECTION 173.** 440.90 (1c) of the statutes is created to read:

23 440.90 (1c) “Burial space” has the meaning given in s. 157.061 (1d).

24 **SECTION 174.** 440.90 (1g) of the statutes is created to read:

25 440.90 (1g) “Business entity” has the meaning given in s. 452.01 (3j).

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- 1 **SECTION 175.** 440.90 (1r) of the statutes is created to read:
2 440.90 (1r) “Business representative” has the meaning given in s. 452.01 (3k).
- 3 **SECTION 176.** 440.90 (3g) of the statutes is created to read:
4 440.90 (3g) “Columbarium” has the meaning given in s. 157.061 (3g).
- 5 **SECTION 177.** 440.90 (3r) of the statutes is created to read:
6 440.90 (3r) “Columbarium space” has the meaning given in s. 157.061 (3r).
- 7 **SECTION 178.** 440.90 (4e) of the statutes is created to read:
8 440.90 (4e) “Lawn crypt” has the meaning given in s. 157.061 (8g).
- 9 **SECTION 179.** 440.90 (4m) of the statutes is created to read:
10 440.90 (4m) “Licensed cemetery authority” means a cemetery authority that
11 is licensed under s. 440.91 (1).
- 12 **SECTION 180.** 440.90 (4r) of the statutes is created to read:
13 440.90 (4r) “Licensee” means a person licensed under this subchapter.
- 14 **SECTION 181.** 440.90 (10m) of the statutes is created to read:
15 440.90 (10m) “Registrant” means a person registered under this subchapter.
- 16 **SECTION 182.** 440.90 (10r) of the statutes is created to read:
17 440.90 (10r) “Religious cemetery authority” has the meaning given in s.
18 157.061 (15m).
- 19 **SECTION 183.** 440.90 (14) of the statutes is repealed.
- 20 **SECTION 184.** 440.91 (1) of the statutes is renumbered 440.91 (1) (a) and
21 amended to read:
22 440.91 (1) (a) Except as provided in sub. (6m), every cemetery authority that
23 operates a cemetery that is 5 acres or more in size, that sells or solicits the sale of a
24 total of 10 20 or more cemetery lots or mausoleum burial spaces at a cemetery during
25 a calendar year and that pays any commission or other compensation to any person

ASSEMBLY BILL 776**SECTION 184**

1 ~~for selling or soliciting the sale of its cemetery lots or mausoleum spaces shall register~~
2 ~~with, or that has \$100,000 or more in trust fund accounts for a cemetery shall apply~~
3 ~~to the department. The registration shall be in writing and shall include the names~~
4 ~~of the officers of the cemetery authority for a license for that cemetery. A cemetery~~
5 ~~authority that operates more than one cemetery shall apply for a separate license for~~
6 ~~each cemetery that is 5 acres or more in size and for each cemetery, at which it sells~~
7 ~~20 or more burial spaces or at which it has \$100,000 or more in trust fund accounts.~~

8 **SECTION 185.** 440.91 (1) (b), (c), (d) and (e) of the statutes are created to read:

9 440.91 (1) (b) Except as provided in s. 440.93 (1), the department shall grant
10 a license to a cemetery authority if all of the following are satisfied:

11 1. The cemetery authority submits an application for the license to the
12 department on a form provided by the department. The application shall require the
13 cemetery authority to provide the names of the officers of the cemetery authority and
14 to identify a business representative who is primarily responsible for the cemetery
15 authority's compliance with subch. II of ch. 157 and this subchapter.

16 2. The cemetery authority pays the fee specified in s. 440.05 (1) and any fees,
17 costs, or expenses charged by the department under s. 440.03 (13) (c).

18 (c) A licensed cemetery authority shall notify the department if it designates
19 a substitute business representative to take the place of a business representative
20 identified under par. (b) 1.

21 (d) If a licensed cemetery authority notifies the department under s. 157.08 (2)
22 (b) 1. (intro.) that it proposes to take an action specified in s. 157.08 (2) (b) 1. b. or c.
23 and the department does not object to the action under s. 157.08 (2) (b) 3., the
24 department shall revoke the license granted under par. (b) and require the licensed
25 cemetery authority to reapply for a license under par. (b).

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1 (e) 1. The renewal dates and renewal fees for licenses granted under par. (b)
2 are specified in s. 440.08 (2) (a), except that a licensed cemetery authority is not
3 required to renew its license if the cemetery authority sells less than 10 burial spaces
4 during a period of 2 consecutive calendar years.

5 2. A licensed cemetery authority that is not required to renew its license under
6 subd. 1. shall renew the license if, during a period of 2 consecutive calendar years
7 that is subsequent to the period specified in subd. 1., the cemetery authority sells 10
8 or more burial spaces.

9 **SECTION 186.** 440.91 (1m) of the statutes is created to read:

10 440.91 **(1m)** (a) Except as provided in par. (c) and sub. (6m), a cemetery
11 authority that operates a cemetery for which a license is not required under sub. (1)
12 shall register the cemetery with the department by paying a \$5 registration fee and
13 submitting an application on a form provided by the department that requires the
14 applicant to provide the names of the officers of the cemetery authority and any other
15 information that the department may require. A cemetery authority that operates
16 more than one cemetery for which a license is not required under sub. (1) shall pay
17 a separate registration fee and submit a separate application for each cemetery.

18 (b) The renewal dates and renewal fees for registrations under par. (a) are
19 specified in s. 440.08 (2) (a).

20 (c) A cemetery authority is not required to register under par. (a) if it receives
21 no income, other than gifts, from the sale of lots or services or from trust fund
22 earnings.

