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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **SECTION 164.** 440.05 (intro.) of the statutes is amended to read:

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1 **440.05 Standard fees.** (intro.) The following standard fees apply to all initial
2 credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 440.91 (1m) (a),
3 442.06, 444.03, 444.05, 444.11, 447.04 (2) (e) 2., 449.17, 449.18, and 459.46.

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

5 440.08 (2) (a) 21. Cemetery authority, licensed: January 1 of each
6 odd-numbered year; \$343.

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

8 440.08 (2) (a) 21m. Cemetery authority, registered: January 1 of each
9 odd-numbered year; \$5.

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

11 440.13 (2) (d) With respect to a credential granted by the department under
12 subch. VIII of ch. 440, the cemetery board shall restrict, limit, or suspend the
13 credential when directed to do so by the department.

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

15 440.14 (1) (a) "List" means information compiled or maintained by the
16 department ~~or~~, a credentialing board, or another board in the department that
17 contains the personal identifiers of 10 or more individuals.

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

19 440.14 (2) If a form that the department ~~or~~, a credentialing board, or another
20 board in the department requires an individual to complete in order to apply for a
21 credential or credential renewal or to obtain a product or service from the
22 department ~~or the~~, credentialing board, or other board requires the individual to
23 provide any of the individual's personal identifiers, the form shall include a place for
24 the individual to declare that the individual's personal identifiers obtained by the
25 department ~~or the~~, credentialing board, or other board from the information on the

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1 form may not be disclosed on any list that the department ~~or the~~, credentialing board,
2 or other board furnishes to another person.

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

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

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

23 (b) Paragraph (a) does not apply to a list that the department ~~or~~, a credentialing
24 board, or another board in the department furnishes to another state agency, a law
25 enforcement agency, or a federal governmental agency. A state agency that receives

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

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

7 **440.22 Assessment of costs.** (1) In this section, “costs of the proceeding”
8 means the compensation and reasonable expenses of hearing examiners and of
9 prosecuting attorneys for the department, examining board or, affiliated
10 credentialing board, or other board in the department, a reasonable disbursement
11 for the service of process or other papers, amounts actually paid out for certified
12 copies of records in any public office, postage, telephoning, adverse examinations and
13 depositions and copies, expert witness fees, witness fees and expenses, compensation
14 and reasonable expenses of experts and investigators, and compensation and
15 expenses of a reporter for recording and transcribing testimony.

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

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

18 **440.90 (1b)** “Board” means the cemetery board.

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

20 **440.90 (1c)** “Burial space” has the meaning given in s. 157.061 (1d).

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

22 **440.90 (1g)** “Business entity” has the meaning given in s. 452.01 (3j).

23 **SECTION 175.** 440.90 (1r) of the statutes is created to read:

24 **440.90 (1r)** “Business representative” has the meaning given in s. 452.01 (3k).

25 **SECTION 176.** 440.90 (3g) of the statutes is created to read:

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1 440.90 (3g) “Columbarium” has the meaning given in s. 157.061 (3g).

2 SECTION 177. 440.90 (3r) of the statutes is created to read:

3 440.90 (3r) “Columbarium space” has the meaning given in s. 157.061 (3r).

4 SECTION 178. 440.90 (4e) of the statutes is created to read:

5 440.90 (4e) “Lawn crypt” has the meaning given in s. 157.061 (8g).

6 SECTION 179. 440.90 (4m) of the statutes is created to read:

7 440.90 (4m) “Licensed cemetery authority” means a cemetery authority that
8 is licensed under s. 440.91 (1).

9 SECTION 180. 440.90 (4r) of the statutes is created to read:

10 440.90 (4r) “Licensee” means a person licensed under this subchapter.

11 SECTION 181. 440.90 (10m) of the statutes is created to read:

12 440.90 (10m) “Registrant” means a person registered under this subchapter.

13 SECTION 182. 440.90 (10r) of the statutes is created to read:

14 440.90 (10r) “Religious cemetery authority” has the meaning given in s.
15 157.061 (15m).

