

D-NOTE

Stays 40

LFB:.....Renner - Regulation of cemeteries

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION  
SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,  
TO 2001 SENATE BILL 55

See pages 33 34 40

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 125, line 6: after that line insert:

3 "(q) Cemetery and mausoleum

4 trustee disbursements SEG S -0- -0-".

5 2. Page 302, line 24: after that line insert:

6 "SECTION 465p. 20.165 (1) (q) of the statutes is created to read:

7 20.165 (1) (q) *Cemetery and mausoleum trustee disbursements.* From the  
8 cemetery management insurance fund, a sum sufficient to make disbursements to  
9 trustees under the rules promulgated under s. 157.117 (4) (a).".

10 3. Page 468, line 19: after that line insert:

1           **“SECTION 1104p.** 25.17 (1) (at) of the statutes is created to read:

2           25.17 (1) (at) Cemetery management insurance fund (s. 25.86);”.

3           **4.** Page 477, line 11: after that line insert:

4           **“SECTION 1144m.** 25.86 of the statutes is created to read:

5           **25.86 Cemetery management insurance fund.** There is established a  
6 separate nonlapsible trust fund designated as the cemetery management insurance  
7 fund, to consist of the moneys received under s. 69.22 (7).”.

8           **5.** Page 693, line 7: after “death” insert “, together with the fee required under  
9 s. 69.22 (7).”.

10          **6.** Page 698, line 1: delete “sub. (6)” and substitute “subs. (6) and (7)”.

11          **7.** Page 700, line 5: after that line insert:

12          **“SECTION 2100m.** 69.22 (7) of the statutes is created to read:

13          **69.22 (7)** In a county with a population greater than 600,000, in addition to any  
14 applicable fee under sub. (1), the state registrar and any local registrar shall charge  
15 a fee of \$10 for filing a certificate of death and a surcharge of \$1 for issuing a certified  
16 copy or additional certified copy of a certificate of death, regardless of whether the  
17 death occurred before or after 1930. By the 15th day of the first month following the  
18 end of a calendar quarter, the state registrar and local registrar shall forward to the  
19 state treasurer the amounts received under this subsection during the calendar  
20 quarter. The state treasurer shall credit all amounts received under this subsection  
21 to the cemetery management insurance fund.”.

22          **8.** Page 957, line 3: after that line insert:

23          **“SECTION 2852bb.** 157.061 (1) of the statutes is renumbered 157.061 (1c) and  
24 amended to read:

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

3           **SECTION 2852bf.** 157.061 (1d) of the statutes is created to read:

4           157.061 (1d) “Burial space” means a space that is used or intended to be used  
5           for the burial of human remains and, when used in reference to the sale, purchase,  
6           or ownership of a burial space, includes the right to bury human remains in the  
7           burial space.

8           **SECTION 2852bj.** 157.061 (1p) of the statutes is created to read:

9           157.061 (1p) “Cemetery” means a place that is dedicated to and used or  
10          intended to be used for the final disposition of human remains.

11          **SECTION 2852bL.** 157.061 (2m) of the statutes is amended to read:

12          157.061 (2m) “Cemetery lot” means a grave or 2 or more contiguous graves ~~and,~~  
13          ~~when used in reference to the sale, purchase or ownership of a cemetery lot, includes~~  
14          ~~the right to bury human remains in that cemetery lot.~~

15          **SECTION 2852bn.** 157.061 (3) of the statutes is amended to read:

16          157.061 (3) “Cemetery merchandise” means goods associated with the burial  
17          of human remains, including monuments, markers, nameplates, vases, and urns,  
18          and any services that are associated with supplying or delivering those goods or with  
19          the burial of human remains and that may be lawfully provided by a cemetery  
20          authority, including opening and closing of a burial space. The term does not include  
21          caskets or outer burial containers.

22          **SECTION 2852bp.** 157.061 (3g) of the statutes is created to read:

23          157.061 (3g) “Columbarium” means a building, structure, or part of a building  
24          or structure that is used or intended to be used for the inurnment of cremains.

25          **SECTION 2852br.** 157.061 (3r) of the statutes is created to read:

1           157.061 (3r) “Columbarium space” means a niche, crypt, or specific place in a  
2 columbarium that contains or is intended to contain cremains.

3           **SECTION 2852bt.** 157.061 (8g) of the statutes is created to read:

4           157.061 (8g) “Lawn crypt” means an interment space in chambers that are  
5 preplaced at either a single depth or multiple depths and that are located primarily  
6 underground.

7           **SECTION 2852bx.** 157.061 (11r) of the statutes is amended to read:

8           157.061 (11r) “Payment of principal” means the portion of a payment for the  
9 purchase of ~~a cemetery lot~~, cemetery merchandise or a ~~mausoleum~~ burial space that  
10 represents the principal amount owed by the purchaser for the ~~cemetery lot~~,  
11 cemetery merchandise or ~~mausoleum~~ burial space, and does not include any portion  
12 of the payment that represents any taxes, finance or interest charges, or insurance  
13 premiums.

14           **SECTION 2852da.** 157.061 (15) of the statutes is amended to read:

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

18           **SECTION 2852dc.** 157.061 (15m) of the statutes is created to read:

19           157.061 (15m) “Religious cemetery authority” means a cemetery authority of  
20 a cemetery owned and operated by a religious association.

21           **SECTION 2852de.** 157.061 (17) of the statutes is amended to read:

22           157.061 (17) “Undeveloped space” means a mausoleum space, columbarium  
23 space, or lawn crypt that is not ready for the burial of human remains on the date  
24 of the sale of the mausoleum space, columbarium space, or lawn crypt.

25           **SECTION 2852dk.** 157.062 (3) of the statutes is amended to read:

1           157.062 (3) VALIDATION. When there shall have been a bona fide attempt to  
2 organize a cemetery association, but a failure to record a properly drawn and  
3 executed certificate of organization, and it has in good faith bought and platted  
4 grounds and conveyed ~~cemetery lots~~ burial spaces and carried on business for over  
5 25 years, the same shall be a body corporate from the date of conveyance to it of real  
6 estate, and its transfers and other transactions are validated.

7           **SECTION 2852dm.** 157.062 (4) (a) of the statutes is amended to read:

8           157.062 (4) (a) An annual election shall be held during the annual meeting.  
9 The annual meeting, and any special meeting described in sub. (2), shall be held at  
10 a place in the county chosen by the trustees upon public notice as required by the  
11 bylaws. Trustees chosen after the first election shall be proprietors of ~~cemetery lots~~  
12 burial spaces in the cemetery, residents of the state, and hold office for 3 years.  
13 Election shall be by ballot and a plurality shall elect. Each owner of one or more  
14 ~~cemetery lots~~ burial spaces is entitled to one vote, and one of several owners of a  
15 ~~cemetery lot~~ burial space, designated by the majority of them, shall cast the vote.

16           **SECTION 2852ds.** 157.062 (6) (c) of the statutes is amended to read:

17           157.062 (6) (c) If an association is dissolved under par. (a) or any group has  
18 never been properly organized as cemetery association, and there are fewer than 5  
19 members living or residing in the county where the ~~cemetery~~ is located, the circuit  
20 judge for the county shall upon the petition of any person interested, make an order  
21 determining who are persons interested in the cemetery. Any adult person who owns  
22 an interest in any ~~cemetery lot~~ burial space in the cemetery, who is related to any  
23 person buried in the cemetery, or who is a descendant, brother, sister, nephew, niece,  
24 or surviving spouse of a member of the dissolved association, is an interested person.  
25 The circuit judge may make the order upon evidence he or she deems sufficient, with

1 or without hearing. The order need not contain the names of all persons interested,  
2 but shall contain the names of at least 5 such persons.

3 **SECTION 2852dt.** 157.062 (9) of the statutes is amended to read:

4 157.062 (9) EXEMPTIONS FOR CERTAIN NONPROFIT CEMETERIES. In lieu of  
5 delivering a certification, resolution, or copy of proceedings to the department of  
6 financial institutions under sub. (1), (2), or (6) (b), a cemetery association that is not  
7 required to be registered under s. 440.91 (1) and, that is not organized or conducted  
8 for pecuniary profit, and that does not operate a cemetery that is located in a county  
9 with a population greater than 600,000 shall deliver the certification, resolution, or  
10 copy of proceedings to the office of the register of deeds of the county in which the  
11 cemetery is located.

12 **SECTION 2852dy.** 157.064 (2) of the statutes is amended to read:

13 157.064 (2) A cemetery or religious association incorporated in this state and  
14 having a cemetery in or near a 1st or 2nd class city and any cemetery described under  
15 s. 157.065 (3m) (d) may acquire by gift or purchase up to 30 acres of adjoining lands  
16 for cemetery purposes, and may pay for it wholly or partly from its ~~cemetery lot~~ burial  
17 space sales.

18 **SECTION 2852fb.** 157.064 (6) of the statutes is amended to read:

19 157.064 (6) Whenever the majority of the members of a cemetery association,  
20 or of a religious association authorized to hold lands for cemetery purposes, present  
21 at an annual meeting or special meeting called for such purpose vote to convey all  
22 of the cemetery association's or religious association's cemetery property, trust funds  
23 and other property used for cemetery purposes to another cemetery association or  
24 religious association, the trustees of the association shall transfer the property upon  
25 the acceptance of the transfer by the other association by affirmative vote of a

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

7 **SECTION 2852fd.** 157.065 (1) (b) 4. of the statutes is repealed.