23 **SECTION 187.** 440.91 (2) (intro.) of the statutes is amended to read:

24 440.91 **(2)** (intro.) Except as provided in subs. (7) and (10), every ~~individual who~~
25 person that sells or solicits the sale of, or ~~who that~~ that expects to sell or solicit the sale

ASSEMBLY BILL 776**SECTION 187**

1 of, a total of ~~10~~ 20 or more cemetery lots or mausoleum burial spaces during ~~a~~ 2
2 calendar year years shall register with be licensed by the department. ~~An individual~~
3 A person may not be ~~registered~~ licensed as a cemetery salesperson except upon the
4 written request of a cemetery authority and the payment of the fee specified in s.
5 440.05 (1). The cemetery authority shall certify in writing to the department that
6 the ~~individual person~~ person is competent to act as a cemetery salesperson. ~~Within 10 days~~
7 ~~after the certification of any cemetery salesperson, the cemetery salesperson shall~~
8 ~~verify and~~ An applicant for licensure as a cemetery salesperson shall furnish to the
9 department, in such form as the department prescribes, all of the following
10 information:

11 **SECTION 188.** 440.91 (2) (a) of the statutes is repealed and recreated to read:

12 440.91 (2) (a) The name and address of the applicant and, if the applicant is
13 a business entity, the name and address of each business representative.

14 **SECTION 189.** 440.91 (2) (b) and (c) of the statutes are repealed.

15 **SECTION 190.** 440.91 (4) of the statutes is amended to read:

16 440.91 (4) Renewal applications shall be submitted to the department on a
17 form provided by the department on or before the applicable renewal date specified
18 under s. 440.08 (2) (a) and shall include the applicable renewal fee specified under
19 s. 440.08 (2) (a). An applicant for renewal of a cemetery salesperson license shall
20 identify each individual that is exempt from licensure under sub. (7) and that the
21 applicant has supervised during the prior 2 years.

22 **SECTION 191.** 440.91 (6m) of the statutes is repealed and recreated to read:

23 440.91 (6m) A religious cemetery authority is not required to be licensed under
24 sub. (1) or registered under sub. (1m).

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1 **SECTION 192.** 440.91 (7) of the statutes is renumbered 440.91 (7) (a) and
2 amended to read:

3 440.91 (7) (a) An individual who solicits the sale of cemetery lots or mausoleum
4 spaces in a cemetery organized, maintained, and operated by a town, village, or city,
5 church, ~~synagogue or mosque, religious, or~~ fraternal or benevolent society ~~or~~
6 ~~incorporated college of a religious order~~ is not required to be registered licensed
7 under sub. (2) if the individual is supervised by a cemetery salesperson licensed
8 under sub. (2).

9 **SECTION 193.** 440.91 (7) (b) of the statutes is created to read:

10 440.91 (7) (b) An individual who solicits the sale of cemetery lots or mausoleum
11 spaces in a cemetery owned and operated by a religious cemetery authority is not
12 required to be licensed under sub. (2).

13 **SECTION 194.** 440.91 (8) of the statutes is repealed.

14 **SECTION 195.** 440.91 (9) of the statutes is amended to read:

15 440.91 (9) No cemetery authority or cemetery salesperson registered licensed
16 under sub. (1) or (2) may pay a fee or commission as compensation for a referral or
17 as a finder's fee relating to the sale of ~~a cemetery lot, cemetery merchandise or~~
18 ~~mausoleum~~ a burial space to any person who is not registered licensed under sub. (1)
19 or (2) or who is not regularly and lawfully engaged in the sale of ~~cemetery lots,~~
20 cemetery merchandise or ~~mausoleum~~ burial spaces in another state or territory of
21 the United States or a foreign country.

22 **SECTION 196.** 440.91 (10) of the statutes is amended to read:

23 440.91 (10) Nothing in this section requires an individual who is registered
24 licensed as a preneed seller under s. 440.92 (1) to be ~~registered~~ licensed as a cemetery

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1 salesperson under sub. (2) if the individual only sells or solicits the sale of cemetery
2 merchandise or undeveloped spaces under preneed sales contracts.

3 **SECTION 197.** 440.92 (1) (title) of the statutes is repealed and recreated to read:

4 440.92 (1) (title) LICENSURE.

5 **SECTION 198.** 440.92 (1) (a) of the statutes is amended to read:

6 440.92 (1) (a) Except as provided in subs. (4), and (9) (a) ~~and (10)~~, every
7 individual who sells or solicits the sale of cemetery merchandise or an undeveloped
8 space under a preneed sales contract ~~and, if the~~ is required to be licensed under this
9 subsection and, if applicable, comply with the requirements under s. 445.125. If such
10 an individual is employed by or acting as an agent for a cemetery authority or any
11 other person, that cemetery authority or other person is also required to be ~~registered~~
12 licensed under this subsection.

13 **SECTION 199.** 440.92 (1) (b) (intro.) of the statutes is amended to read:

14 440.92 (1) (b) (intro.) The department shall issue a certificate of ~~registration~~
15 licensure as a cemetery preneed seller to any person who does all of the following:

16 **SECTION 200.** 440.92 (1) (bm) of the statutes is created to read:

17 440.92 (1) (bm) If a cemetery authority that is registered under this subsection
18 notifies the department under s. 157.08 (2) (b) 1. (intro.) that it proposes to take an
19 action specified in s. 157.08 (2) (b) 1. b. or c. and the department does not object to
20 the action under s. 157.08 (2) (b) 3., the department shall revoke the registration and
21 require the cemetery authority to reapply for a registration under this subsection.

22 **SECTION 201.** 440.92 (1) (e) of the statutes is amended to read:

23 440.92 (1) (e) Nothing in this subsection requires an individual who is
24 ~~registered~~ licensed as a cemetery salesperson under s. 440.91 (2) to be ~~registered~~

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1 licensed under this subsection if the individual does not conduct or solicit any sale
2 under a preneed sales contract.

