

## ASSEMBLY BILL 776

1           SECTION <sup>338 pt</sup> ~~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 <sup>338 px</sup> ~~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 <sup>338 qc</sup> ~~109~~. 157.125 (2) of the statutes is amended to read:

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

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

3 SECTION ~~110~~ <sup>3389g</sup> 157.128 (2) (a), (b) and (c) of the statutes are amended to read:

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

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

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

10 SECTION ~~111~~ <sup>3389L</sup> 157.128 (3) (b) of the statutes is amended to read:

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

14 SECTION ~~112~~ <sup>3389P</sup> 157.19 (2) (c) of the statutes is amended to read:

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19 dividends that have accumulated on the preneed trust funds, may not be withdrawn  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

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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 ~~13~~<sup>338gt</sup>. 157.19 (4m) of the statutes is created to read:

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

14 SECTION ~~14~~<sup>338gx</sup>. 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 ~~15~~<sup>338rc</sup>. 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~~<sup>338rg</sup>. 157.60 of the statutes is amended to read:

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

14 SECTION ~~117~~<sup>338rL</sup>. 157.61 of the statutes is created to read:

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

20 SECTION ~~118~~<sup>338rp</sup>. 157.62 (1) (a) (intro.), (b) and (c) of the statutes are repealed.

21 SECTION ~~119~~<sup>338rt</sup>. 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~~<sup>338rx</sup>. 157.62 (2) (a) of the statutes is amended to read:

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

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

6 SECTION <sup>338sc</sup> ~~121~~. 157.62 (2) (b) 1. of the statutes is amended to read:

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

9 SECTION <sup>338sg</sup> ~~122~~. 157.62 (2) (b) 1m. of the statutes is created to read:

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

12 SECTION <sup>338sL</sup> ~~123~~. 157.62 (2) (b) 2. of the statutes is amended to read:

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

15 SECTION <sup>338sp</sup> ~~124~~. 157.62 (2) (b) 7. of the statutes is renumbered 157.62 (2) (b) 7.  
16 (intro.) and amended to read:

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

20 SECTION <sup>338sp</sup> ~~125~~. 157.62 (3) (a) of the statutes is amended to read:

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

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

3 SECTION ~~126~~<sup>338st</sup>. 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~~<sup>338sx</sup>. 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~~<sup>338tc</sup>. 157.62 (4) (title) of the statutes is amended to read:

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

12 SECTION ~~129~~<sup>338tg</sup>. 157.62 (4) of the statutes is renumbered 157.62 (4) (a).

13 SECTION ~~130~~<sup>338tl</sup>. 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~~<sup>338tp</sup>. 157.62 (5) of the statutes is renumbered 157.62 (5) (b).

18 SECTION ~~132~~<sup>338tt</sup>. 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~~<sup>338tx</sup>. 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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## SECTION 133

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 <sup>338uc</sup>~~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 <sup>338ug</sup>~~135~~. 157.625 of the statutes is repealed.

15 SECTION <sup>338ul</sup>~~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 <sup>338up</sup>~~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~~<sup>338vt</sup> 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~~<sup>338vx</sup> 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~~<sup>338vc</sup> 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~~<sup>338vg</sup> 157.63 (6) of the statutes is amended to read:

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

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

<sup>338vl</sup>



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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~~ <sup>338 vp</sup> 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 ~~141~~<sup>338vt</sup>. 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~~<sup>338vx</sup>. 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~~<sup>338wc</sup>. 157.64 (2) (h) of the statutes is created to read:

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

20           SECTION ~~147~~<sup>338w3</sup>. 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 <sup>338wl</sup>~~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 <sup>338wp</sup>~~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 <sup>338wt</sup>~~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. <sup>u</sup>

# Page 215, line 14 : after that line insert:

24 " SECTION ~~171~~. 423.102 of the statutes is amended to read:

<sup>464ma</sup>

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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).

1 SECTION ~~155~~<sup>464me</sup>. 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~~<sup>464mf</sup>. 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~~<sup>464mg</sup>. 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~~<sup>464mh</sup>. 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~~<sup>464mi</sup>. 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~~<sup>464mj</sup>. 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~~<sup>464mk</sup>. 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~~<sup>464ml</sup>. 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~~<sup>464mm</sup>. 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.