8 **SECTION 2852fh.** 157.07 (1) of the statutes is amended to read:

9 157.07 (1) A cemetery authority shall cause to be surveyed and platted by a  
10 land surveyor registered in this state those portions of the lands that are from time  
11 to time required for burial, into ~~cemetery lots~~ burial spaces, drives, and walks, and  
12 record a plat or map of the land in the office of the register of deeds. The plat or map  
13 may not be recorded unless laid out and platted to the satisfaction of the county board  
14 of the county, and the town board of the town, in which the land is situated, or, if the  
15 land is situated within a 1st class city, then only by the common council of that city.

16 **SECTION 2852fj.** 157.07 (5) of the statutes is amended to read:

17 157.07 (5) The cemetery authority may vacate or replat any portion of its  
18 cemetery upon the filing of a petition with the circuit court describing the portion and  
19 setting forth the facts and reasons therefor. The court shall fix a time for hearing and  
20 direct publication of a class 3 notice, under ch. 985, and the court shall order a copy  
21 of the notice to be mailed to at least one interested person, as to each separate parcel  
22 involved, whose post-office address is known or can be ascertained with reasonable  
23 diligence, at least 20 days before such hearing. If the court finds that the proposed  
24 vacating or replatting is for the best interest of the cemetery authority and that the  
25 rights of none to whom ~~cemetery lots~~ burial spaces have been conveyed will be

1 injured, it shall enter an order reciting the jurisdictional facts and its findings and  
2 authorizing the vacating or replatting of the lands of the cemetery. The order shall  
3 be effective when recorded by the register of deeds.

4 **SECTION 2852fL.** 157.07 (6) of the statutes is amended to read:

5 157.07 (6) This section does not apply to a religious ~~society organized under ch.~~  
6 ~~187 cemetery authority.~~

7 **SECTION 2852fn.** 157.08 (1) of the statutes is amended to read:

8 157.08 (1) After the plat or map is recorded under s. 157.07, the cemetery  
9 authority may sell and convey ~~cemetery lots~~ burial spaces. Conveyances shall be  
10 signed by the chief officer of the cemetery authority, and by the secretary or clerk of  
11 the cemetery authority, if any. Before delivering the conveyance to the grantee, the  
12 cemetery authority shall enter on records kept for that purpose, the date and  
13 consideration and the name and residence of the grantee. The conveyances may be  
14 recorded with the register of deeds.

15 **SECTION 2852fp.** 157.08 (2) (a) of the statutes is amended to read:

16 157.08 (2) (a) If a ~~cemetery lot or mausoleum~~ burial space is sold by a cemetery  
17 authority and used or intended to be used for the burial of the human remains of the  
18 purchaser or the purchaser's family members, the purchaser's interests in the  
19 ownership of, title to, or right to use the ~~cemetery lot or mausoleum~~ burial space are  
20 not affected or limited by any claims or liens of other persons against the cemetery  
21 authority.

22 **SECTION 2852fr.** 157.08 (2) (b) of the statutes is amended to read:

23 157.08 (2) (b) 1. Before a cemetery authority sells or encumbers any cemetery  
24 land, except for a sale described in par. (a), the cemetery authority shall notify the  
25 department in writing.



1           ~~3.~~ 3. If within 60 days after the department is notified of the proposed sale or  
2           encumbrance under subd. 1. or 1m. the department notifies the cemetery authority  
3           in writing that the department objects to the sale or encumbrance proposed action,  
4           the cemetery authority may not sell or encumber the cemetery land take the action  
5           unless the department subsequently notifies the cemetery authority in writing that  
6           the objection is withdrawn.

7           ~~4.~~ 4. The department may object to a sale or encumbrance an action under subd.  
8           ~~3.~~ 3. only if it determines that the cemetery authority will not be financially solvent or  
9           that the rights and interests of owners of cemetery lots and mausoleum burial spaces  
10          will not be adequately protected if the sale or encumbrance occurs action is taken.  
11          The department shall promulgate rules that establish requirements and procedures  
12          for making a determination under this subdivision.

13          ~~5.~~ 5. The department may, before the expiration of the 60-day period under subd.  
14          ~~3.~~ 3., notify the cemetery authority in writing that the department approves of the sale  
15          or encumbrance action. Upon receipt of the department's written approval, the  
16          cemetery authority may sell or encumber the cemetery land take the action and is  
17          released of any liability under this paragraph.

18          ~~6.~~ 6. The department shall make every effort to make determinations under this  
19          paragraph in an expeditious manner.

20          **SECTION 2852ft. 157.08 (2) (b) 1m.** of the statutes is created to read:

21          **157.08 (2) (b) 1m.** Before a cemetery authority of a cemetery in a county with  
22          a population greater than 600,000 takes any of the following actions, the cemetery  
23          authority shall notify the department in writing:

24                a. Transfers ownership or control of 50% or more of the assets or stock of the  
25          cemetery.

1 b. Engages in a transaction that results in a person acquiring ownership or  
2 control of 50% or more of the stock of the cemetery.

3 c. Transfers responsibility for management or operation of the cemetery  
4 authority.

5 **SECTION 2852fu.** 157.08 (2) (b) 2. of the statutes is created to read:

6 157.08 (2) (b) 2. The department shall promulgate rules that specify the  
7 documentation that must be submitted with a notification under subds. 1. and 1m.

8 **SECTION 2852fw.** 157.08 (5) of the statutes is amended to read:

9 157.08 (5) Subsections (1) and (2) (b) do not apply to a religious society  
10 ~~organized under ch. 187, cemetery authority~~ and sub. (2) (b) does not apply to a  
11 cemetery authority that is not required to be registered under s. 440.91 (1) and, that  
12 is not organized or conducted for pecuniary profit, and that does not operate a  
13 cemetery that is located in a county with a population greater than 600,000.”.

14 **9.** Page 957, line 4: delete lines 4 to 20 and substitute:

15 **“SECTION 2852fx.** 157.10 (title) of the statutes is amended to read:

16 **157.10 (title) Alienation and use of cemetery lots burial spaces.**

17 **SECTION 2852gb.** 157.10 of the statutes is renumbered 157.10 (1) and amended  
18 to read:

19 157.10 (1) While any person is buried in a cemetery lot burial space, the  
20 cemetery lot burial space shall be inalienable, without the consent of the cemetery  
21 authority, and on the death of the owner, ownership of the cemetery lot burial space  
22 shall descend to the owner’s heirs; but any one or more of such heirs may convey to  
23 any other heir his or her interest in the cemetery lot burial space. No human remains  
24 may be buried in a cemetery lot burial space except the human remains of one having

1 an interest in the ~~cemetery lot~~ burial space, or a relative, or the husband or wife of  
2 such person, or his or her relative, except by the consent of all persons having an  
3 interest in the ~~cemetery lot~~ burial space.

4 **SECTION 2852hb.** 157.10 (2) of the statutes is created to read:

5 157.10 (2) The department shall promulgate rules that interpret the  
6 requirements of this section and require any person who transfers an interest in a  
7 burial space to provide the transferee with a written notice, prepared by the  
8 department, that describes the requirements of this section.

9 **SECTION 2852jd.** 157.11 (title) of the statutes is amended to read:

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

12 **SECTION 2852jf.** 157.11 (1m) of the statutes is created to read:

13 157.11 (1m) DUTY TO MAINTAIN. A cemetery authority of a cemetery in a county  
14 with a population greater than 600,000 shall maintain a cemetery, including burial  
15 spaces, grounds, landscaping, roads, parking lots, fences, buildings, and other  
16 structures, in a reasonable manner at all times.

17 **SECTION 2852jh.** 157.11 (2) of the statutes is amended to read:

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

1 fails to comply within 20 days thereafter, the cemetery authority may cause it to be  
2 done and recover from the person the expense. The cemetery authority may also  
3 impose a forfeiture not exceeding \$10 for violation of the regulations posted in 3  
4 conspicuous places in the cemetery, recoverable under ch. 778. Each employee and  
5 agent of the cemetery authority shall have constable powers in enforcing the  
6 regulations.

7 **SECTION 2852jj.** 157.11 (3) of the statutes is amended to read:

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

15 **SECTION 2852jL.** 157.11 (4) of the statutes is amended to read:

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

24 **SECTION 2852jn.** 157.11 (5) of the statutes is amended to read:

1           157.11 (5) SUM REQUIRED. The cemetery authority shall annually fix the sum  
2 necessary for the care of ~~cemetery lots~~ burial spaces and care and improvement of  
3 the cemetery, or to produce a sufficient income for those purposes.

4           **SECTION 2852jp.** 157.11 (7) (a) of the statutes is amended to read:

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

13           **SECTION 2852jr.** 157.11 (7) (b) of the statutes is amended to read:

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

18           **SECTION 2852jt.** 157.11 (7) (c) of the statutes is amended to read:

19           157.11 (7) (c) Before ordering distribution of the estate of a deceased person,  
20 the court shall order paid any assessment under this section, or the sum so fixed for  
21 the care of the ~~cemetery lot or grave~~ burial space of the deceased.