3 **SECTION 202.** 440.92 (2) (title) of the statutes is renumbered 440.922 (title).

4 **SECTION 203.** 440.92 (2) (a) of the statutes is renumbered 440.922 (1) (a), and
5 440.922 (1) (a) 2., 3., 3g. and 4. (intro.), as renumbered, are amended to read:

6 440.922 (1) (a) 2. By affixing the cemetery merchandise to the ~~cemetery lot or~~
7 ~~mausoleum~~ burial space.

8 3. By storing the cemetery merchandise in a warehouse that is located on the
9 property of the preneed seller if the preneed seller insures the cemetery merchandise
10 and the preneed sales contract requires the preneed seller to ultimately affix the
11 cemetery merchandise to the ~~cemetery lot or mausoleum~~ burial space without
12 additional charge.

13 3g. By storing the cemetery merchandise anywhere on the property of the
14 preneed seller if the property of the preneed seller is located in this state, the preneed
15 seller insures the cemetery merchandise and the preneed sales contract requires the
16 preneed seller to ultimately affix the cemetery merchandise to a ~~cemetery lot~~ burial
17 space, to the outside of or the grounds surrounding a mausoleum or columbarium or
18 to any other outdoor location without additional charge.

19 4. (intro.) By having the cemetery merchandise stored in a warehouse that is
20 not located on the property of the preneed seller if the warehouse has agreed to ship
21 the cemetery merchandise to the preneed seller, purchaser, or beneficiary named in
22 the preneed sales contract without additional charge to the purchaser and the
23 preneed sales contract requires that the cemetery merchandise ultimately be affixed
24 to the ~~cemetery lot or mausoleum~~ burial space without additional charge. If the
25 cemetery merchandise is delivered under this subdivision, all of the following apply:

ASSEMBLY BILL 776**SECTION 204**

1 **SECTION 204.** 440.92 (2) (am) of the statutes is renumbered 440.922 (2) and
2 amended to read:

3 440.922 (2) AFFIXTURE OF CEMETERY MERCHANDISE. If a preneed sales contract
4 for the sale of cemetery merchandise requires the preneed seller to ultimately affix
5 the cemetery merchandise to a ~~cemetery lot, mausoleum~~ burial space or other
6 location but the purchaser has not informed the preneed seller of the location where
7 the cemetery merchandise is to be affixed and the location where the cemetery
8 merchandise is to be affixed is not specified in the preneed sales contract, the preneed
9 sales contract may provide that the preneed seller may charge the purchaser an
10 additional fee at the time that the cemetery merchandise is affixed not to exceed the
11 additional costs to the preneed seller that are necessitated by the purchaser's choice
12 of location.

13 **SECTION 205.** 440.92 (2) (b) of the statutes is renumbered 440.922 (1) (b).

14 **SECTION 206.** 440.92 (2) (c) of the statutes is renumbered 440.922 (3) and
15 amended to read:

16 440.922 (3) VOIDING OF CONTRACTS. Except as provided in ~~par. (cm)~~ sub. (4), a
17 preneed sales contract shall provide that if the purchaser voids the preneed sales
18 contract at any time within 10 days after the date of the initial payment the preneed
19 seller shall, within 30 days after the date on which the preneed sales contract is
20 voided, refund all money paid by the purchaser for cemetery merchandise that has
21 not been supplied or delivered and for the mausoleum space.

22 **SECTION 207.** 440.92 (2) (cm) of the statutes is renumbered 440.922 (4).

23 **SECTION 208.** 440.92 (2) (d) of the statutes is renumbered 440.922 (5) (a).

24 **SECTION 209.** 440.92 (2) (e) of the statutes is renumbered 440.922 (5) (b).

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1 **SECTION 210.** 440.92 (2) (f) of the statutes is renumbered 440.922 (5) (c) and
2 amended to read:

3 440.922 (5) (c) If a preneed sales contract is voided under par. (e) (b), the
4 preneed seller shall, within 30 days after the date on which the preneed sales
5 contract is voided, refund all money paid by the purchaser, together with interest
6 calculated at the legal rate of interest as provided under s. 138.04.

7 **SECTION 211.** 440.92 (2) (g) and (h) of the statutes are renumbered 440.922 (6)
8 and (10).

9 **SECTION 212.** 440.92 (2) (i) of the statutes is renumbered 440.922 (7) and
10 amended to read:

11 440.922 (7) TRUSTING REQUIREMENTS. If a preneed sales contract includes
12 provisions for the sale of cemetery merchandise or an undeveloped space that is
13 subject to the trusting requirements under ~~sub. s. 440.92~~ (3) (a) and (b) and for the
14 sale of other goods or services that are not subject to the trusting requirements under
15 ~~sub. s. 440.92~~ (3) (a) and (b), the sale price of the goods or services that are not subject
16 to the trusting requirements may not be inflated for the purpose of allocating a lower
17 sale price to the cemetery merchandise or undeveloped space that is subject to the
18 trusting requirements.

19 **SECTION 213.** 440.92 (2) (j) of the statutes is renumbered 440.922 (8).

20 **SECTION 214.** 440.92 (2) (k) of the statutes is renumbered 440.922 (9) and
21 amended to read:

22 440.922 (9) NOTICE OF RIGHTS. A preneed sales contract shall include the
23 following language in not less than 10–point boldface type: “SECTION ~~440.92 (2)~~
24 440.922 OF THE WISCONSIN STATUTES SPECIFIES THE RIGHTS OF THE
25 PURCHASER UNDER THIS CONTRACT. DEPENDING ON THE

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1 CIRCUMSTANCES, THESE MAY INCLUDE THE RIGHT TO VOID THE
2 CONTRACT AND RECEIVE A REFUND OR THE RIGHT TO ASSIGN AN
3 INTEREST IN THE CONTRACT TO ANOTHER PERSON.”

