

**2001 DRAFTING REQUEST**

**Bill**

Received: 11/13/2001

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Johnnie Morris-Tatum (608) 266-3756**

By/Representing: **George Salter**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Cemetery - regulation**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Regulation of cemeterics

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 11/13/2001	csicilia 11/15/2001		_____			S&L
/1			kfollet 11/16/2001	_____	lrb_docadmin 11/16/2001	lrb_docadmin 12/17/2001	

FE Sent For:

<END>

→ **AT Intro.**

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1/?	kunkemd	11/15 01	11/16	11/16			

FE Sent For:

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O-NOTE

2001 BILL

By Friday 11/10

-4247/1

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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, 440.92 (3) (a) 1. and 2., 440.92 (10) and

4 440.95 (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),

6 440.92 (2) (e), 440.92 (2) (g) and (h), 440.92 (2) (j), 440.92 (5), 440.92 (6) (b) and

7 (c), 440.92 (6) (e) and (f) and 440.947 (1) (c); *to renumber and amend* 157.061

8 (1), 157.08 (2) (b), 157.10, 157.11 (9) (a), 157.115 (1) (b) 1., 157.62 (2) (b) 7.,

9 157.62 (6), 440.03 (13), 440.91 (1), 440.91 (7), 440.92 (2) (a), 440.92 (2) (am),

10 440.92 (2) (c), 440.92 (2) (f), 440.92 (2) (i), 440.92 (2) (k), 440.92 (3) (a) (intro.),

11 440.92 (6) (title), 440.92 (6) (a), 440.92 (6) (d), 440.92 (6) (g), 440.92 (6) (h),

12 440.92 (6) (i), 440.92 (6) (j), 440.92 (6) (k) and 440.92 (7); *to amend* 15.07 (1)

13 (cm), 15.07 (1) (cs), 15.07 (3) (b), 49.30 (1) (a), 62.23 (7) (c), 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) 4., 15.07 (5) (z), 15.405 (3m), 20.165 (1) (q), 25.17  
4 (1) (at), 25.86, 40.30 (1) (am), 60.61 (2) (j), 69.22 (1) (d) and (e), 69.22 (1r),  
5 157.061 (1b), 157.061 (1d), 157.061 (1j), 157.061 (1p), 157.061 (3g), 157.061 (3r),  
6 157.061 (8g), 157.061 (8r), 157.061 (14m), 157.061 (15m), 157.063, 157.066,  
7 157.08 (2) (b) 1. a., b., c. and d., 157.08 (2) (b) 2., 157.10 (3), 157.11 (1m), 157.11  
8 (9) (am), 157.115 (1) (d), 157.117, 157.19 (4m), 157.19 (5) (c), 157.61, 157.62 (2)  
9 (b) 1m., 157.62 (3) (c), 157.62 (4) (b), 157.62 (5) (a), 157.62 (6) (b), 157.637, 157.64  
10 (2) (h), 157.65 (1) (am), 440.03 (13) (b), 440.08 (2) (a) 21m., 440.13 (2) (d), 440.90  
11 (1b), 440.90 (1c), 440.90 (1g), 440.90 (1r), 440.90 (3g), 440.90 (3r), 440.90 (4e),  
12 440.90 (4m), 440.90 (4r), 440.90 (10m), 440.90 (10r), 440.91 (1) (b), (c), (d) and  
13 (e), 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.

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***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

**BILL**

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 requires DRL to promulgate rules interpreting the requirements ~~under current law~~ 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.

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

9. 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.

10. 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.

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

12. The bill increases the amount of cemetery expenses that a county or tribe must reimburse the estates of certain low-income individuals. Under current law, the amount is the lesser of \$1,000 or the amount that is not paid by the estate. Under this bill, for cemetery expenses incurred on or after the effective date of the bill, the amount is the lesser of \$1,250 or the amount not paid by the estate. For cemetery expenses incurred on or after July 1, 2002, the amount is the lesser of \$1,500 or the amount not paid by the estate.

13. 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

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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.