22           **SECTION 2852jv.** 157.11 (7) (d) of the statutes is amended to read:

23           157.11 (7) (d) When uniform care of a ~~cemetery lot~~ burial space has been given  
24 for 2 consecutive years or more, for which assessments are unpaid, after notice as  
25 provided in sub. (2), right to burial is forfeited until delinquent assessments are paid.

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

8 **SECTION 2852jx.** 157.11 (8) (title) of the statutes is repealed.

9 **SECTION 2852jy.** 157.11 (8) of the statutes is renumbered 157.11 (9) (am) and  
10 amended to read:

11 157.11 (9) (am) The A cemetery authority shall take, hold, and use any gifts,  
12 or the income and proceeds of any gifts, as may be made in trust or otherwise, for the  
13 improvement, maintenance, repair, preservation, or ornamentation of any cemetery  
14 ~~lot~~ burial space or structure in the cemetery, according to the terms of the gift and  
15 regulations by the cemetery authority.

16 **SECTION 2852jz.** 157.11 (9) (title) of the statutes is repealed and recreated to  
17 read:

18 157.11 (9) (title) GIFTS.

19 **SECTION 2852Lb.** 157.11 (9) (a) of the statutes is renumbered 157.11 (9) (b) and  
20 amended to read:

21 157.11 (9) (b) Before a cemetery authority receives a gift, the surety bonds of  
22 the cemetery authority shall be increased to cover such amount if it does not then do  
23 so. ~~If the bonds are not filed, or the~~

24 (d) If a cemetery authority fails to do anything required by this subsection, the  
25 judge may appoint a trustee, and all property and money ~~so given~~ in the manner

1 described under par. (am) or (c) and evidences of title and securities shall be delivered  
2 to the trustee.

3 **SECTION 2852Ld.** 157.11 (9) (c) of the statutes is created to read:

4 157.11 (9) (c) If a cemetery authority of a cemetery in a county with a population  
5 greater than 600,000 receives a gift for the improvement, maintenance, repair,  
6 preservation, or ornamentation of any burial space or structure in the cemetery, it  
7 shall either expend the income and proceeds of the gift or deposit the proceeds into  
8 a trust account at a financial institution, as defined in s. 705.01 (3), according to the  
9 terms of the gift and regulations of the cemetery authority. A cemetery authority of  
10 a cemetery in a county with a population greater than 600,000 that receives a gift  
11 shall maintain a gift ledger that accounts for all receipts and disbursements of gifts.

12 **SECTION 2852Lf.** 157.11 (9g) (title) of the statutes is amended to read:

13 157.11 (9g) (title) CARE FUND FOR ~~CEMETERY LOTS~~ BURIAL SPACES.

14 **SECTION 2852Lh.** 157.11 (9g) (a) 1. (intro.) of the statutes is amended to read:

15 157.11 (9g) (a) 1. (intro.) Except as provided in ss. ~~66.0603 (1) (c)~~ 66.0603 (1m)  
16 (c) and 157.19 (5) (b), funds that are received by a cemetery authority for the care of  
17 a cemetery lot ~~burial space~~ shall be invested in one or more of the following manners:

18 **SECTION 2852Lj.** 157.11 (9g) (a) 1. c. of the statutes is amended to read:

19 157.11 (9g) (a) 1. c. If not invested as provided in subd. 1. a. or b., otherwise  
20 deposited by the cemetery authority in an investment ~~approved by the department~~  
21 if the care funds are segregated and invested separately from all other moneys held  
22 by the cemetery authority. A cemetery authority of a cemetery in a county with a  
23 population of 600,000 or less may invest funds in the manner described in this subd.  
24 1. c. only if the department approves the investment. A cemetery authority of a  
25 cemetery in a county with a population greater than 600,000 may invest funds in the

1 manner described in this subd. 1. c. only if the cemetery authority submits to the  
2 department a written statement by an investment advisor licensed under ch. 551, or  
3 a broker, as defined in s. 408.102 (1) (c), that the investment is made in accordance  
4 with the standards specified in s. 881.01.

5 **SECTION 2852LL.** 157.11 (9g) (a) 2. of the statutes is amended to read:

6 157.11 (9g) (a) 2. The manner in which the care funds are invested may not  
7 permit the cemetery authority to withdraw the care fund's principal amount. ~~The~~  
8 , but, for a cemetery authority of a cemetery in a county with a population greater  
9 than 600,000, may permit the withdrawal of interest, dividends, or capital gains  
10 earned during the most recently completed calendar year. For any cemetery  
11 authority, the income from the investment of a care fund for the care of ~~cemetery lots~~  
12 burial spaces may be used only to maintain the ~~cemetery lots~~ burial spaces and  
13 grounds, except that if the amount of income exceeds the amount necessary to  
14 maintain the ~~cemetery lots~~ burial spaces or grounds properly, the excess amount may  
15 be used to maintain any other portion of the cemetery, including mausoleums. If the  
16 care funds are deposited with a city or county, or previously deposited with a village,  
17 there shall be paid to the cemetery authority annually interest on funds so deposited  
18 of not less than 2% per year. The governing body of any city or county, or any village  
19 or town in the case of previous deposits, may determine to return all or a part of any  
20 funds deposited by a cemetery authority, and that cemetery authority shall accept  
21 the returned funds within 30 days after receiving written notice of that action. If the  
22 cemetery authority is dissolved or becomes inoperative, the county or city shall use  
23 the interest on the funds for the care and upkeep of the cemetery. Deposit shall be  
24 made and the income paid over from time to time, not less frequently than once each  
25 year, and receipts in triplicate shall be given, one filed with the county clerk, one with



1 the cemetery authority and one given to the person making the deposit. Deposits  
2 shall be in the amount of \$5 or a multiple thereof. Records and receipts shall specify  
3 the ~~cemetery lot~~ burial space for the care of which the deposit is made. Reports of  
4 money received for care and of money and property received as gifts shall be made  
5 annually as provided in s. 157.62 (2).

6 **SECTION 2852Ln.** 157.11 (9g) (c) of the statutes is amended to read:

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

14 **SECTION 2852Lp.** 157.11 (10) of the statutes is amended to read:

15 157.11 (10) **EXEMPTION FOR RELIGIOUS SOCIETIES CEMETERY AUTHORITIES.**  
16 Subsections (1) to (9), (9g) (a) and (b), (9m) and (9r) do not apply, but sub. (9g) (c) does  
17 apply, to a religious ~~society organized under ch. 187~~ cemetery authority.

18 **SECTION 2852Lt.** 157.11 (11) of the statutes is amended to read:

19 157.11 (11) **EXEMPTION FOR CERTAIN NONPROFIT CEMETERIES.** Subsection (9g) does  
20 not apply to a cemetery authority that is not required to be registered under s. 440.91  
21 (1) ~~and~~, that is not organized or conducted for pecuniary profit, and that does not  
22 operate a cemetery in a county with a population that is greater than 600,000.

23 **SECTION 2852ob.** 157.115 (title) of the statutes is amended to read:

24 157.115 (title) **Abandonment of cemeteries and ~~cemetery lots~~ burial**  
25 **spaces.**

1           **SECTION 2852obm.** 157.115 (1) (title) of the statutes is amended to read:

2           157.115 (1) (title) ABANDONMENT OF CEMETERIES; ALL COUNTIES.

3           **SECTION 2852oc.** 157.115 (1) (a) of the statutes is renumbered 157.115 (1) (ar).

4           **SECTION 2852od.** 157.115 (1) (ag) of the statutes is created to read:

5           157.115 (1) (ag) This subsection applies to cemeteries in any county.

6           **SECTION 2852of.** 157.115 (1g) (title) of the statutes is created to read:

7           157.115 (1g) (title) ABANDONMENT OF CEMETERIES; NONPOPULOUS COUNTIES.

8           **SECTION 2852og.** 157.115 (1g) (a) of the statutes is created to read:

9           157.115 (1g) (a) This subsection applies to cemeteries in counties with a  
10 population that is 600,000 or less.

11           **SECTION 2852oh.** 157.115 (1) (b) and (c) of the statutes are renumbered 157.115  
12 (1g) (b) and (c).

13           **SECTION 2852oj.** 157.115 (1r) of the statutes is created to read:

14           157.115 (1r) ABANDONMENT OF CEMETERIES; POPULOUS COUNTIES. (a) This  
15 subsection applies to cemeteries in counties with a population greater than 600,000.

16           (b) If a municipality in which a cemetery is located determines that the  
17 cemetery authority has failed to care for the cemetery for a period of 6 months or  
18 more, the municipality shall notify the cemetery authority that it has 90 days to  
19 correct the failure. Upon a showing of good cause, the municipality may grant the  
20 cemetery authority one 90-day extension to correct the failure. If the municipality  
21 finds that the cemetery authority has failed to correct the failure within the deadline  
22 specified in the notice or extension, the municipality may, after a public hearing, take  
23 control of the cemetery, manage and care for the cemetery, collect and manage all  
24 trust funds connected with the cemetery other than trust funds received by a will,  
25 or take any other action necessary to provide for the care of the cemetery. The

1 municipality may collect from the cemetery authority any costs incurred by the  
2 municipality in exercising its authority under this paragraph.

3 **SECTION 2852ok.** 157.115 (1t) of the statutes is created to read:

4 157.115 (1t) INJUNCTION. Upon application by the department, a court may  
5 enjoin a person from acquiring ownership or control of a cemetery in a county with  
6 a population greater than 600,000 if the person has abandoned another cemetery  
7 anywhere in this state, or has owned or operated another cemetery anywhere in this  
8 state that is subsequently controlled by a municipality under sub. (1g) (b) or (c) or  
9 (1r) (b).