4 **SECTION 215.** 440.92 (3) (a) (intro.) of the statutes is renumbered 440.92 (3) (a)
5 and amended to read:

6 440.92 (3) (a) A preneed seller shall deposit into a preneed trust fund an
7 amount equal to at least 40% of each payment of principal that is received from the
8 sale of cemetery merchandise under a preneed sales contract, ~~or the wholesale cost~~
9 ~~ratio for the cemetery merchandise multiplied by the amount of the payment of~~
10 ~~principal that is received, whichever is greater.~~ In addition to the amount required
11 to be deposited under this paragraph for the sale of cemetery merchandise and except
12 as provided in par. (c), if a preneed seller receives payment for the sale of an
13 undeveloped space under a preneed sales contract, the preneed seller shall deposit
14 ~~a percentage~~ at least 40% of each payment of principal that is received from the sale
15 of the undeveloped space into a preneed trust fund, ~~determined as follows:~~

16 **SECTION 216.** 440.92 (3) (a) 1. and 2. of the statutes are repealed.

17 **SECTION 217.** 440.92 (3) (c) (intro.) of the statutes is amended to read:

18 440.92 (3) (c) (intro.) A preneed seller is not required to make the deposits
19 required under par. (a) ~~1. and 2.~~ for payments for sales of undeveloped spaces under
20 preneed contracts if any of the following applies:

21 **SECTION 218.** 440.92 (4) (title) of the statutes is amended to read:

22 440.92 (4) (title) EXCEPTIONS TO REGISTRATION LICENSURE REQUIREMENT.

23 **SECTION 219.** 440.92 (4) (a) (intro.) of the statutes is amended to read:

24 440.92 (4) (a) (intro.) Any person who sells or solicits the sale of cemetery
25 merchandise under a preneed sales contract is not required to be registered licensed

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1 under sub. (1) and the requirements of sub. (3) (a) and (b) do not apply to the sale if
2 all payments received under the preneed sales contract are trusted as required under
3 s. 445.125 (1) (a) 1. or if all of the following conditions are met:

4 **SECTION 220.** 440.92 (4) (b) of the statutes is amended to read:

5 440.92 (4) (b) If any preneed seller who is not registered licensed under sub.
6 (1) accepts a payment under a preneed sales contract and the merchandise is not
7 delivered within 180 days after the date of the sale, the preneed seller shall
8 immediately notify the purchaser that the purchaser is entitled to a refund of all
9 money paid by the purchaser, together with interest calculated at the legal rate of
10 interest as provided under s. 138.04, at any time before the merchandise is delivered.

11 **SECTION 221.** 440.92 (5) of the statutes is renumbered 440.924.

12 **SECTION 222.** 440.92 (6) (title) of the statutes is renumbered 440.926 (title) and
13 amended to read:

14 **440.926** (title) **Reporting; Preneed seller reporting and record keeping;**
15 **audits.**

16 **SECTION 223.** 440.92 (6) (a) of the statutes is renumbered 440.926 (1) (a) and
17 amended to read:

18 440.926 (1) (a) Every preneed seller registered licensed under sub. s. 440.92
19 (1) shall file an annual report with the department. The report shall be made on a
20 form prescribed and furnished by the department. The report shall be made on a
21 calendar-year basis unless the department, by rule, provides for other reporting
22 periods. The report is due on or before the 60th day after the last day of the reporting
23 period.

24 **SECTION 224.** 440.92 (6) (b) and (c) of the statutes are renumbered 440.926 (1)
25 (b) and (c).

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1 **SECTION 225.** 440.92 (6) (d) of the statutes is renumbered 440.926 (2) (c) and
2 amended to read:

3 440.926 (2) (c) All records described under ~~pars. sub. (1) (b) 2. and (c)~~ and
4 maintained by the department are confidential and are not available for inspection
5 or copying under s. 19.35 (1). This paragraph does not apply to any information
6 regarding the name, address, or employer of or financial information related to an
7 individual that is requested under s. 49.22 (2m) by the department of workforce
8 development or a county child support agency under s. 59.53 (5).

9 **SECTION 226.** 440.92 (6) (e) and (f) of the statutes are renumbered 440.926 (1)
10 (d) and (e).

11 **SECTION 227.** 440.92 (6) (g) of the statutes is renumbered 440.926 (2) (a), and
12 440.926 (2) (a) 1. and 2., as renumbered, are amended to read:

13 440.926 (2) (a) 1. The records needed to prepare the reports required under ~~par.~~
14 sub. (1) (a).

15 2. Records that show, for each deposit in a trust fund or account specified in
16 ~~pars. sub. (1) (b) 2. and (c)~~, the name of the purchaser or beneficiary of the preneed
17 sales contract relating to the deposit and the item purchased.

18 **SECTION 228.** 440.92 (6) (h) of the statutes is renumbered 440.926 (2) (b) and
19 amended to read:

20 440.926 (2) (b) The records under ~~par. sub. (1) (b) 1.~~ shall be permanently
21 maintained by the preneed seller. The records under ~~par. sub. (1) (b) 2.~~ shall be
22 maintained for not less than 3 years after all of the obligations of the preneed sales
23 contract have been fulfilled. The department may promulgate rules to establish
24 longer time periods for maintaining records under this paragraph.

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1 **SECTION 229.** 440.92 (6) (i) of the statutes is renumbered 440.926 (3) (a) and
2 amended to read:

3 440.926 (3) (a) The department may promulgate rules requiring preneed
4 sellers registered licensed under ~~sub. s. 440.92~~ (1) to maintain other records and
5 establishing minimum time periods for the maintenance of those records.