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*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:

19          15.07 (1) (cs) No member of the auctioneer board, cemetery board, real estate  
20          appraisers board, or real estate board may be an officer, director, or employee of a

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1 private organization that promotes or furthers any profession or occupation  
2 regulated by that board.

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

4 15.07 (3) (b) Except as provided in par. (bm), each board not covered under par.  
5 (a) shall meet annually, and may meet at other times on the call of the chairperson  
6 or a majority of its members. The auctioneer board, the cemetery board, the real  
7 estate board, and the real estate appraisers board shall also meet on the call of the  
8 secretary of regulation and licensing or his or her designee within the department.

9 **SECTION 5.** 15.07 (3) (bm) <sup>4.5</sup> of the statutes is created to read:

10 15.07 (3) (bm) <sup>4.5</sup> The cemetery board shall meet at least 4 times each year.

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

12 15.07 (5) (z) Members of the cemetery board, \$25 per day.

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

14 15.405 (3m) CEMETERY BOARD. (a) In this subsection:

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

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

- 21 1. Four members, each of whom is a business representative of a licensed  
22 cemetery authority.
- 23 2. A representative of the department of justice designated by the attorney  
24 general.
- 25 3. Two public members.

**BILL**

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

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

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

11 20.165 (1) (q) *Cemetery and mausoleum trustee disbursements.* From the  
 12 cemetery management insurance fund, a sum sufficient to make disbursements to  
 13 trustees under the rules promulgated under s. 157.117 (4) (a).

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

15 25.17 (1) (at) Cemetery management insurance fund (s. 25.86);

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

17 **25.86 Cemetery management insurance fund.** There is established a  
 18 separate nonlapsible trust fund designated as the cemetery management insurance  
 19 fund, to consist of each of the following:

20 (1) The moneys received from death certificate filing fees under s. 69.22 (1) (d).<sup>e</sup>

21 (2) The moneys received from the issuance of copies of death certificates under

22 s. 69.22 (1) (e).<sup>f</sup>

23 SECTION 11. 40.30 (1) (am) of the statutes is created to read:

**BILL**

2

1 40.30 (1) (am) For cemetery expenses incurred on or after July 1, 2002, the  
 2 lesser of \$1,500 or the cemetery expenses that are not paid by the estate of the  
 3 deceased and other persons.  
 4 **SECTION 12.** 49.30 (1) (a) of the statutes is amended to read:  
 5 49.30 (1) (a) ~~The~~ For cemetery expenses incurred on or after the effective date  
 6 of this paragraph ..... [revisor inserts date], the lesser of \$1,000 \$1,250 or the cemetery  
 7 expenses that are not paid by the estate of the deceased and other persons.

8 **SECTION 13.** 60.61 (2) (j) of the statutes is created to read:  
 9 60.61 (2) (j) Authorize burials under s. 157.066.

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

24 **SECTION 15.** 69.18 (1) (bm) (intro.) of the statutes is amended to read:

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

11 SECTION 16. 69.22 (1) (a) of the statutes is amended to read:

12 69.22 (1) (a) Except as provided under par. pars. (c) and (e), \$7 for issuing one  
 13 certified copy of a vital record and \$2 for any additional certified copy of the same  
 14 vital record issued at the same time. \$2

15 SECTION 17. 69.22 (1) (d) and (e) of the statutes are created to read:

16 69.22 (1) (d) Ten dollars for receiving a death certificate filed by a person  
 17 required to file a certificate of death under s. 69.18 (1) (b), which shall be forwarded  
 18 to the state treasurer under sub. (1r).

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

21 SECTION 18. 69.22 (1r) of the statutes is created to read:

22 69.22 (1r) By the 15th day of the first month following the end of a calendar  
 23 quarter, the state registrar and any person acting under this subchapter shall  
 24 forward to the state treasurer the amounts specified in sub. (1) (d) and (e) that are



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1 received during the calendar quarter. The state treasurer shall credit all amounts  
2 received under this subsection to the cemetery management insurance fund.

3 **SECTION 19.** 157.061 (1) of the statutes is renumbered 157.061 (1c) and  
4 amended to read:

5 157.061 (1c) “Burial” means entombment, inurnment ~~or~~, interment, or  
6 placement in a mausoleum, vault, crypt, or columbarium.