10 **SECTION 2852oL.** 157.115 (2) (title) of the statutes is amended to read:

11 157.115 (2) (title) ABANDONMENT OF ~~CEMETERY LOTS~~ BURIAL SPACES.

12 **SECTION 2852on.** 157.115 (2) (a) 1. (intro.) of the statutes is amended to read:

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

20 **SECTION 2852op.** 157.115 (2) (a) 1. a. of the statutes is amended to read:

21 157.115 (2) (a) 1. a. No owner has transferred any ownership interest in the  
22 ~~cemetery lot~~ burial space to any other person.

23 **SECTION 2852or.** 157.115 (2) (a) 1. b. of the statutes is amended to read:

24 157.115 (2) (a) 1. b. No owner has purchased or sold another ~~cemetery lot or a~~  
25 ~~mausoleum~~ burial space in the cemetery.

1           **SECTION 2852ot.** 157.115 (2) (a) 1. c. of the statutes is amended to read:

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

5           **SECTION 2852ov.** 157.115 (2) (a) 1. d. of the statutes is amended to read:

6           157.115 (2) (a) 1. d. No grave marker, monument, or other memorial has been  
7 installed on the ~~cemetery lot~~ burial space.

8           **SECTION 2852ox.** 157.115 (2) (a) 1. e. of the statutes is amended to read:

9           157.115 (2) (a) 1. e. No grave marker, monument, or other memorial has been  
10 installed on any other ~~cemetery lot~~ burial space, in the same cemetery, that is owned  
11 or partially owned by an owner.

12           **SECTION 2852oz.** 157.115 (2) (a) 1. g. of the statutes is amended to read:

13           157.115 (2) (a) 1. g. The cemetery authority has not been contacted by an owner  
14 or assignee or received any other notice or evidence to suggest that an owner or  
15 assignee intends to use the ~~cemetery lot~~ burial space for a future burial of human  
16 remains.

17           **SECTION 2852pb.** 157.115 (2) (a) 2. of the statutes is amended to read:

18           157.115 (2) (a) 2. “Assignee” means a person who has been assigned in the  
19 deceased owner’s will or in any other legally binding written agreement, or who is  
20 entitled to receive under ch. 852, an ownership interest in the abandoned ~~cemetery~~  
21 lot space.

22           **SECTION 2852pd.** 157.115 (2) (a) 3. of the statutes is amended to read:

23           157.115 (2) (a) 3. “Owner” means a person who, according to the records of the  
24 cemetery authority of the cemetery in which an abandoned ~~cemetery lot~~ space is  
25 located, owns or partially owns the abandoned ~~cemetery lot~~ space.

1           **SECTION 2852pf.** 157.115 (2) (b) of the statutes is amended to read:

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

5           **SECTION 2852ph.** 157.115 (2) (c) of the statutes is amended to read:

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

13           **SECTION 2852pj.** 157.115 (2) (d) (intro.) of the statutes is amended to read:

14           157.115 (2) (d) (intro.) If no notice is required under par. (c) or if, within 60 days  
15 after notice is mailed under par. (c), no owner or assignee contacts the cemetery  
16 authority to express an intent to use the abandoned ~~cemetery lot~~ space for a future  
17 burial of human remains, the cemetery authority shall publish in a newspaper of  
18 general circulation in the county in which the abandoned ~~lot~~ space is located, a class  
19 3 notice under ch. 985 that includes all of the following:

20           **SECTION 2852pL.** 157.115 (2) (d) 1. of the statutes is amended to read:

21           157.115 (2) (d) 1. The location of the abandoned ~~lot~~ space.

22           **SECTION 2852pn.** 157.115 (2) (d) 3. of the statutes is amended to read:

23           157.115 (2) (d) 3. A statement that, unless an owner or assignee contacts the  
24 cemetery authority within the period specified in par. (e), the cemetery authority  
25 intends to resell the abandoned ~~lot~~ space as provided in this subsection.

1           **SECTION 2852pp.** 157.115 (2) (e) of the statutes is amended to read:

2           157.115 (2) (e) If within 60 days after notice is published under par. (c) no owner  
3 or assignee contacts the cemetery authority to express an intent to use the  
4 abandoned let space for a future burial of human remains, the cemetery authority  
5 shall bring an action in the circuit court of the county in which the abandoned let  
6 space is located for a judgment that the ~~cemetery-let~~ burial space is an abandoned  
7 let space and an order transferring ownership of the abandoned let space to the  
8 cemetery authority.

9           **SECTION 2852pr.** 157.115 (2) (f) of the statutes is amended to read:

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

19          **SECTION 2852pt.** 157.115 (2) (g) of the statutes is amended to read:

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

1           **SECTION 2852pv.** 157.115 (2) (h) of the statutes is amended to read:

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

6           **SECTION 2852px.** 157.117 of the statutes is created to read:

7           **157.117 Trustees for certain cemeteries and mausoleums. (1)**

8           DEFINITIONS. In this section:

9           (a) “Cemetery” means a cemetery in a county with a population greater than  
10 600,000, but does not include a cemetery the ownership, control, or management of  
11 which has been assumed by a municipality. For purposes of this paragraph, a  
12 municipality is considered to have assumed the ownership, control, or management  
13 of a cemetery only if the municipality has adopted a resolution or enacted an  
14 ordinance that has the effect of assuming ownership, control, or management of the  
15 cemetery. “Cemetery” also does not include a cemetery owned and operated by a  
16 religious cemetery authority.

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

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

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

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

22           **(2) APPOINTMENT OF TRUSTEE.** (a) In response to a petition from the department  
23 or upon his or her own motion, the attorney general may petition the circuit court for  
24 the county in which a cemetery or mausoleum is located for the appointment of a  
25 trustee for the cemetery or mausoleum. If the attorney general petitions the court

1 on his or her own motion, the attorney general shall serve a copy of the petition on  
2 the department and the municipality and county within which the cemetery is  
3 located.

4 (b) A court shall schedule a hearing on a petition filed under par. (a) within 90  
5 days after the petition is filed with the court. If the court finds after a hearing that  
6 a cemetery or mausoleum is neglected, abandoned, in disuse, improperly  
7 maintained, or financially unsound, the court shall appoint as a trustee for the  
8 cemetery or mausoleum a capable and competent person to serve as trustee of the  
9 cemetery or mausoleum under this section, except that the court may not appoint the  
10 department as a trustee.

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

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

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

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



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

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

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

7           1. Termination of the trusteeship and reversion of ownership and operation of  
8 a cemetery or mausolcum to the previous owner.

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

11           3. Removal and reinterment of human remains in accordance with the  
12 requirements of this subchapter.

13           4. Termination of the trusteeship and closure of a cemetery or mausoleum after  
14 removal and reinterment of human remains under subd. 3.

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

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

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

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

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

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

3           (4) DEPARTMENT POWERS AND DUTIES. (a) From the appropriation under s. 20.165  
4 (1) (q), the department shall make disbursements to trustees. The department shall  
5 promulgate rules establishing requirements and procedures for making the  
6 disbursements.

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

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

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

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

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

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

24           **SECTION 2852pz.** 157.12 (2) (b) of the statutes is amended to read:

1           157.12 (2) (b) The department shall supervise construction of any public  
2           mausoleum and conversion of any building to a public mausoleum. Within 30 days  
3           after receiving written notice from the cemetery authority that the construction or  
4           conversion has been completed, the department shall inspect the public mausoleum  
5           and provide the cemetery authority with a written certification as to whether the  
6           construction or conversion complies with approved plans. If the department  
7           determines that, except for certain minor defects, the construction or conversion  
8           complies with the approved plans, the department may provide the cemetery  
9           authority with a written temporary certification of compliance that is contingent on  
10          the correction of those minor defects. A temporary certification is valid for a period  
11          designated by the department, not to exceed 6 months. No person may sell a  
12          mausoleum space, except an undeveloped space that is sold in accordance with ~~s. ss.~~  
13          440.92 and 440.922, or bury human remains in a public mausoleum unless a care  
14          fund has been established for the mausoleum under sub. (3) and the department has  
15          provided the cemetery authority with a certification or a temporary certification  
16          under this paragraph. If a cemetery authority that has been provided with a  
17          temporary certification notifies the department in writing before the date on which  
18          the temporary certification expires that the defects in the construction or conversion  
19          of the public mausoleum have been corrected, the department shall, within 30 days  
20          after receiving the notice, reinspect the public mausoleum and provide the cemetery  
21          authority with a written certification as to whether the construction or conversion  
22          complies with the approved plans. If a cemetery authority that has been provided  
23          with a temporary certification does not receive a written certification from the  
24          department before the date on which the temporary certification expires that the  
25          construction or conversion complies with the approved plans, then, beginning on the

1 date on which the certification expires, no person may sell a mausoleum space, except  
2 an undeveloped space that is sold in accordance with ~~s. ss. 440.92 and 440.922~~, or  
3 bury human remains in the public mausoleum until the defects are corrected and the  
4 department subsequently inspects the public mausoleum and provides the cemetery  
5 authority with a certification that the construction or conversion complies with the  
6 approved plans. The department may charge a reasonable fee to the cemetery  
7 authority for each inspection and certification provided under this paragraph if the  
8 inspection and certification are provided within the applicable 30-day period  
9 prescribed under this paragraph.