6 **SECTION 230.** 440.92 (6) (j) of the statutes is renumbered 440.926 (4) and
7 amended to read:

8 440.926 (4) AUDITS. The department may audit, at reasonable times and
9 frequency, the records, trust funds, and accounts of any preneed seller registered
10 licensed under ~~sub. s. 440.92~~ (1), including records, trust funds, and accounts
11 pertaining to services provided by a preneed seller which are not otherwise subject
12 to the requirements under this section subchapter. The department may conduct
13 audits under this ~~paragraph~~ subsection on a random basis, and shall conduct all
14 audits under this ~~paragraph~~ subsection without providing prior notice to the preneed
15 seller.

16 **SECTION 231.** 440.92 (6) (k) of the statutes is renumbered 440.926 (3) (b) and
17 amended to read:

18 440.926 (3) (b) The department may promulgate rules establishing a filing fee
19 to accompany the report required under ~~par. sub. (1)~~ (a). The filing fee shall be based
20 on the approximate cost of regulating preneed sellers.

21 **SECTION 232.** 440.92 (7) of the statutes is renumbered 440.927 and amended
22 to read:

23 **440.927 Approval of warehouses.** No person may own or operate a
24 warehouse located inside or outside this state unless the warehouse is approved by
25 the department. ~~Upon application, the department shall approve a warehouse that~~

ASSEMBLY BILL 776**SECTION 232**

1 is located in this state if the person who operates the warehouse is licensed as a public
2 warehouse keeper by the department of agriculture, trade and consumer protection
3 under ch. 99, but may not approve a warehouse that is located in this state unless
4 the person is so licensed. The department shall promulgate rules establishing the
5 requirements for approval of warehouses that are located outside this state under
6 this section. The rules shall require warehouses that are located outside this state
7 to file with the department a bond furnished by a surety company authorized to do
8 business in this state in an amount that is sufficient to guarantee the delivery of
9 cemetery merchandise to purchasers under preneed sales contracts. The
10 department shall compile and keep a current list of the names and addresses of all
11 warehouses approved under this subsection section and shall make the list available
12 for public inspection during the times specified in s. 230.35 (4) (f).

13 **SECTION 233.** 440.92 (9) (title) of the statutes is amended to read:

14 440.92 (9) (title) EXEMPTIONS; CERTIFICATION OF COMPLIANCE OF RELIGIOUS
15 CEMETERY AFFILIATED WITH RELIGIOUS SOCIETY AUTHORITIES.

16 **SECTION 234.** 440.92 (9) (a) of the statutes is amended to read:

17 440.92 (9) (a) If the cemetery authority of a cemetery that is affiliated with a
18 religious society organized under ch. 187 or that religious society a religious
19 cemetery authority or the church, synagogue, mosque, incorporated college of a
20 religious order, or religious society organized under ch. 187 that is affiliated with a
21 religious cemetery authority files an annual certification with the department as
22 provided in this subsection, neither the religious cemetery authority nor any
23 employee of the cemetery is required to be registered licensed as a cemetery preneed
24 seller under sub. (1) during the period for which the certification is effective, but the

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1 religious cemetery authority and any employee are required to comply, if applicable,
2 with the requirements of s. 445.125.

3 **SECTION 235.** 440.92 (9) (b) 3. of the statutes is amended to read:

4 440.92 (9) (b) 3. A notarized statement of a person who is legally authorized to
5 act on behalf of the religious ~~society~~ cemetery authority under this subsection that,
6 during the 12-month period immediately preceding the date on which the
7 certification is filed with the department, each employee specified under subd. 2. and
8 the religious cemetery authority have either fully complied or have substantially
9 complied with ~~subs. (2),~~ sub. (3) (a) and (b) and (5) ss. 440.922 and 440.924.

10 **SECTION 236.** 440.92 (9) (c) of the statutes is amended to read:

11 440.92 (9) (c) If the statement under par. (b) 3. includes a statement of
12 substantial compliance, the statement of substantial compliance must also specify
13 those instances when the employee or religious cemetery authority did not fully
14 comply with sub. ~~(2),~~ (3) (a) or (b) or ~~(5)~~ s. 440.922 or 440.924.

15 **SECTION 237.** 440.92 (9) (e) of the statutes is amended to read:

16 440.92 (9) (e) During the effective period specified under par. (d), the
17 department may not audit the preneed trust funds or any records or accounts
18 relating to the preneed trust funds of the religious cemetery authority or any
19 employee of the cemetery to which a certification under this subsection applies.

20 **SECTION 238.** 440.92 (9) (f) of the statutes is amended to read:

21 440.92 (9) (f) The church, synagogue, mosque, incorporated college of a
22 religious order, or religious society that is affiliated with a cemetery to which a
23 certification under this subsection applies is liable for the damages of any person
24 that result from the failure of any employee specified under par. (b) 2. or the religious
25 cemetery authority to fully comply with sub. ~~(2),~~ (3) (a) or (b) or ~~(5)~~ s. 440.922 or

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1 440.924 during the 12-month period for which such compliance has been certified
2 under this subsection.

3 **SECTION 239.** 440.92 (10) of the statutes is repealed.

4 **SECTION 240.** 440.922 (1) (title), (4) (title), (5) (title), (6) (title), (8) (title) and (10)
5 (title) of the statutes are created to read:

6 440.922 **(1)** (title) DELIVERY OF CEMETERY MERCHANDISE.

7 **(4)** (title) PHYSICAL ALTERATION OF CEMETERY MERCHANDISE.

8 **(5)** (title) UNDEVELOPED SPACE SALES.

9 **(6)** (title) INTEREST ASSIGNMENTS.

10 **(8)** (title) CONTRACT REQUIREMENTS.