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## SECTION 164

1 SECTION ~~164~~<sup>464mn</sup> 440.05 (intro.) of the statutes, as affected by 2001 Wisconsin Act  
2 16, is amended to read:

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

6 SECTION ~~165~~<sup>464mo</sup> 440.08 (2) (a) 21. of the statutes is amended to read:

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

9 SECTION ~~166~~<sup>464mom</sup> 440.08 (2) (a) 21m. of the statutes is created to read:

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

12 SECTION ~~167~~<sup>464mp</sup> 440.13 (2) (d) of the statutes is created to read:

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

16 SECTION ~~168~~<sup>464mq</sup> 440.14 (1) (a) of the statutes is amended to read:

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

20 SECTION ~~169~~<sup>464mr</sup> 440.14 (2), (3), (4) and (5) of the statutes are amended to read:

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

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

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

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

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



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## SECTION 169

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

9 SECTION <sup>464ms</sup> ~~170~~. 440.22 (1) of the statutes is amended to read:

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

19 SECTION <sup>464mt</sup> ~~171~~. 440.90 (i) of the statutes is renumbered 440.90 (1d).

20 SECTION <sup>464mu</sup> ~~172~~. 440.90 (1b) of the statutes is created to read:

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

22 SECTION <sup>464mv</sup> ~~173~~. 440.90 (1c) of the statutes is created to read:

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

24 SECTION <sup>464mw</sup> ~~174~~. 440.90 (1g) of the statutes is created to read:

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

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- 1 SECTION <sup>464mx</sup> ~~175~~. 440.90 (1r) of the statutes is created to read:
- 2 440.90 (1r) "Business representative" has the meaning given in s. 452.01 (3k).
- 3 SECTION <sup>464my</sup> ~~176~~. 440.90 (3g) of the statutes is created to read:
- 4 440.90 (3g) "Columbarium" has the meaning given in s. 157.061 (3g).
- 5 SECTION <sup>464mz</sup> ~~177~~. 440.90 (3r) of the statutes is created to read:
- 6 440.90 (3r) "Columbarium space" has the meaning given in s. 157.061 (3r).
- 7 SECTION <sup>464na</sup> ~~178~~. 440.90 (4e) of the statutes is created to read:
- 8 440.90 (4e) "Lawn crypt" has the meaning given in s. 157.061 (8g).
- 9 SECTION <sup>464nb</sup> ~~179~~. 440.90 (4m) of the statutes is created to read:
- 10 440.90 (4m) "Licensed cemetery authority" means a cemetery authority that
- 11 is licensed under s. 440.91 (1).
- 12 SECTION <sup>464nc</sup> ~~180~~. 440.90 (4r) of the statutes is created to read:
- 13 440.90 (4r) "Licensee" means a person licensed under this subchapter.
- 14 SECTION <sup>464nd</sup> ~~181~~. 440.90 (10m) of the statutes is created to read:
- 15 440.90 (10m) "Registrant" means a person registered under this subchapter.
- 16 SECTION <sup>464ne</sup> ~~182~~. 440.90 (10r) of the statutes is created to read:
- 17 440.90 (10r) "Religious cemetery authority" has the meaning given in s.
- 18 157.061 (15m).
- 19 SECTION <sup>464nf</sup> ~~183~~. 440.90 (14) of the statutes is repealed.
- 20 SECTION <sup>464ng</sup> ~~184~~. 440.91 (1) of the statutes is renumbered 440.91 (1) (a) and
- 21 amended to read:
- 22 440.91 (1) (a) Except as provided in sub. (6m), every cemetery authority that
- 23 operates a cemetery that is 5 acres or more in size, that sells or solicits the sale of a
- 24 total of 10 20 or more cemetery lots or mausoleum burial spaces at a cemetery during
- 25 a calendar year and that pays any commission or other compensation to any person