16 SECTION 183. 440.90 (14) of the statutes is repealed.

17 SECTION 184. 440.91 (1) of the statutes is renumbered 440.91 (1) (a) and
18 amended to read:

19 440.91 (1) (a) Except as provided in sub. (6m), every cemetery authority that
20 operates a cemetery that is 5 acres or more in size, that sells or solicits the sale of a
21 total of 10 20 or more cemetery lots or mausoleum burial spaces at a cemetery during
22 a calendar year and that pays any commission or other compensation to any person
23 for selling or soliciting the sale of its cemetery lots or mausoleum spaces shall register
24 with, or that has \$100,000 or more in trust fund accounts for a cemetery shall apply
25 to the department. The registration shall be in writing and shall include the names

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1 of the officers of the cemetery authority for a license for that cemetery. A cemetery
2 authority that operates more than one cemetery shall apply for a separate license for
3 each cemetery that is 5 acres or more in size and for each cemetery, at which it sells
4 20 or more burial spaces or at which it has \$100,000 or more in trust fund accounts.

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

6 440.91 (1) (b) Except as provided in s. 440.93 (1), the department shall grant
7 a license to a cemetery authority if all of the following are satisfied:

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

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

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

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

23 (e) 1. The renewal dates and renewal fees for licenses granted under par. (b)
24 are specified in s. 440.08 (2) (a), except that a licensed cemetery authority is not

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1 required to renew its license if the cemetery authority sells less than 10 burial spaces
2 during a period of 2 consecutive calendar years.

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

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

8 440.91 (1m) (a) Except as provided in par. (c) and sub. (6m), a cemetery
9 authority that operates a cemetery for which a license is not required under sub. (1)
10 shall register the cemetery with the department by paying a \$5 registration fee and
11 submitting an application on a form provided by the department that requires the
12 applicant to provide the names of the officers of the cemetery authority and any other
13 information that the department may require. A cemetery authority that operates
14 more than one cemetery for which a license is not required under sub. (1) shall pay
15 a separate registration fee and submit a separate application for each cemetery.

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

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

21 **SECTION 187.** 440.91 (2) (intro.)[✓] of the statutes is amended to read:

22 440.91 (2) (intro.) Except as provided in subs. (7) and (10), every individual who
23 person that sells or solicits the sale of, or who ~~that~~ expects to sell or solicit the sale
24 of, a total of 10 ~~20~~ or more cemetery lots or mausoleum ~~burial~~ spaces during ~~a 2~~
25 calendar year years shall register with ~~be licensed by~~ the department. ~~An individual~~

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

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

10 440.91 (2) (a) The name and address of the applicant and, if the applicant is
11 a business entity, the name and address of each business representative.

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

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

14 440.91 (4) Renewal applications shall be submitted to the department on a
15 form provided by the department on or before the applicable renewal date specified
16 under s. 440.08 (2) (a) and shall include the applicable renewal fee specified under
17 s. 440.08 (2) (a). An applicant for renewal of a cemetery salesperson license shall
18 identify each individual that is exempt from licensure under sub. (7) and that the
19 applicant has supervised during the prior 2 years.

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

21 440.91 (6^m) A religious cemetery authority is not required to be licensed under
22 sub. (1) or registered under sub. (1m).

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

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1 440.91 (7) (a) An individual who solicits the sale of cemetery lots or mausoleum
2 spaces in a cemetery organized, maintained, and operated by a town, village, or city,
3 ~~church, synagogue or mosque, religious, or fraternal or benevolent society or~~
4 ~~incorporated college of a religious order~~ is not required to be ~~registered~~ licensed
5 under sub. (2) if the individual is supervised by a cemetery salesperson licensed
6 under sub. (2).

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

8 440.91 (7) (b) An individual who solicits the sale of cemetery lots or mausoleum
9 spaces in a cemetery owned and operated by a religious cemetery authority is not
10 required to be licensed under sub. (2).

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

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

13 440.91 (9) No cemetery authority or cemetery salesperson ~~registered~~ licensed
14 under sub. (1) or (2) may pay a fee or commission as compensation for a referral or
15 as a finder's fee relating to the sale of ~~a cemetery lot,~~ cemetery merchandise or
16 ~~mausoleum~~ a burial space to any person who is not ~~registered~~ licensed under sub. (1)
17 or (2) or who is not regularly and lawfully engaged in the sale of ~~cemetery lots,~~
18 cemetery merchandise or ~~mausoleum~~ burial spaces in another state or territory of
19 the United States or a foreign country.

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

21 440.91 (10) Nothing in this section requires an individual who is ~~registered~~
22 licensed as a preneed seller under s. 440.92 (1) to be ~~registered~~ licensed as a cemetery
23 salesperson under sub. (2) if the individual only sells or solicits the sale of cemetery
24 merchandise or undeveloped spaces under preneed sales contracts.

25 **SECTION 197.** 440.92 of the statutes is repealed.