10 **SECTION 2852qb.** 157.12 (3) (b) of the statutes is amended to read:

11 157.12 (3) (b) The cemetery's treasurer is the custodian of the fund. The  
12 treasurer shall file with the cemetery, at the cemetery's expense, a bond with sureties  
13 approved by the department of regulation and licensing to indemnify the cemetery  
14 against loss if the treasurer fails to maintain the fund. ~~No~~ For a cemetery in a county  
15 with a population greater than 600,000, the amount of the bond shall be no less than  
16 the total of all payments of principal required under this section as stated in the most  
17 recent annual report filed by the cemetery authority under s. 157.62. For any  
18 cemetery, no indemnity is required if the terms of sale of a mausoleum space require  
19 the purchaser to pay directly to a trust company in the state, designated by the  
20 cemetery as custodian of the fund. The fund shall be invested as provided in s.  
21 157.19. Income For a cemetery in a county with a population greater than 600,000,  
22 the manner in which the care funds are invested may not permit the withdrawal of  
23 the fund's principal amount, but may permit the withdrawal of interest, dividends,  
24 or capital gains earned during the most recently completed calendar year. For any  
25 cemetery, income from investment may be used only to maintain the mausoleum,

1 except that if the amount of income exceeds the amount necessary to properly  
2 maintain the mausoleum the excess amount may be used to maintain any portion of  
3 the cemetery.

4 **SECTION 2852qd.** 157.125 (title) of the statutes is amended to read:

5 **157.125 (title) Trustees for the care of cemeteries or ~~cemetery lots~~**  
6 **burial spaces.**

7 **SECTION 2852qf.** 157.125 (2) of the statutes is amended to read:

8 157.125 (2) If the burial place or grave is located in a cemetery owned and  
9 operated by a religious society ~~organized under ch. 187 cemetery authority~~, the court  
10 shall name the religious society cemetery authority as the trustee unless the  
11 religious society cemetery authority petitions the court to name the county treasurer  
12 as the trustee.

13 **SECTION 2852qh.** 157.128 (2) (a) of the statutes is amended to read:

14 157.128 (2) (a) The cemetery is owned by a religious association ~~cemetery~~  
15 authority.

16 **SECTION 2852qhk.** 157.128 (2) (b) of the statutes is amended to read:

17 157.128 (2) (b) The religious association ~~cemetery authority~~ is responsible for  
18 all liabilities of the cemetery.

19 **SECTION 2852qhL.** 157.128 (2) (c) of the statutes is amended to read:

20 157.128 (2) (c) The total acreage of all other cemeteries owned by the religious  
21 association ~~cemetery authority~~ exceeds 20 acres.

22 **SECTION 2852qj.** 157.128 (3) (b) of the statutes is amended to read:

23 157.128 (3) (b) A cemetery consisting of less than 20 contiguous acres may be  
24 dedicated by a cemetery authority that is not required to be registered under s.

1 440.91 (1) ~~and~~, that is not organized or conducted for pecuniary profit, and that is not  
2 located in a county with a population greater than 600,000.

3 **SECTION 2852qL.** 157.19 (2) (c) of the statutes is amended to read:

4 157.19 (2) (c) Upon request of the financial institution, the preneed seller, as  
5 defined in s. 440.90 (8), shall furnish the financial institution with a copy of the  
6 preneed sales contract. Except as provided in ~~s. 440.92 (2) (e), (f) and (j) and (5) ss.~~  
7 440.922 (3), (5) (c), and (8), and 440.924, preneed trust funds, and any interest or  
8 dividends that have accumulated on the preneed trust funds, may not be withdrawn  
9 until all obligations under the preneed sales contract have been fulfilled. The  
10 financial institution is not responsible for the fulfillment of any part of the preneed  
11 sales contract, except that the financial institution shall release the preneed trust  
12 funds, and any interest or dividends that have accumulated on the preneed trust  
13 funds, as provided by the terms of the preneed sales contract. The trustee of a  
14 preneed trust fund may not be changed without the department's written approval.  
15 If the trustee or account number of a preneed trust fund is changed, the cemetery  
16 authority shall notify the department in writing within 30 days after the change.

17 **SECTION 2852qn.** 157.19 (4m) of the statutes is created to read:

18 157.19 (4m) The department shall request proposals from financial  
19 institutions located in this state for the purpose of selecting a financial institution  
20 that cemetery authorities and preneed sellers may use as the trustee for care funds  
21 under s. 157.11 (9g) and 157.12 (3) and preneed trust funds under s. 440.92. Except  
22 as provided in sub. (5) (c), a cemetery authority or preneed seller is not required to  
23 use the financial institution selected by the department. The financial institution  
24 selected under this subsection shall submit an annual report to the department, in  
25 a form and manner satisfactory to the department, that provides an accounting of

1 all care funds and preneed trust funds for which the financial institution is the  
2 trustee.

3 **SECTION 2852qp.** 157.19 (5) (a) of the statutes is amended to read:

4 157.19 (5) (a) This section does not apply to care funds under s. 157.11 (9g) that  
5 are deposited with a city or county as provided under s. 157.11 (9g) (a), to care funds  
6 of a cemetery for which a certification under s. 157.63 is effective, or to preneed trust  
7 funds of a cemetery for which a certification under s. 440.92 (9) is effective, or to care  
8 funds or preneed trust funds of a cemetery authority that is not required to be  
9 registered under s. 440.91 (1) ~~and~~, that is not organized or conducted for pecuniary  
10 profit, and that is not located in a county with a population greater than 600,000.

11 **SECTION 2852qr.** 157.19 (5) (c) of the statutes is created to read:

12 157.19 (5) (c) If the department determines that a cemetery authority of a  
13 cemetery in a county with a population greater than 600,000, or a preneed seller for  
14 such a cemetery authority, has violated any requirement under this subchapter or  
15 subch. VIII of ch. 440 relating to care funds under s. 157.11 (9g) and 157.12 (3) or  
16 preneed trust funds under s. 440.92, the department may require the cemetery  
17 authority or preneed seller to use the financial institution selected under sub. (4m)  
18 as the trustee for the care funds or preneed trust funds.

19 **SECTION 2852qt.** 157.60 of the statutes is amended to read:

20 **157.60 Public easement in cemetery.** Any person who shall open or make  
21 any highway, town way, or private way or shall construct any railroad, turnpike, or  
22 canal or anything in the nature of a public easement over, through, in, or upon such  
23 part of any enclosure, being the property of any town, city, village, or religious ~~society~~  
24 cemetery authority or of private proprietors, as may be used for the burial of the dead,  
25 unless an authority for that purpose shall be specially granted by law or unless the

1 consent of such town, city, village, religious society cemetery authority, or private  
2 proprietors, respectively, shall be first obtained, shall be punished by imprisonment  
3 in the county jail not more than one year or by fine not exceeding \$300.

4 **SECTION 2852qv.** 157.61 of the statutes is created to read:

5 **157.61 Identification of human remains.** A person may not provide an  
6 outer burial container or, if an outer burial container is not used, a casket, to a  
7 cemetery authority of a cemetery in a county with a population greater than 600,000,  
8 other than a religious cemetery authority, for the burial of human remains, unless  
9 the person identifies the decedent by name on the exterior of the outer burial  
10 container or casket.

11 **SECTION 2852se.** 157.62 (2) (b) 1m. of the statutes is created to read:

12 **157.62 (2) (b) 1m.** If the cemetery authority operates a cemetery in a county  
13 with a population greater than 600,000, the percentage of burial spaces at the  
14 cemetery that are available for sale.

15 **SECTION 2852sh.** 157.62 (3) (a) of the statutes is amended to read:

16 **157.62 (3) (a)** Every cemetery authority shall keep a copy of the report required  
17 under sub. (2) (a) at its principal place of business and, except for those records  
18 relating to accountings of trust funds described under sub. (2) (b) 3. to 7., shall make  
19 the report available for inspection, upon reasonable notice, by any person with an  
20 interest in a ~~cemetery lot or a mausoleum~~ burial space in a cemetery owned or  
21 operated by the cemetery authority.

22 **SECTION 2852si.** 157.62 (3) (b) 3. of the statutes is amended to read:

23 **157.62 (3) (b) 3.** A copy of each contract for the sale of a ~~cemetery lot,~~  
24 ~~mausoleum~~ burial space or cemetery merchandise.

25 **SECTION 2852sj.** 157.62 (3) (c) of the statutes is created to read:



✓  
↑ except under sub. (1)

1           157.62 (3) (c) Every cemetery authority of a cemetery in a county with a  
2 population greater than 600,000 that is registered under s. 440.91 (1) shall maintain  
3 records identifying the section, lot, and site of each burial space and showing the  
4 location of each burial space on a map.

5           **SECTION 2852sk.** 157.62 (4) (title) of the statutes is amended to read:

6           157.62 (4) (title) RECORDS MAINTENANCE; INSPECTION.

7           **SECTION 2852sL.** 157.62 (4) of the statutes is renumbered 157.62 (4) (a).

8           **SECTION 2852sm.** 157.62 (4) (b) of the statutes is created to read:

9           157.62 (4) (b) A cemetery authority that operates a cemetery in a county with  
10 a population greater than 600,000 that is registered shall, upon reasonable notice,  
11 make the records and contract copies under sub. (3) (b) available for inspection and  
12 copying by the department.