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

8 157.061 (1b) “Board” means the cemetery board.

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

10 157.061 (1d) “Burial space” means a space that is used or intended to be used  
11 for the burial of human remains and, when used in reference to the sale, purchase,  
12 or ownership of a burial space, includes the right to bury human remains in the  
13 burial space.

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

15 157.061 (1j) “Business representative” has the meaning given in s. 452.01 (3k).

16 **SECTION 23.** 157.061 (1p) of the statutes is created to read:

17 157.061 (1p) “Cemetery” means a place that is dedicated to and used or  
18 intended to be used for the final disposition of human remains.

19 **SECTION 24.** 157.061 (2m) of the statutes is amended to read:

20 157.061 (2m) “Cemetery lot” means a grave or 2 or more contiguous graves ~~and,~~  
21 ~~when used in reference to the sale, purchase or ownership of a cemetery lot, includes~~  
22 ~~the right to bury human remains in that cemetery lot.~~

23 **SECTION 25.** 157.061 (3) of the statutes is amended to read:

24 157.061 (3) “Cemetery merchandise” means goods associated with the burial  
25 of human remains, including monuments, markers, nameplates, vases, and urns,

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1 and any services that are associated with supplying or delivering those goods or with  
2 the burial of human remains and that may be lawfully provided by a cemetery  
3 authority, including opening and closing of a burial space. The term does not include  
4 caskets or outer burial containers.

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

6 157.061 (3g) “Columbarium” means a building, structure, or part of a building  
7 or structure that is used or intended to be used for the inurnment of cremains.

8 **SECTION 27.** 157.061 (3r) of the statutes is created to read:

9 157.061 (3r) “Columbarium space” means a niche, crypt, or specific place in a  
10 columbarium that contains or is intended to contain cremains.

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

12 157.061 (8g) “Lawn crypt” means an interment space in chambers that are  
13 preplaced at either a single depth or multiple depths and that are located primarily  
14 underground.

15 **SECTION 29.** 157.061 (8r) of the statutes is created to read:

16 157.061 (8r) “Licensed cemetery authority” means a cemetery authority that  
17 is licensed under s. 440.91 (1).

18 **SECTION 30.** 157.061 (11r) of the statutes is amended to read:

19 157.061 (11r) “Payment of principal” means the portion of a payment for the  
20 purchase of a ~~cemetery lot~~, cemetery merchandise or a ~~mausoleum~~ burial space that  
21 represents the principal amount owed by the purchaser for the ~~cemetery lot~~,  
22 cemetery merchandise or ~~mausoleum~~ burial space, and does not include any portion  
23 of the payment that represents any taxes, finance or interest charges, or insurance  
24 premiums.

25 **SECTION 31.** 157.061 (14m) of the statutes is created to read:

**BILL**

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

3           **SECTION 32.** 157.061 (15) of the statutes is amended to read:

4           157.061 (15) “Religious association” means any church, synagogue, or mosque  
5 ~~or any, incorporated college of a religious order, or religious society organized under~~  
6 ch. 187.

7           **SECTION 33.** 157.061 (15m) of the statutes is created to read:

8           157.061 (15m) “Religious cemetery authority” means a cemetery authority of  
9 a cemetery owned and operated by a religious association.

10          **SECTION 34.** 157.061 (17) of the statutes is amended to read:

11          157.061 (17) “Undeveloped space” means a mausoleum space, columbarium  
12 space, or lawn crypt that is not ready for the burial of human remains on the date  
13 of the sale of the mausoleum space, columbarium space, or lawn crypt.

14          **SECTION 35.** 157.062 (1) of the statutes is amended to read:

15          157.062 (1) ORGANIZATION. Seven or more residents of the same county may  
16 form a cemetery association. They shall meet, select a chairperson and secretary,  
17 choose a name, fix the annual meeting date, and elect by ballot not less than 3 nor  
18 more than 9 trustees whom the chairperson and secretary shall immediately divide  
19 by lot into 3 classes, who shall hold their offices for 1, 2, and 3 years, respectively.  
20 Within 3 days, the chairperson and secretary shall certify the corporate name, the  
21 names, home addresses and business addresses of the organizers and of the trustees,  
22 and their classification, and the annual meeting date acknowledged by them, and,  
23 ~~except as provided in sub. (9),~~ deliver the certification to the department of financial  
24 institutions. The association then has the powers of a corporation.