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1 **SECTION 198.** 440.92 (1) (title) of the statutes is repealed and recreated to read:

2 440.92 (1) (title) LICENSURE.

3 **SECTION 199.** 440.92 (1) (a) of the statutes is amended to read:

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

11 **SECTION 200.** 440.92 (1) (b) (intro.) of the statutes is amended to read:

12 440.92 (1) (b) (intro.) The department shall issue a certificate of ~~registration~~
13 licensure as a cemetery preneed seller to any person who does all of the following:

14 **SECTION 201.** 440.92 (1) (bm) of the statutes is created to read:

15 440.92 (1) (bm) If a cemetery authority that is registered under this subsection
16 notifies the department under s. 157.08 (2) (b) 1. (intro.) that it proposes to take an
17 action specified in s. 157.08 (2) (b) 1. b. or c. and the department does not object to
18 the action under s. 157.08 (2) (b) 3., the department shall revoke the registration and
19 require the cemetery authority to reapply for a registration under this subsection.

20 **SECTION 202.** 440.92 (1) (e) of the statutes is amended to read:

21 440.92 (1) (e) Nothing in this subsection requires an individual who is
22 ~~registered licensed~~ as a cemetery salesperson under s. 440.91 (2) to be ~~registered~~
23 licensed under this subsection if the individual does not conduct or solicit any sale
24 under a preneed sales contract.

25 **SECTION 203.** 440.92 (2) (title) of the statutes is renumbered 440.922 (title).

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1 [✓]**SECTION 204.** 440.92 (2) (a) of the statutes is renumbered 440.922 (1) (a), and
2 440.922 (1) (a) 2., 3., 3g. and 4. (intro.), as renumbered, are amended to read:

3 440.922 (1) (a) 2. By affixing the cemetery merchandise to the ~~cemetery lot or~~
4 ~~mausoleum~~ burial space.

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

10 3g. By storing the cemetery merchandise anywhere on the property of the
11 preneed seller if the property of the preneed seller is located in this state, the preneed
12 seller insures the cemetery merchandise and the preneed sales contract requires the
13 preneed seller to ultimately affix the cemetery merchandise to a ~~cemetery lot~~ burial
14 space, to the outside of or the grounds surrounding a mausoleum or columbarium or
15 to any other outdoor location without additional charge.

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

23 [✓]**SECTION 205.** 440.92 (2) (am) of the statutes is renumbered 440.922 (2) and
24 amended to read:

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1 440.922 (2) AFFIXTURE OF CEMETERY MERCHANDISE. If a preneed sales contract
2 for the sale of cemetery merchandise requires the preneed seller to ultimately affix
3 the cemetery merchandise to a cemetery lot, ~~mausoleum~~ burial space or other
4 location but the purchaser has not informed the preneed seller of the location where
5 the cemetery merchandise is to be affixed and the location where the cemetery
6 merchandise is to be affixed is not specified in the preneed sales contract, the preneed
7 sales contract may provide that the preneed seller may charge the purchaser an
8 additional fee at the time that the cemetery merchandise is affixed not to exceed the
9 additional costs to the preneed seller that are necessitated by the purchaser's choice
10 of location.

11 SECTION 206. 440.92 (2) (b) of the statutes is renumbered 440.922 (1) (b). ✓

12 SECTION 207. 440.92 (2) (c) of the statutes is renumbered 440.922 (3) and ✓
13 amended to read:

14 440.922 (3) VOIDING OF CONTRACTS. Except as provided in ~~par. (cm)~~ sub. (4), a
15 preneed sales contract shall provide that if the purchaser voids the preneed sales
16 contract at any time within 10 days after the date of the initial payment the preneed
17 seller shall, within 30 days after the date on which the preneed sales contract is
18 voided, refund all money paid by the purchaser for cemetery merchandise that has
19 not been supplied or delivered and for the mausoleum space.

20 SECTION 208. 440.92 (2) (cm) of the statutes is renumbered 440.922 (4). ✓

21 SECTION 209. 440.92 (2) (d) of the statutes is renumbered 440.922 (5) (a). ✓

22 SECTION 210. 440.92 (2) (e) of the statutes is renumbered 440.922 (5) (b). ✓

23 SECTION 211. 440.92 (2) (f) of the statutes is renumbered 440.922 (5) (c) and ✓
24 amended to read:

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1 440.922 (5) (c) If a preneed sales contract is voided under par. (e) (b), the
2 preneed seller shall, within 30 days after the date on which the preneed sales
3 contract is voided, refund all money paid by the purchaser, together with interest
4 calculated at the legal rate of interest as provided under s. 138.04.