## ASSEMBLY BILL 776

## SECTION 184

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

8 SECTION ~~185~~<sup>464nh</sup> 440.91 (1) (b), (c), (d) and (e) of the statutes are created to read:

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

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

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

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

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

## ASSEMBLY BILL 776

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

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

9 SECTION ~~186~~<sup>464ni</sup>. 440.91 (1m) of the statutes is created to read:

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

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

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

23 SECTION ~~187~~<sup>464nj</sup>. 440.91 (2) (intro.) of the statutes is amended to read:

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

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## SECTION 187

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

11 SECTION ~~188~~ <sup>464nk</sup> 440.91 (2) (a) of the statutes is repealed and recreated to read:

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

14 SECTION ~~189~~ <sup>464nl</sup> 440.91 (2) (b) and (c) of the statutes are repealed.

15 SECTION ~~190~~ <sup>464nm</sup> 440.91 (4) of the statutes is amended to read:

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

22 SECTION ~~191~~ <sup>464nn</sup> 440.91 (6m) of the statutes is repealed and recreated to read:

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

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1 SECTION <sup>464no</sup>192. 440.91 (7) of the statutes is renumbered 440.91 (7) (a) and  
2 amended to read:

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

9 SECTION <sup>464nr</sup>193. 440.91 (7) (b) of the statutes is created to read:

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

13 SECTION <sup>464nr</sup>194. 440.91 (8) of the statutes is repealed.

14 SECTION <sup>464nr</sup>195. 440.91 (9) of the statutes is amended to read:

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

22 SECTION <sup>464ns</sup>196. 440.91 (10) of the statutes is amended to read:

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

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## SECTION 196

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

3 SECTION ~~197~~<sup>464nt</sup>. 440.92 (1) (title) of the statutes is repealed and recreated to read:  
4 440.92 (1) (title) LICENSURE.

5 SECTION ~~198~~<sup>464nw</sup>. 440.92 (1) (a) of the statutes is amended to read:  
6 440.92 (1) (a) Except as provided in subs. (4), and (9) (a) ~~and (10)~~, every  
7 individual who sells or solicits the sale of cemetery merchandise or an undeveloped  
8 space under a preneed sales contract ~~and, if the~~ is required to be licensed under this  
9 subsection and, if applicable, comply with the requirements under s. 445.125. If such  
10 an individual is employed by or acting as an agent for a cemetery authority or any  
11 other person, that cemetery authority or other person is also required to be ~~registered~~  
12 licensed under this subsection.

13 SECTION ~~199~~<sup>464nw</sup>. 440.92 (1) (b) (intro.) of the statutes is amended to read:  
14 440.92 (1) (b) (intro.) The department shall issue a certificate of ~~registration~~  
15 licensure as a cemetery preneed seller to any person who does all of the following:

16 SECTION ~~200~~<sup>464nw</sup>. 440.92 (1) (bm) of the statutes is created to read:  
17 440.92 (1) (bm) If a cemetery authority that is registered under this subsection  
18 notifies the department under s. 157.08 (2) (b) 1. (intro.) that it proposes to take an  
19 action specified in s. 157.08 (2) (b) 1. b. or c. and the department does not object to  
20 the action under s. 157.08 (2) (b) 3., the department shall revoke the registration and  
21 require the cemetery authority to reapply for a registration under this subsection.

22 SECTION ~~201~~<sup>464nx</sup>. 440.92 (1) (e) of the statutes is amended to read:  
23 440.92 (1) (e) Nothing in this subsection requires an individual who is  
24 ~~registered~~ licensed as a cemetery salesperson under s. 440.91 (2) to be ~~registered~~

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

3 SECTION ~~202~~<sup>464ny</sup> 440.92 (2) (title) of the statutes is renumbered 440.922 (title).

4 SECTION ~~203~~<sup>464nz</sup> 440.92 (2) (a) of the statutes is renumbered 440.922 (1) (a), and  
5 440.922 (1) (a) 2., 3., 3g. and 4. (intro.), as renumbered, are amended to read:

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

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

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

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



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## SECTION 204

1           SECTION <sup>4640a</sup>~~204~~. 440.92 (2) (am) of the statutes is renumbered 440.922 (2) and  
2 amended to read:

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

13           SECTION <sup>4640b</sup>~~205~~. 440.92 (2) (b) of the statutes is renumbered 440.922 (1) (b).

14           SECTION <sup>4640c</sup>~~206~~. 440.92 (2) (c) of the statutes is renumbered 440.922 (3) and  
15 amended to read:

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

22           SECTION <sup>4640d</sup>~~207~~. 440.92 (2) (cm) of the statutes is renumbered 440.922 (4).

23           SECTION <sup>4640e</sup>~~208~~. 440.92 (2) (d) of the statutes is renumbered 440.922 (5) (a).

24           SECTION <sup>4640f</sup>~~209~~. 440.92 (2) (e) of the statutes is renumbered 440.922 (5) (b).

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1           SECTION ~~210~~<sup>4640g</sup>. 440.92 (2) (f) of the statutes is renumbered 440.922 (5) (c) and  
2 amended to read:

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

7           SECTION ~~211~~<sup>4640h</sup>. 440.92 (2) (g) and (h) of the statutes are renumbered 440.922 (6)  
8 and (10).

9           SECTION ~~212~~<sup>4640i</sup>. 440.92 (2) (i) of the statutes is renumbered 440.922 (7) and  
10 amended to read:

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

19           SECTION ~~213~~<sup>4640j</sup>. 440.92 (2) (j) of the statutes is renumbered 440.922 (8).

20           SECTION ~~214~~<sup>4640k</sup>. 440.92 (2) (k) of the statutes is renumbered 440.922 (9) and  
21 amended to read:

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

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## SECTION 214

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

4 SECTION 215. 440.92 (3) (a) (intro.) of the statutes is renumbered 440.92 (3) (a)  
5 and amended to read: <sup>4640L</sup>

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

16 SECTION 216. <sup>4640m</sup> 440.92 (3) (a) 1. and 2. of the statutes are repealed.

17 SECTION 217. <sup>4640n</sup> 440.92 (3) (c) (intro.) of the statutes is amended to read:

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

21 SECTION 218. <sup>4640o</sup> 440.92 (4) (title) of the statutes is amended to read:

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

23 SECTION 219. <sup>4640p</sup> 440.92 (4) (a) (intro.) of the statutes is amended to read:

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

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

4 SECTION ~~220~~<sup>4640g</sup>. 440.92 (4) (b) of the statutes is amended to read:

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

11 SECTION ~~221~~<sup>4640r</sup>. 440.92 (5) of the statutes is renumbered 440.924.

12 SECTION ~~222~~<sup>4640s</sup>. 440.92 (6) (title) of the statutes is renumbered 440.926 (title) and  
13 amended to read:

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

16 SECTION ~~223~~<sup>4640t</sup>. 440.92 (6) (a) of the statutes is renumbered 440.926 (1) (a) and  
17 amended to read:

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

24 SECTION ~~224~~<sup>4640u</sup>. 440.92 (6) (b) and (c) of the statutes are renumbered 440.926 (1)  
25 (b) and (c).

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1 SECTION ~~225~~<sup>4640v</sup>. 440.92 (6) (d) of the statutes is renumbered 440.926 (2) (c) and  
2 amended to read:

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

9 SECTION ~~226~~<sup>4640w</sup>. 440.92 (6) (e) and (f) of the statutes are renumbered 440.926 (1)  
10 (d) and (e).

11 SECTION ~~227~~<sup>4640x</sup>. 440.92 (6) (g) of the statutes is renumbered 440.926 (2) (a), and  
12 440.926 (2) (a) 1. and 2., as renumbered, are amended to read:

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

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

18 SECTION ~~228~~<sup>4640y</sup>. 440.92 (6) (h) of the statutes is renumbered 440.926 (2) (b) and  
19 amended to read:

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

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1 SECTION ~~229~~<sup>464oz</sup>. 440.92 (6) (i) of the statutes is renumbered 440.926 (3) (a) and  
2 amended to read:

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

6 SECTION ~~230~~<sup>464pa</sup>. 440.92 (6) (j) of the statutes is renumbered 440.926 (4) and  
7 amended to read:

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

16 SECTION ~~231~~<sup>464pb</sup>. 440.92 (6) (k) of the statutes is renumbered 440.926 (3) (b) and  
17 amended to read:

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

21 SECTION ~~232~~<sup>464pc</sup>. 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 ~~233~~ 440.92 (9) (title) of the statutes is amended to read:

14 440.92 (9) (title) <sup>464pc</sup> EXEMPTIONS; CERTIFICATION OF COMPLIANCE OF RELIGIOUS  
15 CEMETERY AFFILIATED WITH RELIGIOUS SOCIETY AUTHORITIES.