25          **SECTION 36.** 157.062 (2) of the statutes is amended to read:

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1           157.062 (2) AMENDMENTS. The association may change its name, the number  
2 of trustees or the annual meeting date by resolution at an annual meeting, or special  
3 meeting called for such purpose, by a majority vote of the members present, and,  
4 ~~except as provided in sub. (9),~~ by delivering to the department of financial  
5 institutions a copy of the resolution, with the date of adoption, certified by the  
6 president and secretary or corresponding officers.

7           **SECTION 37.** 157.062 (3) of the statutes is amended to read:

8           157.062 (3) VALIDATION. When there shall have been a bona fide attempt to  
9 organize a cemetery association, but a failure to record a properly drawn and  
10 executed certificate of organization, and it has in good faith bought and platted  
11 grounds and conveyed ~~cemetery lots~~ burial spaces and carried on business for over  
12 25 years, the same shall be a body corporate from the date of conveyance to it of real  
13 estate, and its transfers and other transactions are validated.

14           **SECTION 38.** 157.062 (4) (a) of the statutes is amended to read:

15           157.062 (4) (a) An annual election shall be held during the annual meeting.  
16 The annual meeting, and any special meeting described in sub. (2), shall be held at  
17 a place in the county chosen by the trustees upon public notice as required by the  
18 bylaws. Trustees chosen after the first election shall be proprietors of ~~cemetery lots~~  
19 burial spaces in the cemetery, residents of the state, and hold office for 3 years.  
20 Election shall be by ballot and a plurality shall elect. Each owner of one or more  
21 ~~cemetery lots~~ burial spaces is entitled to one vote, and one of several owners of a  
22 ~~cemetery lot~~ burial space, designated by the majority of them, shall cast the vote.

23           **SECTION 39.** 157.062 (5) of the statutes is amended to read:

24           157.062 (5) TRUSTEES; DUTIES, REPORT. The trustees may fill vacancies for the  
25 unexpired term. One shall be chosen president, and they shall appoint a secretary

**BILL**

1 and treasurer, and may require security of the treasurer. The trustees shall manage  
2 the affairs and property of the association and control and beautify the cemetery, and  
3 may establish regulations for those purposes. The trustees shall make and file  
4 written reports as required in s. 157.62 (1) and (2).

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

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

21 **SECTION 41.** 157.062 (6) (c) of the statutes is amended to read:

22 157.062 (6) (c) If an association is dissolved under par. (a) or any group has  
23 never been properly organized as cemetery association, and there are fewer than 5  
24 members living or residing in the county where the cemetery is located, the circuit  
25 judge for the county shall upon the petition of any person interested, make an order

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1 determining who are persons interested in the cemetery. Any adult person who owns  
2 an interest in any ~~cemetery lot~~ burial space in the cemetery, who is related to any  
3 person buried in the cemetery, or who is a descendant, brother, sister, nephew, niece,  
4 or surviving spouse of a member of the dissolved association, is an interested person.  
5 The circuit judge may make the order upon evidence he or she deems sufficient, with  
6 or without hearing. The order need not contain the names of all persons interested,  
7 but shall contain the names of at least 5 such persons.

8 **SECTION 42.** 157.062 (9) of the statutes is repealed.

9 **SECTION 43.** 157.063 of the statutes is created to read:

10 **157.063 General duties and powers of board.** (1) In addition to the other  
11 duties and powers of the board under this subchapter, the board shall do each of the  
12 following:

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

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

17 (c) Be the supervising authority of all personnel, other than shared personnel,  
18 engaged in the review, investigation, or handling of information regarding  
19 investigations and disciplinary matters affecting persons who are registered or  
20 licensed by the department under subch. VIII of ch. 440, or in the exercise of  
21 administrative discretion with regard to the discipline of those persons.