11 **(10)** (title) CONFLICTING PROVISIONS.

12 **SECTION 241.** 440.926 (1) (title), (2) (title) and (3) (title) of the statutes are
13 created to read:

14 440.926 **(1)** (title) REPORTS.

15 **(2)** (title) RECORDS.

16 **(3)** (title) RULES.

17 **SECTION 242.** 440.928 of the statutes is created to read:

18 **440.928 Burial space purchase agreements. (1)** In this section:

19 (a) “Cemetery authority” does not include a religious cemetery authority.

20 (b) “Opening or closing fees” means fees charged by a cemetery authority for
21 opening or closing a burial space.

22 (c) “Purchase agreement” means an agreement for the purchase of a burial
23 space.

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1 **(2)** Before entering into a purchase agreement, a cemetery authority shall
2 disclose to the purchaser any opening or closing fees charged by the cemetery
3 authority.

4 **(3)** A purchase agreement shall be in writing and shall include each of the
5 following:

6 (a) The terms and conditions and any other pertinent information regarding
7 the purchase, including the price of the burial space, any perpetual care
8 requirements, and any resale, inheritor, cancellation, or refund rights under the
9 agreement.

10 (b) A description of all goods and services that are reasonably expected to be
11 required at the time of need that are not subject to the purchase agreement,
12 including opening and closing fees and any additional fees for weekend, holiday, or
13 after hours burial.

14 **(4)** A cemetery authority shall assign a serial number to each purchase
15 agreement that it enters into, maintain file copies in numerical order according to
16 the serial number and enter the serial number and a description of each purchase
17 agreement into a sales journal. Any additional purchase by a purchaser more than
18 30 days after entering a purchase agreement shall be the subject of a separate
19 purchase agreement with a separate serial number that is the current unused serial
20 number in consecutive order.

21 **SECTION 243.** 440.929 of the statutes is created to read:

22 **440.929 Rules.** The department shall promulgate rules that establish a code
23 of ethics to govern the professional conduct of cemetery authorities licensed under
24 s. 440.91 (1), cemetery salespersons licensed under s. 440.91 (2), and preneed sellers
25 licensed under s. 440.92 (1).

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1 **SECTION 244.** 440.93 (1) (intro.) of the statutes is amended to read:

2 440.93 (1) (intro.) The department may deny a certificate of licensure or
3 registration of a cemetery authority, cemetery salesperson, or preneed seller and the
4 board may reprimand a licensee or registrant or deny, limit, suspend, or revoke a
5 certificate of licensure or registration a ~~cemetery authority, cemetery salesperson or~~
6 ~~preneed seller~~ if it if the department or board, respectively, finds that the applicant,
7 licensee, or registrant, or, if the applicant, licensee, or registrant, is an association,
8 partnership, limited liability company, or corporation, any officer, director, trustee,
9 member, or shareholder who beneficially owns, holds, or has the power to vote 5% or
10 more of any class of security issued by the applicant, licensee, or registrant, has done
11 any of the following:

12 **SECTION 245.** 440.93 (1) (b) of the statutes is amended to read:

13 440.93 (1) (b) Made a substantial misrepresentation or false promise to an
14 individual to influence the individual to purchase a ~~cemetery lot,~~ cemetery
15 merchandise or ~~mausoleum~~ a burial space.

16 **SECTION 246.** 440.93 (1) (c) of the statutes is amended to read:

17 440.93 (1) (c) Engaged in any practice relating to the operation or management
18 of a cemetery or the sale of a ~~cemetery lot,~~ cemetery merchandise or ~~mausoleum~~ a
19 burial space which clearly demonstrates a lack of knowledge or ability to apply
20 professional principles or skills.

21 **SECTION 247.** 440.93 (1) (cm) of the statutes is created to read:

22 440.93 (1) (cm) Engaged in unprofessional or unethical conduct in violation of
23 the code of ethics established in the rules promulgated under s. 440.929.

24 **SECTION 248.** 440.93 (1) (d) of the statutes is amended to read:

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1 440.93 (1) (d) ~~Subject to ss. 111.321, 111.322 and 111.335, been convicted of an~~
2 ~~offense~~ Violated any law the circumstances of which substantially relate to the
3 ~~operation or management of a cemetery or the sale of a cemetery lot, cemetery~~
4 ~~merchandise or mausoleum~~ a burial space. A certified copy of a judgment of
5 ~~conviction is prima facie evidence of a violation.~~

6 **SECTION 249.** 440.93 (1) (f) of the statutes is amended to read:

7 440.93 (1) (f) Subject to ss. 111.321, 111.322, and 111.34, engaged in any
8 practice relating to the operation or management of a cemetery or the sale of a
9 ~~cemetery lot, cemetery merchandise or mausoleum~~ a burial space while the person's
10 ability to practice was impaired by mental disease or defect or alcohol or other drugs.

11 **SECTION 250.** 440.93 (1) (g) of the statutes is amended to read:

12 440.93 (1) (g) Violated this subchapter or subch. II of ch. 157, any rule
13 promulgated under this subchapter or subch. II of ch. 157, or any order of the
14 department or the board.

15 **SECTION 251.** 440.93 (1m) of the statutes is created to read:

16 440.93 (1m) The board may, in addition to or in lieu of a reprimand or
17 revocation, limitation, suspension, or denial of a certificate of registration or
18 licensure, assess against a person licensed or registered under this subchapter who
19 has done anything specified in sub. (1) (a) to (g) a forfeiture of no more than \$5,000
20 for each separate offense. Each day of continued violation constitutes a separate
21 offense.

22 **SECTION 252.** 440.93 (2) of the statutes is amended to read:

23 440.93 (2) The ~~department~~ board shall determine in each case the period that
24 a limitation, suspension, or revocation of a certificate is effective. This subsection
25 does not apply to a limitation or suspension under s. 440.13 (2) (a).