13          **SECTION 2852sn.** 157.62 (5) of the statutes is renumbered 157.62 (5) (b).

14          **SECTION 2852snb.** 157.62 (5) (a) of the statutes is created to read:

15          157.62 (5) (a) The department may promulgate rules establishing minimum  
16 standards for the format and maintenance of records required under this section.

17          **SECTION 2852so.** 157.62 (6) of the statutes is renumbered 157.62 (6) (a) and  
18 amended to read:

19          157.62 (6) (a) Except as provided in ss. 157.625, 157.63 (5) and 440.92 (9) (e),  
20 the department may audit, at reasonable times and frequency, the records, trust  
21 funds, and accounts of any cemetery authority and shall audit the records, trust  
22 funds, and accounts of each registered cemetery authority of a cemetery in a county  
23 with a population greater than 600,000, including records, trust funds, and accounts  
24 pertaining to services provided by a cemetery authority which are not otherwise  
25 subject to the requirements under this chapter. The department may conduct audits

1 under this subsection on a random basis, and ~~shall conduct all audits under this~~  
2 ~~subsection~~ without providing prior notice to the cemetery authority.

3 **SECTION 2852sp.** 157.62 (6) (b) of the statutes is created to read:

4 157.62 (6) (b) If the department has cause to believe that a registered cemetery  
5 authority of a cemetery in a county with a population greater than 600,000 has not  
6 complied with the requirements of this subchapter or subch. VIII of ch. 440  
7 pertaining to trust funds and accounts, the department may require the cemetery  
8 authority to submit an audit conducted at the cemetery authority's expense by an  
9 independent certified public accountant in accordance with generally accepted  
10 auditing standards.

11 **SECTION 2852sq.** 157.625 of the statutes is amended to read:

12 **157.625 Reporting exemption for certain cemeteries.** (1) A cemetery  
13 authority of a cemetery that is not located in a county with a population that is  
14 greater than 600,000 and that is not required under this chapter or under s. 440.92  
15 to maintain any care funds or preneed trust funds is not required to file an annual  
16 report under s. 157.62 (2).

17 (2) A cemetery authority of a cemetery that is not located in a county with a  
18 population that is greater than 600,000 and whose annual operating budget for the  
19 cemetery is \$2,500 or less is not required to file an annual report under s. 157.62 (2).

20 (3) Section 157.62 does not apply to a cemetery authority that is not required  
21 to be registered under s. 440.91 (1) and, that is not organized or conducted for  
22 pecuniary profit, and that does not operate a cemetery in a county with a population  
23 that is greater than 600,000.

24 **SECTION 2852sr.** 157.63 (title) of the statutes is amended to read:

1           **157.63 (title) Reporting and auditing exemptions; certification of**  
2           **compliance of religious cemetery ~~affiliated with religious society~~**  
3           **authority.**

4           **SECTION 2852ss.** 157.63 (1) of the statutes is amended to read:

5           157.63 (1) In lieu of filing an annual report under s. 157.62 (2), a religious  
6           cemetery authority ~~of a cemetery that is affiliated with a religious society organized~~  
7           ~~under ch. 187 or that religious society~~ or the church, synagogue, mosque,  
8           incorporated college of a religious order, or religious society organized under ch. 187  
9           that is affiliated with a religious cemetery authority may file an annual certification  
10          with the department as provided in this section.

11          **SECTION 2852st.** 157.63 (2) (b) of the statutes is amended to read:

12          157.63 (2) (b) A notarized statement of a person who is legally authorized to  
13          act on behalf of the religious ~~society~~ cemetery authority under this section that,  
14          during the reporting period under s. 157.62, each cemetery and the religious  
15          cemetery authority of each cemetery specified under par. (a) have either fully  
16          complied or have substantially complied with ss. 157.11 (9g) and 157.12 (3).

17          **SECTION 2852sv.** 157.63 (3) of the statutes is amended to read:

18          157.63 (3) If the statement under sub. (2) (b) includes a statement of  
19          substantial compliance, the statement under sub. (2) (b) must also specify those  
20          instances when the cemetery or religious cemetery authority did not fully comply  
21          with s. 157.11 (9g) or 157.12 (3).

22          **SECTION 2852sx.** 157.63 (4) of the statutes is amended to read:

23          157.63 (4) A certification under this section is effective for the 12-month period  
24          immediately following the reporting period under s. 157.62 (2) for which the religious

1 cemetery authority is certified under this section to have fully or substantially  
2 complied with ss. 157.11 (9g) and 157.12 (3).

3 **SECTION 2852sz.** 157.63 (6) of the statutes is amended to read:

4 157.63 (6) The church, synagogue, mosque, incorporated college of a religious  
5 order, or religious society that is affiliated with a cemetery to which a certification  
6 under this section applies is liable for the damages of any person that result from the  
7 failure of the cemetery or religious cemetery authority to fully comply with s. 157.11  
8 (9g) or 157.12 (3) during the reporting period under s. 157.62 (2) for which such  
9 compliance has been certified under this section.”.

10 **10.** Page 957, line 21: delete the material beginning with that line and ending  
11 with page 958, line 19, and substitute:

12 “**SECTION 2852w.** 157.635 of the statutes is amended to read:

13 **157.635 Regulations of religious cemetery ~~affiliated with religious~~**  
14 **~~society~~ authorities.** Nothing in this subchapter prohibits a religious cemetery  
15 authority of a cemetery ~~that is affiliated with a religious society organized under ch.~~  
16 ~~187~~ from prohibiting the burial of the human remains of an individual in the  
17 cemetery if the individual was in a class of individuals who are prohibited from being  
18 buried in the cemetery under regulations adopted by the religious cemetery  
19 authority or church, synagogue, mosque, incorporated college of a religious order, or  
20 religious society ~~from being buried in the cemetery that is affiliated with the religious~~  
21 cemetery authority.”.

22 **11.** Page 958, line 19: after that line insert:

23 “**SECTION 2852yh.** 157.64 (2) (e) of the statutes is amended to read:

24 157.64 (2) (e) Fails to maintain records as required in s. 157.62 (3) and (4) (a).

1           **SECTION 2852yL.** 157.64 (2) (h) of the statutes is created to read:

2           157.64 (2) (h) Violates s. 157.112, if the violation occurs in a county with a  
3 population greater than 600,000.

4           **SECTION 2852yu.** 157.65 (1) (b) of the statutes is amended to read:

5           157.65 (1) (b) If the department of commerce has reason to believe that any  
6 person is violating s. 157.12 or any rule promulgated under s. 157.12 and that the  
7 continuation of that activity might cause injury to the public interest, the  
8 department of commerce ~~may~~ shall investigate.”.

9           **12.** Page 1143, line 6: after that line insert:

10           **“SECTION 3492m.** 423.102 of the statutes is amended to read:

11           **423.102 Scope.** This chapter applies to all consumer transactions, except that  
12 subch. II does not apply to cemetery preneed sales under ~~s.~~ ss. 440.92 and 440.922.”.

13           **13.** Page 1145, line 10: after that line insert:

14           **“SECTION 3504f.** 440.03 (7m) of the statutes is amended to read:

15           **440.03 (7m)** The department may promulgate rules that establish procedures  
16 for submitting an application for a credential or credential renewal by electronic  
17 transmission. Any rules promulgated under this subsection shall specify procedures  
18 for complying with any requirement that a fee be submitted with the application.  
19 The rules may also waive any requirement in chs. 440 to 480 that an application  
20 submitted to the department, an examining board or an affiliated credentialing  
21 board be executed, verified, certified, signed, sworn, or made under oath,  
22 notwithstanding ss. 440.26 (2) (b), 440.42 (2) (intro.), 440.91 (2) (intro.), 443.06 (1)  
23 (a), 443.10 (2) (a), 445.04 (2), 445.08 (4), 445.095 (1) (a), 448.05 (7), 450.09 (1) (a),  
24 452.10 (1), and 480.08 (2m).

1           **SECTION 3504h.** 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 3504k.** 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           **14.** Page 1156, line 6: after that line insert:

20           “**SECTION 3605gb.** 440.90 (1) of the statutes is renumbered 440.90 (1d).

21           **SECTION 3605gf.** 440.90 (1c) of the statutes is created to read:

22           440.90 (1c) “Burial space” has the meaning given in s. 157.061 (1d).

23           440.90 (1r) “Business representative” has the meaning given in s. 452.01 (3k).

24           **SECTION 3605gL.** 440.90 (3g) of the statutes is created to read:

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

2           **SECTION 3605gn.** 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 3605gp.** 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 3605gx.** 440.90 (10r) of the statutes is created to read:

7           440.90 (10r) “Religious cemetery authority” has the meaning given in s.  
8           157.061 (15m).

9           **SECTION 3605ic.** 440.91 (1) of the statutes is amended to read:

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

16           **SECTION 3605ih.** 440.91 (2) (intro.) of the statutes is amended to read:

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

1 salesperson shall verify and furnish to the department, in such form as the  
2 department prescribes, all of the following information:

3 **SECTION 3605in.** 440.91 (6m) of the statutes is repealed and recreated to read:

4 440.91 (6m) The registration requirement under sub. (1) does not apply to any  
5 of the following:

6 1. A religious cemetery authority.