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

**BILL****SECTION 43**

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

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

7 **SECTION 44.** 157.064 (2) of the statutes is amended to read:

8 157.064 (2) A cemetery or religious association incorporated in this state and  
9 having a cemetery in or near a 1st or 2nd class city and any cemetery described under  
10 s. 157.065 (3m) (d) may acquire by gift or purchase up to 30 acres of adjoining lands  
11 for cemetery purposes, and may pay for it wholly or partly from its ~~cemetery lot~~ burial  
12 space sales.

13 **SECTION 45.** 157.064 (6) of the statutes is amended to read:

14 157.064 (6) Whenever the majority of the members of a cemetery association,  
15 or of a religious association authorized to hold lands for cemetery purposes, present  
16 at an annual meeting or special meeting called for such purpose vote to convey all  
17 of the cemetery association's or religious association's cemetery property, trust funds  
18 and other property used for cemetery purposes to another cemetery association or  
19 religious association, the trustees of the association shall transfer the property upon  
20 the acceptance of the transfer by the other association by affirmative vote of a  
21 majority of its members present at an annual meeting or special meeting called for  
22 that purpose. Upon such acceptance, the title to the cemetery property, trust funds  
23 and other property of the transferring association vests in the accepting association  
24 under the control of the trustees of the accepting association. A conveyance under

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1 this subsection is subject to s. 157.08 (2). This subsection does not apply to a religious  
2 ~~society organized under ch. 187 cemetery authority.~~

3 **SECTION 46.** 157.065 (1) (b) <sup>✓</sup>4. of the statutes is repealed.

4 **SECTION 47.** 157.066 <sup>✓</sup> of the statutes is created to read:

5 **157.066 Burial spaces not located in cemeteries.** (1) A city, village, or  
6 town may enact and enforce an ordinance that allows a person to bury human  
7 remains in a burial space that is not located in a cemetery.

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

11 **SECTION 48.** 157.07 <sup>✓</sup>(1) of the statutes is amended to read:

12 157.07 (1) A cemetery authority shall cause to be surveyed and platted by a  
13 land surveyor registered in this state those portions of the lands that are ~~from time~~  
14 ~~to time required for burial~~ used, after the effective date of this subsection ... [revisor  
15 inserts date], for burials, into cemetery lots burial spaces, drives, and walks, and  
16 record a plat or map of the land in the office of the register of deeds. The plat or map  
17 may not be recorded unless laid out and platted to the satisfaction of the county board  
18 of the county, and the town board of the town, in which the land is situated, or, if the  
19 land is situated within a <sup>✓</sup>1st class city, then only by the common council of that city.

20 **SECTION 49.** 157.07 (5) of the statutes is amended to read:

21 157.07 (5) The cemetery authority may vacate or replat any portion of its  
22 cemetery upon the filing of a petition with the circuit court describing the portion and  
23 setting forth the facts and reasons therefor. The court shall fix a time for hearing and  
24 direct publication of a class 3 notice, under ch. 985, and the court shall order a copy  
25 of the notice to be mailed to at least one interested person, as to each separate parcel



**BILL****SECTION 49**

1 involved, whose post-office address is known or can be ascertained with reasonable  
2 diligence, at least 20 days before such hearing. If the court finds that the proposed  
3 vacating or replatting is for the best interest of the cemetery authority and that the  
4 rights of none to whom cemetery lots burial spaces have been conveyed will be  
5 injured, it shall enter an order reciting the jurisdictional facts and its findings and  
6 authorizing the vacating or replatting of the lands of the cemetery. The order shall  
7 be effective when recorded by the register of deeds.

8 **SECTION 50.** 157.07 (6) of the statutes is amended to read:

9 157.07 (6) This section does not apply to a religious society organized under ch.  
10 187 cemetery authority.

11 **SECTION 51.** 157.08 (1) of the statutes is amended to read:

12 157.08 (1) After the plat or map is recorded under s. 157.07, the cemetery  
13 authority may sell and convey cemetery lots burial spaces. Conveyances shall be  
14 signed by the chief officer of the cemetery authority, and by the secretary or clerk of  
15 the cemetery authority, if any. Before delivering the conveyance to the grantee, the  
16 cemetery authority shall enter on records kept for that purpose, the date and  
17 consideration and the name and residence of the grantee. The conveyances may be  
18 recorded with the register of deeds.