5 **SECTION 212.** 440.92 (2) (g) and (h) of the statutes are renumbered 440.922 (6)
6 and (10).

7 **SECTION 213.** 440.92 (2) (i) of the statutes is renumbered 440.922 (7) and
8 amended to read:

9 440.922 (7) TRUSTING REQUIREMENTS. If a preneed sales contract includes
10 provisions for the sale of cemetery merchandise or an undeveloped space that is
11 subject to the trusting requirements under ~~sub. s. 440.92~~ (3) (a) and (b) and for the
12 sale of other goods or services that are not subject to the trusting requirements under
13 ~~sub. s. 440.92~~ (3) (a) and (b), the sale price of the goods or services that are not subject
14 to the trusting requirements may not be inflated for the purpose of allocating a lower
15 sale price to the cemetery merchandise or undeveloped space that is subject to the
16 trusting requirements.

17 **SECTION 214.** 440.92 (2) (j) of the statutes is renumbered 440.922 (8).

18 **SECTION 215.** 440.92 (2) (k) of the statutes is renumbered 440.922 (9) and
19 amended to read:

20 440.922 (9) NOTICE OF RIGHTS. A preneed sales contract shall include the
21 following language in not less than 10–point boldface type: “SECTION ~~440.92 (2)~~
22 440.922 OF THE WISCONSIN STATUTES SPECIFIES THE RIGHTS OF THE
23 PURCHASER UNDER THIS CONTRACT. DEPENDING ON THE
24 CIRCUMSTANCES, THESE MAY INCLUDE THE RIGHT TO VOID THE

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1 CONTRACT AND RECEIVE A REFUND OR THE RIGHT TO ASSIGN AN
2 INTEREST IN THE CONTRACT TO ANOTHER PERSON.”

3 SECTION 216. 440.92 (3) (a) (intro.) of the statutes is renumbered 440.92 (3) (a)
4 and amended to read:

5 440.92 (3) (a) A preneed seller shall deposit into a preneed trust fund an
6 amount equal to at least 40% of each payment of principal that is received from the
7 sale of cemetery merchandise under a preneed sales contract, ~~or the wholesale cost~~
8 ~~ratio for the cemetery merchandise multiplied by the amount of the payment of~~
9 ~~principal that is received, whichever is greater.~~ In addition to the amount required
10 to be deposited under this paragraph for the sale of cemetery merchandise and except
11 as provided in par. (c), if a preneed seller receives payment for the sale of an
12 undeveloped space under a preneed sales contract, the preneed seller shall deposit
13 a percentage at least 40% of each payment of principal that is received from the sale
14 of the undeveloped space into a preneed trust fund, ~~determined as follows:~~

15 SECTION 217. 440.92 (3) (a) 1. and 2. of the statutes are repealed.

16 SECTION 218. 440.92 (3) (c) (intro.) of the statutes is amended to read:

17 440.92 (3) (c) (intro.) A preneed seller is not required to make the deposits
18 required under par. (a) ~~1. and 2. for payments for sales of undeveloped spaces under~~
19 preneed contracts if any of the following applies:

20 SECTION 219. 440.92 (4) (title) of the statutes is amended to read:

21 440.92 (4) (title) EXCEPTIONS TO REGISTRATION LICENSURE REQUIREMENT.

22 SECTION 220. 440.92 (4) (a) (intro.) of the statutes is amended to read:

23 440.92 (4) (a) (intro.) Any person who sells or solicits the sale of cemetery
24 merchandise under a preneed sales contract is not required to be ~~registered~~ licensed
25 under sub. (1) and the requirements of sub. (3) (a) and (b) do not apply to the sale if

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1 all payments received under the preneed sales contract are trusted as required under
2 s. 445.125 (1) (a) 1. or if all of the following conditions are met:

3 **SECTION 221.** 440.92 (4) (b) of the statutes is amended to read:

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

10 **SECTION 222.** 440.92 (5) of the statutes is renumbered 440.924.