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

17 440.92 (9) (a) <sup>464pd</sup> If the cemetery authority of a cemetery that is affiliated with a  
18 religious society organized under ch. 187 or that religious society a religious  
19 cemetery authority or the church, synagogue, mosque, incorporated college of a  
20 religious order, or religious society organized under ch. 187 that is affiliated with a  
21 religious cemetery authority files an annual certification with the department as  
22 provided in this subsection, neither the religious cemetery authority nor any  
23 employee of the cemetery is required to be ~~registered~~ licensed as a cemetery preneed  
24 seller under sub. (1) during the period for which the certification is effective, but the

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

3 SECTION ~~235~~<sup>464pe</sup> 440.92 (9) (b) 3. of the statutes is amended to read:

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

10 SECTION ~~236~~<sup>464pr</sup> 440.92 (9) (c) of the statutes is amended to read:

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

15 SECTION ~~237~~<sup>464pg</sup> 440.92 (9) (e) of the statutes is amended to read:

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

20 SECTION ~~238~~<sup>464ph</sup> 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           (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, inheritance, cancellation, or refund rights under the  
9 agreement.

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

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

21           SECTION ~~243~~<sup>464pm</sup>. 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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1 440.924 during the 12-month period for which such compliance has been certified  
2 under this subsection.

3 SECTION ~~239~~<sup>464 pi</sup>. 440.92 (10) of the statutes is repealed.

4 SECTION ~~240~~<sup>464 pi</sup>. 440.922 (1) (title), (4) (title), (5) (title), (6) (title), (8) (title) and (10)  
5 (title) of the statutes are created to read:

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

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

8 (5) (title) UNDEVELOPED SPACE SALES.

9 (6) (title) INTEREST ASSIGNMENTS.

10 (8) (title) CONTRACT REQUIREMENTS.

11 (10) (title) CONFLICTING PROVISIONS.

12 SECTION ~~241~~<sup>464 pk</sup>. 440.926 (1) (title), (2) (title) and (3) (title) of the statutes are  
13 created to read:

14 440.926 (1) (title) REPORTS.

15 (2) (title) RECORDS.

16 (3) (title) RULES.

17 SECTION ~~242~~<sup>464 pl</sup>. 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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## SECTION 244

1 SECTION <sup>464pm</sup>244. 440.93 (1) (intro.) of the statutes is amended to read:

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

12 SECTION <sup>464pmm</sup>245. 440.93 (1) (b) of the statutes is amended to read:

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

16 SECTION <sup>464pn</sup>246. 440.93 (1) (c) of the statutes is amended to read:

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

21 SECTION <sup>464po</sup>247. 440.93 (1) (cm) of the statutes is created to read:

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

24 SECTION <sup>464pa</sup>248. 440.93 (1) (d) of the statutes is amended to read:

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

6           SECTION ~~249~~<sup>2 464 pr</sup>. 440.93 (1) (f) of the statutes is amended to read:

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

11          SECTION ~~250~~<sup>2 464 ps</sup>. 440.93 (1) (g) of the statutes is amended to read:

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

15          SECTION ~~251~~<sup>464 pt</sup>. 440.93 (1m) of the statutes is created to read:

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

22          SECTION ~~252~~<sup>464 pu</sup>. 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 <sup>464pv</sup>~~253~~. 440.945 (1) (a) of the statutes is amended to read:

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

4 SECTION <sup>464pw</sup>~~254~~. 440.945 (2) (a) of the statutes is amended to read:

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

16 SECTION <sup>464px</sup>~~255~~. 440.945 (2) (c) of the statutes is amended to read:

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

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

3 SECTION ~~256~~<sup>464p4</sup>. 440.945 (3) (a) (intro.) of the statutes is amended to read:

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

8 SECTION ~~257~~<sup>464p2</sup>. 440.945 (4) (a) 1. of the statutes is amended to read:

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

12 SECTION ~~258~~<sup>464ga</sup>. 440.945 (4) (a) 2. of the statutes is amended to read:

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

16 SECTION ~~259~~<sup>464gb</sup>. 440.945 (4) (a) 3. of the statutes is amended to read:

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

24 SECTION ~~260~~<sup>464gc</sup>. 440.945 (4) (a) 4. of the statutes is amended to read:

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

4 SECTION ~~261~~<sup>464gd</sup>. 440.945 (5) (a) of the statutes is amended to read:

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

9 SECTION ~~262~~<sup>464ge</sup>. 440.945 (5) (am) of the statutes is created to read:

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

13 SECTION ~~263~~<sup>464gf</sup>. 440.945 (5) (b) of the statutes is amended to read:

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

24 SECTION ~~264~~<sup>464gg</sup>. 440.947 (1) (c) of the statutes is renumbered 440.90 (6g).

25 SECTION ~~265~~<sup>464gh</sup>. 440.947 (5) of the statutes is amended to read:

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

8           SECTION ~~266~~ <sup>464qi</sup> 440.948 of the statutes is created to read:

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

14           SECTION ~~267~~ <sup>464qj</sup> 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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## SECTION 267

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

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

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

15 SECTION ~~268~~<sup>464gk</sup>. 440.95 (1) of the statutes is amended to read:

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

18 SECTION ~~269~~<sup>464gk</sup>. 440.95 (1m) of the statutes is created to read:

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

23 SECTION ~~270~~<sup>464gm</sup>. 440.95 (2) of the statutes is amended to read:

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

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

3 SECTION ~~271~~<sup>4649n</sup>. 440.95 (2m) of the statutes is created to read:

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

7 SECTION ~~272~~<sup>4649o</sup>. 440.95 (4) (a) of the statutes is repealed.

8 SECTION ~~273~~<sup>4649p</sup>. 440.95 (4) (c) of the statutes is amended to read:

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

11 SECTION ~~274~~<sup>4649q</sup>. 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 #. Page 362, line 13 : after that line insert:

SECTION ~~275~~ Nonstatutory provisions.

17 ¶ ~~(a)~~<sup>(1)</sup> DEFINITION. In this ~~Section~~<sup>Subsection</sup>:

18 1. ~~(a)~~<sup>(1)</sup> "Board" means the cemetery board.

19 2. ~~(b)~~<sup>(2)</sup> "Cemetery association" has the meaning given in section 157.061 (1r) of the  
20 statutes.

21 ¶ ~~(b)~~<sup>(3)</sup> 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~~<sup>paragraph</sup>, file with the department of  
25 financial institutions any copies of certifications, resolutions, or proceedings that the

¶ (1g) <sup>(c)</sup> Cemetery board.

## ASSEMBLY BILL 776

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 <sup>(1)</sup> INITIAL APPOINTMENTS TO CEMETERY BOARD.

4 1. ~~(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 <sup>subdivision</sup> ~~paragraph~~.

10 2. ~~(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 <sup>subdivision</sup> ~~paragraph~~ for the following terms:

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

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

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

20 <sup>(1)</sup> PRENEED SELLER LICENSES. Notwithstanding section 440.92 (1) (a) and (b)  
21 (intro.) <sup>(c)</sup> 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~~ <sup>paragraph</sup>, holds a valid certificate of  
24 registration as a cemetery preneed seller. "

25 ~~SECTION 276. Initial applicability.~~

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#. Page 437, line 2 : after that line insert:

1       “(6) 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.”

#. Page 448, line 2 : after that line insert:

5       ~~SECTION 277 Effective dates. This act takes effect on the day after~~  
6       ~~publication, except as follows.~~

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7       “(1) The treatment of section 69.18 (1) (bm) (intro.) (by SECTION 4) of the  
8       statutes takes effect on January 1, 2003.”

(END)

155g  
↑

(c) Cemetery board.

## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Thursday, March 14, 2002 8:34 PM  
**To:** Rep.MorrisTatum  
**Subject:** LRB b2682/1 (attached)



01b2682/1

*Mike Barman*

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