7 2. A town, village, or city or fraternal or benevolent society that does not operate  
8 a cemetery in a county with a population that is greater than 600,000.

9 **SECTION 3605iq.** 440.91 (7) of the statutes is renumbered 440.91 (7) (intro.) and  
10 amended to read:

11 440.91 (7) (intro.) An individual who solicits the sale of ~~cemetery lots or~~  
12 ~~mauseoleum~~ burial spaces in a cemetery organized, maintained, and operated by ~~a~~  
13 any of the following is not required to be registered under sub. (2):

14 (b) A town, village, or city, church, synagogue or mosque, religious, or fraternal  
15 or benevolent society or incorporated college of a religious order is not required to be  
16 registered under sub. (2), if the cemetery is not in a county with a population that is  
17 greater than 600,000.

18 **SECTION 3605iv.** 440.91 (9) of the statutes is amended to read:

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

INSERT 40-17 ✓



1           **SECTION 3605kd.** 440.92 (1) (a) of the statutes is amended to read:

2           440.92 (1) (a) Except as provided in subs. (4), (9) (a) and (10), every individual  
3 who sells or solicits the sale of cemetery merchandise or an undeveloped space under  
4 a preneed sales contract ~~and, if the~~ is required to be registered under this subsection  
5 and, if applicable, comply with the requirements under s. 445.125. If such an  
6 individual is employed by or acting as an agent for a cemetery authority or any other  
7 person, that cemetery authority or other person is also required to be registered  
8 under this subsection.

9           **SECTION 3605kL.** 440.92 (2) (title) of the statutes is renumbered 440.922 (title).

10           **SECTION 3605km.** 440.92 (2) (a) of the statutes is renumbered 440.922 (1) (a),  
11 and 440.922 (1) (a) 2., 3., 3g. and 4. (intro.), as renumbered, are amended to read:

12           440.922 (1) (a) 2. By affixing the cemetery merchandise to the ~~cemetery lot or~~  
13 mausoleum burial space.

14           3. By storing the cemetery merchandise in a warehouse that is located on the  
15 property of the preneed seller if the preneed seller insures the cemetery merchandise  
16 and the preneed sales contract requires the preneed seller to ultimately affix the  
17 cemetery merchandise to the ~~cemetery lot or mausoleum~~ burial space without  
18 additional charge.

19           3g. By storing the cemetery merchandise anywhere on the property of the  
20 preneed seller if the property of the preneed seller is located in this state, the preneed  
21 seller insures the cemetery merchandise and the preneed sales contract requires the  
22 preneed seller to ultimately affix the cemetery merchandise to a ~~cemetery lot~~ burial  
23 space, to the outside of or the grounds surrounding a mausoleum or columbarium or  
24 to any other outdoor location without additional charge.

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

8           **SECTION 3605kn.** 440.92 (2) (am) of the statutes is renumbered 440.922 (2) and  
9 amended to read:

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

20           **SECTION 3605kp.** 440.92 (2) (b) of the statutes is renumbered 440.922 (1) (b).

21           **SECTION 3605kr.** 440.92 (2) (c) of the statutes is renumbered 440.922 (3) and  
22 amended to read:

23           440.922 (3) VOIDING OF CONTRACTS. Except as provided in ~~par. (em)~~ sub. (4), a  
24 preneed sales contract shall provide that if the purchaser voids the preneed sales  
25 contract at any time within 10 days after the date of the initial payment the preneed

1 seller shall, within 30 days after the date on which the preneed sales contract is  
2 voided, refund all money paid by the purchaser for cemetery merchandise that has  
3 not been supplied or delivered and for the mausoleum space.

4 **SECTION 3605kt.** 440.92 (2) (cm) of the statutes is renumbered 440.922 (4).

5 **SECTION 3605kv.** 440.92 (2) (d) of the statutes is renumbered 440.922 (5) (a).

6 **SECTION 3605kx.** 440.92 (2) (e) of the statutes is renumbered 440.922 (5) (b).

7 **SECTION 3605kz.** 440.92 (2) (f) of the statutes is renumbered 440.922 (5) (c) and  
8 amended to read:

9 440.922 (5) (c) If a preneed sales contract is voided under par. (e) (b), the  
10 preneed seller shall, within 30 days after the date on which the preneed sales  
11 contract is voided, refund all money paid by the purchaser, together with interest  
12 calculated at the legal rate of interest as provided under s. 138.04.

13 **SECTION 3605mb.** 440.92 (2) (g) and (h) of the statutes are renumbered 440.922  
14 (6) and (10).

15 **SECTION 3605md.** 440.92 (2) (i) of the statutes is renumbered 440.922 (7) and  
16 amended to read:

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

25 **SECTION 3605mf.** 440.92 (2) (j) of the statutes is renumbered 440.922 (8).

1           **SECTION 3605mh.** 440.92 (2) (k) of the statutes is renumbered 440.922 (9) and  
2 amended to read:

3           440.922 (9) NOTICE OF RIGHTS. A preneed sales contract shall include the  
4 following language in not less than 10–point boldface type: “SECTION 440.92–(2)  
5 440.922 OF THE WISCONSIN STATUTES SPECIFIES THE RIGHTS OF THE  
6 PURCHASER UNDER THIS CONTRACT.     DEPENDING ON THE  
7 CIRCUMSTANCES, THESE MAY INCLUDE THE RIGHT TO VOID THE  
8 CONTRACT AND RECEIVE A REFUND OR THE RIGHT TO ASSIGN AN  
9 INTEREST IN THE CONTRACT TO ANOTHER PERSON.”

10           **SECTION 3605mj.** 440.92 (3) (a) (intro.) of the statutes is amended to read:

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

22           **SECTION 3605mm.** 440.92 (3) (am) of the statutes is created to read: 440.92 (3)  
23 (am) A preneed seller who sells cemetery merchandise for use in a county with a  
24 population greater than 600,000 shall deposit into a preneed trust fund an amount  
25 equal to at least 40% of each payment of principal that is received from the sale of

1 cemetery merchandise under a preneed sales contract. In addition to the amount  
2 required to be deposited under this paragraph for the sale of cemetery merchandise  
3 and except as provided in par. (c), if a preneed seller who sells an undeveloped space  
4 located in a county with a population greater than 600,000 receives payment for the  
5 undeveloped space under a preneed sales contract, the preneed seller shall deposit  
6 at least 40% of each payment of principal that is received from the sale of the  
7 undeveloped space into a preneed trust fund.

8 **SECTION 3605mn.** 440.92 (3) (c) (intro.) of the statutes is amended to read:

9 440.92 (3) (c) (intro.) A preneed seller is not required to make the deposits  
10 required under par. (a) ~~1. and 2. or (am) for payments for sales of undeveloped spaces~~  
11 under preneed contracts if any of the following applies:

12 **SECTION 3605mv.** 440.92 (5) of the statutes is renumbered 440.924.

13 **SECTION 3605mx.** 440.92 (6) (title) of the statutes is renumbered 440.926 (title)  
14 and amended to read:

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

17 **SECTION 3605mz.** 440.92 (6) (a) of the statutes is renumbered 440.926 (1) (a)  
18 and amended to read:

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

1           **SECTION 3605ob.** 440.92 (6) (b) and (c) of the statutes are renumbered 440.926  
2 (1) (b) and (c).

3           **SECTION 3605od.** 440.92 (6) (d) of the statutes is renumbered 440.926 (2) (c)  
4 and amended to read:

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

11           **SECTION 3605of.** 440.92 (6) (e) and (f) of the statutes are renumbered 440.926  
12 (1) (d) and (e).

13           **SECTION 3605oh.** 440.92 (6) (g) of the statutes is renumbered 440.926 (2) (a),  
14 and 440.926 (2) (a) 1. and 2., as renumbered, are amended to read:

15           440.926 (2) (a) 1. The records needed to prepare the reports required under ~~par.~~  
16 sub. (1) (a).

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

20           **SECTION 3605oj.** 440.92 (6) (h) of the statutes is renumbered 440.926 (2) (b) and  
21 amended to read:

22           440.926 (2) (b) The records under ~~par. sub. (1) (b) 1.~~ shall be permanently  
23 maintained by the preneed seller. The records under ~~par. sub. (1) (b) 2.~~ shall be  
24 maintained for not less than 3 years after all of the obligations of the preneed sales

1 contract have been fulfilled. The department may promulgate rules to establish  
2 longer time periods for maintaining records under this paragraph.

3 **SECTION 3605oL.** 440.92 (6) (i) of the statutes is renumbered 440.926 (3) (a) and  
4 amended to read:

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

8 **SECTION 3605on.** 440.92 (6) (j) of the statutes is renumbered 440.926 (4) and  
9 amended to read:

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

17 **SECTION 3605op.** 440.92 (6) (k) of the statutes is renumbered 440.926 (3) (b)  
18 and amended to read:

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

22 **SECTION 3605or.** 440.92 (7) of the statutes is renumbered 440.927 and  
23 amended to read:

24 **440.927. Approval of warehouses.** No person may own or operate a  
25 warehouse unless the warehouse is approved by the department. Upon application,

1 the department shall approve a warehouse that is located in this state if the person  
2 who operates the warehouse is licensed as a public warehouse keeper by the  
3 department of agriculture, trade and consumer protection under ch. 99, but may not  
4 approve a warehouse that is located in this state unless the person is so licensed. The  
5 department shall promulgate rules establishing the requirements for approval of  
6 warehouses that are located outside this state. The rules shall require warehouses  
7 that are located outside this state to file with the department a bond furnished by  
8 a surety company authorized to do business in this state in an amount that is  
9 sufficient to guarantee the delivery of cemetery merchandise to purchasers under  
10 preneed sales contracts. The department shall compile and keep a current list of the  
11 names and addresses of all warehouses approved under this ~~subsection~~ section and  
12 shall make the list available for public inspection during the times specified in s.  
13 230.35 (4) (f).