11 **SECTION 223.** 440.92 (6) (title) of the statutes is renumbered 440.926 (title) and
12 amended to read:

13 **440.926 (title) Reporting; Preneed seller reporting and record keeping;**
14 **audits.**

15 **SECTION 224.** 440.92 (6) (a) of the statutes is renumbered 440.926 (1) (a) and
16 amended to read:

17 440.926 (1) (a) Every preneed seller ~~registered~~ licensed under sub. s. 440.92
18 (1) shall file an annual report with the department. The report shall be made on a
19 form prescribed and furnished by the department. The report shall be made on a
20 calendar-year basis unless the department, by rule, provides for other reporting
21 periods. The report is due on or before the 60th day after the last day of the reporting
22 period.

23 **SECTION 225.** 440.92 (6) (b) and (c) of the statutes are renumbered 440.926 (1)

24 (b) and (c).

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1 **SECTION 226.** 440.92 (6) (d) of the statutes is renumbered 440.926 (2) (c) and
2 amended to read:

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

9 **SECTION 227.** 440.92 (6) (e) and (f) of the statutes are renumbered 440.926 (1)
10 (d) and (e).

11 **SECTION 228.** 440.92 (6) (g) of the statutes is renumbered 440.926 (2) (a), and
12 440.926 (2) (a) 1. and 2., as renumbered, are amended to read:

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

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

18 **SECTION 229.** 440.92 (6) (h) of the statutes is renumbered 440.926 (2) (b) and
19 amended to read:

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

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1 **SECTION 230.** 440.92 (6) (i) of the statutes is renumbered 440.926 (3) (a) and
2 amended to read:

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

6 **SECTION 231.** 440.92 (6) (j) of the statutes is renumbered 440.926 (4) and
7 amended to read:

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

16 **SECTION 232.** 440.92 (6) (k) of the statutes is renumbered 440.926 (3) (b) and
17 amended to read:

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

21 **SECTION 233.** 440.92 (7) of the statutes is renumbered 440.927 and amended
22 to read:

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

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

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

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

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

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

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

3 SECTION 236. 440.92 (9) (b) 3. of the statutes is amended to read:

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

10 SECTION 237. 440.92 (9) (c) of the statutes is amended to read:

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

15 SECTION 238. 440.92 (9) (e) of the statutes is amended to read:

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

20 SECTION 239. 440.92 (9) (f) of the statutes is amended to read:

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

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

3 **SECTION 240.** 440.92 (10) of the statutes is repealed.

4 **SECTION 241.** 440.922 (1) (title), (4) (title), (5) (title), (6) (title), (8) (title) and (10)
5 (title) of the statutes are created to read:

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

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

8 (5) (title) UNDEVELOPED SPACE SALES.

9 (6) (title) INTEREST ASSIGNMENTS.

10 (8) (title) CONTRACT REQUIREMENTS.

11 (10) (title) CONFLICTING PROVISIONS.

12 **SECTION 242.** 440.926 (1) (title), (2) (title) and (3) (title) of the statutes are
13 created to read:

14 440.926 (1) (title) REPORTS.

15 (2) (title) RECORDS.

16 (3) (title) RULES.

17 **SECTION 243.** 440.928 of the statutes is created to read:

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

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

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

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

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

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

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

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

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

21 **SECTION 244.** 440.929 of the statutes is created to read:

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

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

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

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

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

16 **SECTION 247.** 440.93 (1) (c) of the statutes is amended to read:

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

21 **SECTION 248.** 440.93 (1) (cm) of the statutes is created to read:

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

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

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

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

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

11 **SECTION 251.** 440.93 (1) (g) of the statutes is amended to read:

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

15 **SECTION 252.** 440.93 (1m) of the statutes is created to read:

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

22 **SECTION 253.** 440.93 (2) of the statutes is amended to read:

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

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1 **SECTION 254.** 440.945 (1) (a) of the statutes is amended to read:

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

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

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

16 **SECTION 256.** 440.945 (2) (c) of the statutes is amended to read:

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

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

3 **SECTION 257.** 440.945 (3) (a) (intro.) of the statutes is amended to read:

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

8 **SECTION 258.** 440.945 (4) (a) 1. of the statutes is amended to read:

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

12 **SECTION 259.** 440.945 (4) (a) 2. of the statutes is amended to read:

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

16 **SECTION 260.** 440.945 (4) (a) 3. of the statutes is amended to read:

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

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

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

4 **SECTION 262.** 440.945 (5) (a) of the statutes is amended to read:

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

9 **SECTION 263.** 440.945 (5) (am) of the statutes is created to read:

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

13 **SECTION 264.** 440.945 (5) (b) of the statutes is amended to read:

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

24 **SECTION 265.** 440.947 (1) (c) of the statutes is renumbered 440.90 (6g).