19 **SECTION 52.** 157.08 (2) (a) of the statutes is amended to read:

20 157.08 (2) (a) If a cemetery lot or mausoleum burial space is sold by a cemetery  
21 authority and used or intended to be used for the burial of the human remains of the  
22 purchaser or the purchaser's family members, the purchaser's interests in the  
23 ownership of, title to, or right to use the cemetery lot or mausoleum burial space are  
24 not affected or limited by any claims or liens of other persons against the cemetery  
25 authority.

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1           **SECTION 53.** 157.08 (2) (b) of the statutes is renumbered 157.08 (2) (b) 1. (intro.)  
2 and amended to read:

3           157.08 (2) (b) 1. (intro.) Before a cemetery authority ~~sells or encumbers any~~  
4 ~~cemetery land, except for a sale described in par. (a)~~ takes any of the following  
5 actions, the cemetery authority shall notify the department in writing ~~of the~~  
6 ~~proposed sale or encumbrance.:~~

7           3. If within 60 days after the department is notified ~~of the proposed sale or~~  
8 ~~encumbrance under subd. 1.~~ the department notifies the cemetery authority in  
9 writing that the department objects to the ~~sale or encumbrance proposed action~~, the  
10 cemetery authority may not ~~sell or encumber the cemetery land~~ take the action  
11 unless the department subsequently notifies the cemetery authority in writing that  
12 the objection is withdrawn.

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

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

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

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1           **SECTION 54.** 157.08 (2) (b) 1. a., b., c. and d. of the statutes are created to read:

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

4           b. Transfers ownership or control of 50% or more of the assets or stock of the  
5 cemetery.

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

8           d. Transfers responsibility for management or operation of the cemetery  
9 authority.

10          **SECTION 55.** 157.08 (2) (b) 2. of the statutes is created to read:

11          157.08 (2) (b) 2. The department shall promulgate rules that specify the  
12 documentation that must be submitted with a notification under subd. 1.

13          **SECTION 56.** 157.08 (5) of the statutes is amended to read:

14          157.08 (5) Subsections (1) and (2) (b) do not apply to a religious society  
15 organized under ch. 187, cemetery authority and sub. (2) (b) does not apply to a  
16 cemetery authority that is not required to be ~~registered~~ licensed under s. 440.91 (1)  
17 and that is not organized or conducted for pecuniary profit.

18          **SECTION 57.** 157.10 (title) of the statutes is amended to read:

19          **157.10 (title) Alienation and use of cemetery lots burial spaces.**

20          **SECTION 58.** 157.10 of the statutes is renumbered 157.10 (1) and amended to  
21 read:

22          157.10 (1) While any person is buried in a cemetery lot burial space, the  
23 cemetery lot burial space shall be inalienable, without the consent of the cemetery  
24 authority, and on the death of the owner, ownership of the cemetery lot burial space

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1 shall descend to the owner's heirs; but any one or more of such heirs may convey to  
2 any other heir his or her interest in the cemetery lot burial space.

3 (2) No human remains may be buried in a cemetery lot burial space except the  
4 human remains of one having an interest in the cemetery lot burial space, or a  
5 relative, or the husband or wife of such person, or his or her relative, except by the  
6 consent of all persons having an interest in the cemetery lot burial space.

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

8 157.10 (3) The department shall promulgate rules that interpret the  
9 requirements of this section and require any person who transfers an interest in a  
10 burial space to provide the transferee with a written notice, prepared by the  
11 department, that describes the requirements of this section.

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

13 157.11 (title) **Improvement and care of cemetery lots burial spaces and**  
14 **grounds.**

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

16 157.11 (1m) DUTY TO MAINTAIN. A cemetery authority shall maintain a  
17 cemetery, including burial spaces, grounds, landscaping, roads, parking lots, fences,  
18 buildings, and other structures, in a reasonable manner at all times.