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1 **SECTION 253.** 440.945 (1) (a) of the statutes is amended to read:

2 440.945 (1) (a) “Installed” means permanently affixed to a cemetery lot burial
3 space.

4 **SECTION 254.** 440.945 (2) (a) of the statutes is amended to read:

5 440.945 (2) (a) Adopt regulations, consistent with this section and with
6 standards that the cemetery authority uses for its own monument installations,
7 prescribing requirements and procedures for the sale, delivery, installation, or care
8 of monuments, including requirements that each vendor provide reasonable advance
9 notice to the cemetery authority of the date on which the vendor desires to install a
10 monument; that each vendor carry worker’s compensation insurance and a
11 minimum amount of comprehensive general liability insurance, such minimum
12 amount not to exceed \$300,000; and that each owner of a cemetery lot burial space
13 pay all fees and other amounts due the cemetery authority to satisfy any
14 encumbrances pertaining to the cemetery lot burial space before a monument is
15 installed.

16 **SECTION 255.** 440.945 (2) (c) of the statutes is amended to read:

17 440.945 (2) (c) Charge either the owner of a cemetery lot burial space or a
18 vendor a reasonable fee to cover the cemetery authority’s labor costs. In this
19 paragraph, “labor costs” means the amount, calculated in accordance with generally
20 accepted accounting principles and practices, that is payable to employees of the
21 cemetery authority for wages and fringe benefits for the period that the employees
22 were engaged in marking the location for and inspecting the installation of the
23 monument to ensure that it was properly installed, and may include any general
24 administrative or overhead costs of the cemetery authority or any other costs that

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1 are directly related to marking the location for and inspecting the installation of the
2 monument to ensure that it was properly installed.

3 **SECTION 256.** 440.945 (3) (a) (intro.) of the statutes is amended to read:

4 440.945 (3) (a) (intro.) Every cemetery authority shall keep on file and make
5 available for inspection and copying to owners and prospective purchasers of
6 cemetery lots burial spaces and to other interested persons all of the following
7 information:

8 **SECTION 257.** 440.945 (4) (a) 1. of the statutes is amended to read:

9 440.945 (4) (a) 1. Require the owner or purchaser of a cemetery lot burial space
10 to purchase a monument or services related to the installation of a monument from
11 the cemetery authority.

12 **SECTION 258.** 440.945 (4) (a) 2. of the statutes is amended to read:

13 440.945 (4) (a) 2. Restrict the right of the owner or purchaser of a cemetery lot
14 burial space to purchase a monument or services related to the installation of a
15 monument from the vendor of his or her choice.

16 **SECTION 259.** 440.945 (4) (a) 3. of the statutes is amended to read:

17 440.945 (4) (a) 3. Except as provided in sub. (2) (c), charge the owner or
18 purchaser of a cemetery lot burial space a fee for purchasing a monument or services
19 related to the installation of a monument from a vendor, or charge a vendor a fee for
20 delivering or installing the monument. Nothing in this subdivision shall be
21 construed to prohibit a cemetery authority from charging the owner or purchaser of
22 a cemetery lot burial space a reasonable fee for services relating to the care of a
23 monument.

24 **SECTION 260.** 440.945 (4) (a) 4. of the statutes is amended to read:

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1 440.945 (4) (a) 4. Discriminate against any owner or purchaser of a cemetery
2 ~~lot~~ burial space who has purchased a monument or services related to the
3 installation of a monument from a vendor.

4 **SECTION 261.** 440.945 (5) (a) of the statutes is amended to read:

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

9 **SECTION 262.** 440.945 (5) (am) of the statutes is created to read:

10 440.945 (5) (am) If the department has reason to believe that any religious
11 cemetery authority is violating this section and that the continuation of that activity
12 might cause injury to the public interest, the department may investigate.

13 **SECTION 263.** 440.945 (5) (b) of the statutes is amended to read:

14 440.945 (5) (b) The department of justice or any district attorney, upon
15 informing the department of justice, may commence an action in circuit court in the
16 name of the state to restrain by temporary or permanent injunction any violation of
17 this section. The court may, prior to entry of final judgment, make such orders or
18 judgments as may be necessary to restore to any person any pecuniary loss suffered
19 because of the acts or practices involved in the action, if proof of such loss is submitted
20 to the satisfaction of the court. The department of justice may subpoena persons and
21 require the production of books and other documents, and may request the
22 department of regulation and licensing or board to exercise its authority under par.
23 (a) or (am) to aid in the investigation of alleged violations of this section.

24 **SECTION 264.** 440.947 (1) (c) of the statutes is renumbered 440.90 (6g).

25 **SECTION 265.** 440.947 (5) of the statutes is amended to read:

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1 440.947 (5) A person who sells a casket, outer burial container, or cemetery
2 merchandise shall retain a copy of the price list specified in sub. (2) (intro.) for at least
3 one year after the date of its last distribution to a prospective buyer and shall retain
4 a copy of each form that is provided to a buyer under sub. (3) (intro.) for at least one
5 year after completion of a sale. A person required to retain a copy under this
6 subsection shall make the copy available for inspection by the department or board
7 upon request.

8 **SECTION 266.** 440.948 of the statutes is created to read:

9 **440.948 Burial agreements.** Any agreement for the purchase of a casket,
10 outer burial container not preplaced into the burial excavation of a grave, or
11 combination casket–outer burial container, that is not immediately required for the
12 burial or other disposition of human remains, is subject to the requirements of s.
13 445.125 (1).