14 **SECTION 3605ot.** 440.92 (9) (title) of the statutes is amended to read:

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

17 **SECTION 3605ov.** 440.92 (9) (a) of the statutes is amended to read:

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



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

3 **SECTION 3605ox.** 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 3605oz.** 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 3605qb.** 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 3605qd.** 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

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

3 **SECTION 3605qg.** 440.92 (10) of the statutes is amended to read:

4 440.92 (10) EXEMPTIONS; CERTAIN NONPROFIT CEMETERIES. This section does not  
5 apply to a cemetery authority that is not required to be registered under s. 440.91  
6 (1) and, that is not organized or conducted for pecuniary profit, and that does not  
7 operate a cemetery in a county with a population greater than 600,000.

8 **SECTION 3605qh.** 440.922 (1) (title) of the statutes is created to read:

9 440.922 (1) (title) DELIVERY OF CEMETERY MERCHANDISE.

10 **SECTION 3605qhc.** 440.922 (4) (title) of the statutes is created to read:

11 440.922 (4) (title) PHYSICAL ALTERATION OF CEMETERY MERCHANDISE.

12 **SECTION 3605qhe.** 440.922 (5) (title) of the statutes is created to read:

13 440.922 (5) (title) UNDEVELOPED SPACE SALES.

14 **SECTION 3605qhg.** 440.922 (6) (title) of the statutes is created to read:

15 440.922 (6) (title) INTEREST ASSIGNMENTS.

16 **SECTION 3605qhj.** 440.922 (8) (title) of the statutes is created to read:

17 440.922 (8) (title) CONTRACT REQUIREMENTS.

18 **SECTION 3605qhk.** 440.922 (10) (title) of the statutes is created to read:

19 440.922 (10) (title) CONFLICTING PROVISIONS.

20 **SECTION 3605qj.** 440.926 (1) (title) of the statutes is created to read:

21 440.926 (1) (title) REPORTS.

22 **SECTION 3605qjd.** 440.926 (2) (title) of the statutes is created to read:

23 440.926 (2) (title) RECORDS.

24 **SECTION 3605qjf.** 440.926 (3) (title) of the statutes is created to read:

25 440.926 (3) (title) RULES.

1           **SECTION 3605qr.** 440.93 (1) (b) of the statutes is amended to read:

2           440.93 (1) (b) Made a substantial misrepresentation or false promise to an  
3 individual to influence the individual to purchase a ~~cemetery lot~~, cemetery  
4 merchandise or ~~mausoleum~~ a burial space.

5           **SECTION 3605qt.** 440.93 (1) (c) of the statutes is amended to read:

6           440.93 (1) (c) Engaged in any practice relating to the operation or management  
7 of a cemetery or the sale of a cemetery lot, cemetery merchandise or ~~mausoleum~~ a  
8 burial space which clearly demonstrates a lack of knowledge or ability to apply  
9 professional principles or skills.

10          **SECTION 3605qx.** 440.93 (1) (d) of the statutes is amended to read:

11          440.93 (1) (d) ~~Subject to ss. 111.321, 111.322 and 111.335, been convicted of an~~  
12 ~~offense~~ Violated any law the circumstances of which substantially relate to the  
13 operation or management of a cemetery or the sale of a cemetery lot, cemetery  
14 merchandise or ~~mausoleum~~ a burial space. A certified copy of a judgment of  
15 conviction is prima facie evidence of a violation.

16          **SECTION 3605qz.** 440.93 (1) (f) of the statutes is amended to read:

17          440.93 (1) (f) Subject to ss. 111.321, 111.322, and 111.34, engaged in any  
18 practice relating to the operation or management of a cemetery or the sale of a  
19 ~~cemetery lot~~, cemetery merchandise or ~~mausoleum~~ a burial space while the person's  
20 ability to practice was impaired by mental disease or defect or alcohol or other drugs.

21          **SECTION 3605sb.** 440.93 (1) (g) of the statutes is amended to read:

22          440.93 (1) (g) Violated this subchapter or subch. II of ch. 157, any rule  
23 promulgated under this subchapter or subch. II of ch. 157, or any order of the  
24 department.

25          **SECTION 3605sd.** 440.93 (1m) of the statutes is created to read:

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

6           **SECTION 3605sh.** 440.945 (1) (a) of the statutes is amended to read:

7           440.945 (1) (a) “Installed” means permanently affixed to a ~~cemetery lot~~ burial  
8 space.

9           **SECTION 3605sj.** 440.945 (2) (a) of the statutes is amended to read:

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

21          **SECTION 3605sL.** 440.945 (2) (c) of the statutes is amended to read:

22          440.945 (2) (c) Charge either the owner of a ~~cemetery lot~~ burial space or a  
23 vendor a reasonable fee to cover the cemetery authority’s labor costs. In this  
24 paragraph, “labor costs” means the amount, calculated in accordance with generally  
25 accepted accounting principles and practices, that is payable to employees of the

1 cemetery authority for wages and fringe benefits for the period that the employees  
2 were engaged in marking the location for and inspecting the installation of the  
3 monument to ensure that it was properly installed, and may include any general  
4 administrative or overhead costs of the cemetery authority or any other costs that  
5 are directly related to marking the location for and inspecting the installation of the  
6 monument to ensure that it was properly installed.

7 **SECTION 3605sn.** 440.945 (3) (a) (intro.) of the statutes is amended to read:

8 440.945 (3) (a) (intro.) Every cemetery authority shall keep on file and make  
9 available for inspection and copying to owners and prospective purchasers of  
10 ~~cemetery lots~~ burial spaces and to other interested persons all of the following  
11 information:

12 **SECTION 3605sp.** 440.945 (4) (a) 1. of the statutes is amended to read:

13 440.945 (4) (a) 1. Require the owner or purchaser of a ~~cemetery lot~~ burial space  
14 to purchase a monument or services related to the installation of a monument from  
15 the cemetery authority.

16 **SECTION 3605sr.** 440.945 (4) (a) 2. of the statutes is amended to read:

17 440.945 (4) (a) 2. Restrict the right of the owner or purchaser of a ~~cemetery lot~~  
18 burial space to purchase a monument or services related to the installation of a  
19 monument from the vendor of his or her choice.

20 **SECTION 3605st.** 440.945 (4) (a) 3. of the statutes is amended to read:

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

1 a cemetery ~~let~~ burial space a reasonable fee for services relating to the care of a  
2 monument.

3 **SECTION 3605sv.** 440.945 (4) (a) 4. of the statutes is amended to read:

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

7 **SECTION 3605ud.** 440.947 (1) (c) of the statutes is renumbered 440.90 (6g).

8 **SECTION 3605uh.** 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 3605uv.** 440.95 (4) (c) of the statutes is amended to read:

15 440.95 (4) (c) Fails to file a report or files an incomplete, false, or misleading  
16 report under s. ~~440.92 (6)~~ 440.926.

17 **SECTION 3605ux.** 440.95 (5) of the statutes is amended to read:

18 440.95 (5) Except as provided in sub. (4), any person who violates ~~s. ss.~~ 440.92  
19 to 440.927 or any rule promulgated under ~~s. ss.~~ 440.92 to 440.927 may be required  
20 to forfeit not more than \$200 for each offense. Each day of continued violation  
21 constitutes a separate offense.”.

22

(END)

**2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb2049/2ins  
MDK:.....

1

**INSERT 40-17:** ✓

2

**SECTION 3605is.** 440.91 (7) (a) of the statutes is created to read:

3

440.91 (7) (a) A religious cemetery authority.

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

LRBb2049/2dn

MDK:|.....

js

Darin Renner:

This version is identical to the previous version, except for the following:

1. SECTION 2852snb: Proposed s. 157.62 (5) (a) is revised so that DRL can't promulgate rules regarding the records under s. 157.62 (1), stats. The reason is that the DFI, not DRL, administers the requirements of s. 157.62 (1), stats.
2. SECTION 3605is: Proposed s. 440.91 (7) (a), which was inadvertently omitted from the previous version, is included in this version.

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**

LRBb2049/2dn  
MDK:cjs:rs

July 20, 2001

Darin Renner:

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

**SECTION 3504h.** 440.03 (13) of the statutes is renumbered 440.03 (13) (a) and amended to read:

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

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

**SECTION 3504k.** 440.03 (13) (b) of the statutes is created to read:

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

**14.** Page 1156, line 6: after that line insert:

**"SECTION 3605gb.** 440.90 (1) of the statutes is renumbered 440.90 (1d).

**SECTION 3605gf.** 440.90 (1c) of the statutes is created to read:

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

440.90 (1r) "Business representative" has the meaning given in s. 452.01 (3k).

**SECTION 3605gL.** 440.90 (3g) of the statutes is created to read:

*Do not do in a technical*

*Err made in*