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

20 157.11 (2) REGULATIONS. The cemetery authority may make regulations for  
21 management and care of the cemetery. No person may plant, in the cemetery, trees  
22 or shrubs, nor erect wooden fences or structures or offensive or dangerous structures  
23 or monuments, nor maintain them if planted or erected in violation of the  
24 regulations. The cemetery authority may require any person owning or controlling  
25 a cemetery lot burial space to do anything necessary to comply with the regulations

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1 by giving reasonable personal notice in writing if the person is a resident of the state,  
2 otherwise by publishing a class 3 notice, under ch. 985, in the county. If the person  
3 fails to comply within 20 days thereafter, the cemetery authority may cause it to be  
4 done and recover from the person the expense. The cemetery authority may also  
5 impose a forfeiture not exceeding \$10 for violation of the regulations posted in 3  
6 conspicuous places in the cemetery, recoverable under ch. 778. Each employee and  
7 agent of the cemetery authority shall have constable powers in enforcing the  
8 regulations.

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

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

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

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

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

2           157.11 (5) **SUM REQUIRED.** The cemetery authority shall annually fix the sum  
3 necessary for the care of ~~cemetery lots~~ burial spaces and care and improvement of  
4 the cemetery, or to produce a sufficient income for those purposes.

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

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

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

15           157.11 (7) (b) The cemetery authority may fix and determine the sum  
16 reasonable necessary for the care of the ~~grave or cemetery lot~~ burial space in  
17 reasonable and uniform amounts, which amounts shall be subject to the approval of  
18 the court, and may collect those amounts as part of the funeral expenses.

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

20           157.11 (7) (c) Before ordering distribution of the estate of a deceased person,  
21 the court shall order paid any assessment under this section, or the sum so fixed for  
22 the care of the ~~cemetery lot or grave~~ burial space of the deceased.

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

24           157.11 (7) (d) When uniform care of a ~~cemetery lot~~ burial space has been given  
25 for 2 consecutive years or more, for which assessments are unpaid, after notice as

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1 provided in sub. (2), right to burial is forfeited until delinquent assessments are paid.  
2 When uniform care has been given for 5 consecutive years or more and the  
3 assessments are unpaid, upon like notice, title to all unoccupied parts of the cemetery  
4 lot burial space shall pass to the cemetery authority and may be sold, the payment  
5 of principal to be deposited into the care fund. Before depositing the payment of  
6 principal into the care fund, the cemetery authority may retain an amount necessary  
7 to cover the cemetery authority's administrative and other expenses related to the  
8 sale, but the amount retained may not exceed 50% of the proceeds.

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

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

11 157.11 (9) (title) GIFTS.

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

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

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

21 157.11 (9) (am) If a cemetery authority receives a gift for the improvement,  
22 maintenance, repair, preservation, or ornamentation of any burial space or structure  
23 in the cemetery, it shall either expend the income and proceeds of the gift or deposit  
24 the proceeds into a trust account at a financial institution, as defined in s. 705.01 (3),  
25 according to the terms of the gift and regulations of the cemetery authority. A

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as affected by 2001 Wisconsin Act ... (Assembly Bill 513)

1 cemetery authority that receives a gift shall maintain a gift ledger that accounts for  
2 all receipts and disbursements of gifts.

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

4 157.11 (9g) (title) CARE FUND FOR CEMETERY LOTS BURIAL SPACES.

5 SECTION 75. 157.11 (9g) (a) 1. (intro.) of the statutes is amended to read:

6 157.11 (9g) (a) 1. (intro.) Except as provided in ss. ~~66.0603 (1) (e)~~ <sup>plain</sup> 66.0603 (1m)  
7 <sup>plain</sup> (c) and 157.19 (5) (b), funds that are received by a cemetery authority for the care of

8 a cemetery lot burial space shall be invested in one or more of the following manners:

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

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

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

18 157.11 (9g) (a) 2. The manner in which the care funds are invested may not  
19 permit the cemetery authority to withdraw the care fund's principal amount, but  
20 may permit the withdrawal of interest, dividends, or capital gains earned during the  
21 most recently completed calendar year. The income from the investment of a care  
22 fund for the care of ~~cemeteries~~ cemeteries lots burial spaces may be used only to maintain the  
23 cemeteries lots burial spaces and grounds, except that if the amount of income exceeds  
24 the amount necessary to maintain the ~~cemeteries~~ cemeteries lots burial spaces or grounds  
25 properly, the excess amount may be used to maintain any other portion of the