14 **SECTION 267.** 440.949 of the statutes is created to read:

15 **440.949 Rules; review of rules. (1)** Before submitting any proposed rules
16 relating to this subchapter, except for rules relating exclusively to religious cemetery
17 authorities, to the legislative council staff under s. 227.15, the department shall
18 submit the proposed rules to the board for comment. The board shall have 30 days
19 to submit comments on the proposed rules to the secretary.

20 **(2)** When promulgating emergency rules under s. 227.24 relating to this
21 subchapter, except for rules relating exclusively to religious cemetery authorities,
22 the department shall provide a copy of the rules to the board prior to publication of
23 the rules in the official state newspaper.

24 **(3)** The chairperson of the board, or his or her designee from the board, may
25 cochair with the secretary, or the secretary's designee, any public hearing held by the

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1 department on proposed rules relating to this subchapter other than rules relating
2 exclusively to religious cemetery authorities.

3 (4) The department shall submit to the board a copy of the report required
4 under s. 227.19 (2) on any proposed final rules relating to this subchapter other than
5 rules relating exclusively to religious cemetery authorities. The board may prepare
6 a dissenting report stating its recommendations on the proposed final rules. Any
7 dissenting report shall be prepared within 10 days from the date of receipt of the
8 department's report, attached to the department's report and sent to the presiding
9 officer of each house of the legislature and distributed under s. 227.19 (2). The
10 department shall publish a statement to appear in the Wisconsin administrative
11 register indicating that a dissenting report of the board has been submitted to the
12 presiding officer of each house of the legislature.

13 (5) The department shall provide staff to assist the board in the review of
14 administrative rules and preparation of comments or dissenting reports.

15 **SECTION 268.** 440.95 (1) of the statutes is amended to read:

16 440.95 (1) Any cemetery authority that is required to register under s. 440.91
17 (1) (1m) and that knowingly fails to register may be fined not more than \$100.

18 **SECTION 269.** 440.95 (1m) of the statutes is created to read:

19 440.95 (1m) Any cemetery authority that, without a license granted under s.
20 440.91 (1), sells 10 or more burial, mausoleum, or columbarium spaces at a cemetery
21 during a calendar year or has \$100,000 or more in trust fund accounts for a cemetery
22 may be fined not more than \$100.

23 **SECTION 270.** 440.95 (2) of the statutes is amended to read:

24 440.95 (2) Any ~~individual who~~ person that is required to register be licensed
25 as a cemetery salesperson under s. 440.91 (2) and ~~who fails to register~~ that is not

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1 licensed may be fined not less than \$25 nor more than \$200 or imprisoned for not
2 more than 6 months or both.

3 **SECTION 271.** 440.95 (2m) of the statutes is created to read:

4 440.95 (2m) Any person that is required to be licensed as a preneed seller under
5 s. 440.92 (1) (a) and that is not licensed may be fined not more than \$1,000 or
6 imprisoned for not more than 90 days or both.

7 **SECTION 272.** 440.95 (4) (a) of the statutes is repealed.

8 **SECTION 273.** 440.95 (4) (c) of the statutes is amended to read:

9 440.95 (4) (c) Fails to file a report or files an incomplete, false, or misleading
10 report under s. ~~440.92 (6)~~ 440.926.

11 **SECTION 274.** 440.95 (5) of the statutes is amended to read:

12 440.95 (5) Except as provided in sub. (4), any person who violates s. ~~ss.~~ 440.92
13 to 440.927 or any rule promulgated under s. ~~ss.~~ 440.92 to 440.927 may be required
14 to forfeit not more than \$200 for each offense. Each day of continued violation
15 constitutes a separate offense.

16 **SECTION 275. Nonstatutory provisions.**

17 (1) DEFINITION. In this SECTION:

18 (a) “Board” means the cemetery board.

19 (b) “Cemetery association” has the meaning given in section 157.061 (1r) of the
20 statutes.

21 (2) FILING REQUIREMENT. A cemetery association that was not required to be
22 registered under section 440.91 (1), 1999 stats., and that is not organized or
23 conducted for pecuniary profit shall, no later than the first day of the 6th month
24 beginning after the effective date of this subsection, file with the department of
25 financial institutions any copies of certifications, resolutions, or proceedings that the

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1 cemetery association delivered to the office of the register of deeds of the county in
2 which the cemetery is located under section 157.062 (9), 1999 stats.

3 (3) INITIAL APPOINTMENTS TO CEMETERY BOARD.

4 (a) Notwithstanding section 15.405 (3m) (b) 1. and (c) of the statutes, as created
5 by this act, the initial cemetery authority business representative members of the
6 board need not be business representatives of a cemetery authority that is licensed
7 under section 440.91 (1) of the statutes, as affected by this act, to be appointed to and
8 serve as members of the board until the first day of the 13th month beginning after
9 the effective date of this paragraph.

10 (b) Notwithstanding section 15.07 (1) (cm) of the statutes, as affected by this
11 act, and section 15.405 (3m) (b) 1. of the statutes, as created by this act, the initial
12 members of the board shall be appointed by the first day of the 4th month beginning
13 after the effective date of this paragraph for the following terms:

14 1. Two cemetery authority business representative members and one public
15 member, for terms expiring on May 1, 2003.

16 2. One cemetery authority business representative member and one public
17 member, for terms expiring on May 1, 2004.

18 3. One cemetery authority business representative member and the
19 representative of the department of justice, for terms expiring on May 1, 2005.

20 (4) PRENEED SELLER LICENSES. Notwithstanding section 440.92 (1) (a) and (b)
21 (intro.) of the statutes, as affected by this act, the department of regulation and
22 licensing shall issue a certificate of licensure as a cemetery preneed seller to any
23 person who, on the effective date of this subsection, holds a valid certificate of
24 registration as a cemetery preneed seller.

25 **SECTION 276. Initial applicability.**