25 **SECTION 266.** 440.947 (5) of the statutes is amended to read:

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

8 **SECTION 267.** 440.948 of the statutes is created to read:

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

14 **SECTION 268.** 440.949 of the statutes is created to read:

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

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

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

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

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

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

15 **SECTION 269.** 440.95[✓] (1) of the statutes is amended to read:

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

18 **SECTION 270.** 440.95[✓] (1m) of the statutes is created to read:

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

23 **SECTION 271.** 440.95[✓] (2) of the statutes is amended to read:

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

BILL**SECTION 271**

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

3 **SECTION 272.** 440.95 (2m) of the statutes is created to read:

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

7 **SECTION 273.** 440.95 (4) (a) of the statutes is repealed.

8 **SECTION 274.** 440.95 (4) (c) of the statutes is amended to read:

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

11 **SECTION 275.** 440.95 (5) of the statutes is amended to read:

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

16 **SECTION 276. Nonstatutory provisions.**

17 (1) DEFINITION. In this SECTION:

18 (a) "Board" means the cemetery board.

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

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

BILL

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

3 (3) INITIAL APPOINTMENTS TO CEMETERY BOARD.

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

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

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

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

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

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

25 **SECTION 277. Initial applicability.**

BILL

1 (1) NONDISCLOSURE OF CERTAIN INFORMATION. The treatment of section 440.14
2 (1) (a), (2), (3), (4), and (5) of the statutes first applies to lists furnished by a board
3 in the department of regulation and licensing, other than a credentialing board, on
4 the effective date of this subsection.

5

(END)

1
INSERT 84-4

1

INSERT 8A:

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

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

2

INSERT 12-23:

INSERT XYZ
SECTION 69.18 (1) (bm) (intro.) of the statutes, as affected by 2001 Wisconsin

3

AUTOCHG
Act 16, is amended to read:

4

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

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14

History: 2001 a. 16.

15

SECTION 2. 69.22 (1) (a) of the statutes, as affected by 2001 Wisconsin Act 16, is amended to read:

16

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

4 History: 2001 a. 16.

INSERT 24-19:

5 **SECTION 3.** 157.10 of the statutes is renumbered 157.10 (1) (a) and amended ✓
6 to read:

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

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

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

23 History: 1989 a. 307.

SECTION 4. 157.10 (1) (b) of the statutes is created to read:

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4247/lins2
MDK.....

XYZ
INSERT ~~12~~:

1
2 SECTION ~~X~~. 69.18 (1) (bm) (intro.) of the statutes is amended to read:

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

13 History: 1985 a. 315; 1985 a. 332 s. 253; 1989 a. 307; 1993 a. 386; 1995 a. 357; 1997 a. 114.

13 INSERT ~~844~~: 84-4

14 SECTION ~~X~~. **Effective dates.** This act takes effect on the day after publication,
15 except as follows:

16 (1) The treatment of section 69.18 (1) (bm) (intro.) (by SECTION ~~#~~) of the statutes
17 takes effect on January 1, 2003.

create subauto
use auto-ref "X"
(see insert 12-23)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4247/1dn

MDK./.....

JS

Democratic
Caucus's

Representative Morris-Tatum:

This bill is identical to the Senate ~~Democratic~~ proposal for the budget. It does not include the conference committee's limitation to Milwaukee County or elimination of the cemetery board.

For your information, except for a few renumbering changes, here is how this bill differs from your earlier bill on this topic (LRB-2973/4): ✓

1. A typographical error in proposed s. 15.405 (3m) (c) is corrected. ✓
2. The changes regarding cemetery expenses are eliminated (i.e., this bill does not affect s. 40.30 (1) (a), stats.). ✓
3. There are some differences in the amendment of s. 157.10, including the exceptions for religious cemeteries in proposed s. 157.10 (1) (b) and (3). ✓ ✓

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4247/1dn
MDK:ejk:kjf

November 16, 2001

Representative Morris-Tatum:

This bill is identical to the Senate Democratic Caucus's proposal for the budget. It does not include the conference committee's limitation to Milwaukee County or elimination of the cemetery board.

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1. A typographical error in proposed s. 15.405 (3m) (c) is corrected.
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State of Wisconsin

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STEPHEN R. MILLER
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LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

November 16, 2001

MEMORANDUM

To: Representative Morris-Tatum

From: Mark D. Kunkel, Legislative Attorney

Re: LRB-4247/1 Regulation of cemeterics

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0131 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.