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

17 **SECTION 78.** 157.11 (9g) <sup>✓</sup>(c) of the statutes is amended to read:

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

25 **SECTION 79.** 157.11 (10) <sup>✓</sup> of the statutes is amended to read:

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

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

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

6           **157.115 (title) Abandonment of cemeteries and ~~cemetary~~ lots burial**  
7           **spaces**.

8           SECTION 82. 157.115 (1) (b) 1. of the statutes is renumbered 157.115 (1) (b) and  
9           amended to read:

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

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

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

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

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1           157.115 (1) (d) Upon application by the department, a court may enjoin a  
2 person from acquiring ownership or control of a cemetery if the person has  
3 abandoned another cemetery, or has owned or operated another cemetery that is  
4 subsequently controlled by a municipality under par. (b).

5           **SECTION 86.** 157.115 (2) <sup>✓</sup>(title) of the statutes is amended to read:

6           157.115 (2) (title) ~~ABANDONMENT OF CEMETERY LOTS~~ BURIAL SPACES.

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

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

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

16           157.115 (2) (a) 1. a. No owner has transferred any ownership interest in the  
17 ~~cemetery lot~~ burial space to any other person.

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

19           157.115 (2) (a) 1. b. No owner has purchased or sold another ~~cemetery lot or a~~  
20 ~~mausoleum~~ burial space in the cemetery.

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

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

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

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

3           **SECTION 92.** 157.115 (2) (a) 1. <sup>✓</sup>e. of the statutes is amended to read:

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

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

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

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

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

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

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

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

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

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

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1           157.115 (2) (c) The cemetery authority shall mail to each owner, at each owner's  
2 last-known address, a notice of the cemetery authority's intent to resell the  
3 abandoned ~~cemetery lot~~ space as provided in this subsection. If an owner is buried  
4 in the cemetery in which the abandoned ~~cemetery lot~~ space is located or if the  
5 cemetery authority has any other evidence that reasonably supports a  
6 determination by the cemetery authority that the owner is deceased, no notice is  
7 required under this paragraph.

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

9           157.115 (2) (d) (intro.) If no notice is required under par. (c) or if, within 60 days  
10 after notice is mailed under par. (c), no owner or assignee contacts the cemetery  
11 authority to express an intent to use the abandoned ~~cemetery lot~~ space for a future  
12 burial of human remains, the cemetery authority shall publish in a newspaper of  
13 general circulation in the county in which the abandoned ~~lot~~ space is located, a class  
14 3 notice under ch. 985 that includes all of the following:

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

16           157.115 (2) (d) 1. The location of the abandoned ~~lot~~ space.

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

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

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

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

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1 space is located for a judgment that the cemetery ~~let~~ burial space is an abandoned  
2 ~~let~~ space and an order transferring ownership of the abandoned ~~let~~ space to the  
3 cemetery authority.

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

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

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

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

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

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

## BILL

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

2           **157.117 Trustees for certain cemeteries and mausoleums. (1)**

3           DEFINITIONS. In this section:

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

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

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

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

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

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

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

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1 cemetery or mausoleum a capable and competent person to serve as trustee of the  
2 cemetery or mausoleum under this section, except that the court may not appoint the  
3 department or board as a trustee.

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

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

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

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

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

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

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

24 1. Termination of the trusteeship and reversion of ownership and operation of  
25 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 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 (4<sup>m</sup>) of the statutes is created to read:

4 157.19 (4<sup>m</sup>) 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<sup>✓</sup> 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<sup>✓</sup> 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)<sup>✓</sup> 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) <sup>✓</sup>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) <sup>✓</sup>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) <sup>✓</sup>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) <sup>✓</sup>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 <sup>✓</sup>(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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## SECTION 125

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.** 157.62<sup>5</sup> 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.** 157.63<sup>5</sup> of the statutes is amended to read: