



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-2549/en  
CMH:emw

## 2015 SENATE BILL 302

1       **AN ACT** *to repeal* 157.061 (5), 157.061 (7), 157.11 (9g) (a) 1. b., 157.62 (3) (b) 2.,  
2           157.625 (2) and 440.91 (1) (c) 2.; *to renumber and amend* 157.061 (12),  
3           157.061 (13), 157.10, 157.12 (4), 157.62 (5), 440.90 (7), 440.90 (8), 440.90 (9),  
4           440.91 (1) (c) 1. and 979.10 (1) (c); *to amend* 15.07 (1) (cs), 15.405 (3m) (d), 71.07  
5           (5r) (a) 3., 71.28 (5r) (a) 3., 71.47 (5r) (a) 3., 157.061 (3), 157.061 (4), 157.061  
6           (11r), 157.061 (14), 157.061 (15), 157.062 (1), 157.062 (2), 157.062 (6) (b),  
7           157.062 (6m), 157.062 (9), 157.064 (6), 157.064 (7), 157.07 (1), 157.07 (4), 157.07  
8           (6), 157.08 (2) (b), 157.08 (5), 157.10 (title), 157.11 (2), 157.11 (9g) (a) 1. c., 157.11  
9           (9g) (a) 2., 157.11 (9g) (c), 157.11 (9m), 157.11 (10), 157.112 (3m), 157.115 (2) (a)  
10          1. (intro.), 157.115 (2) (a) 3., 157.115 (2) (b), 157.115 (2) (c), 157.115 (2) (d)  
11          (intro.), 157.12 (title), 157.12 (2) (a), 157.12 (2) (b), 157.12 (3) (a) 3., 157.12 (3)  
12          (b), 157.125 (1), 157.125 (2), 157.19 (5) (a), 157.19 (5) (b), 157.60, 157.62 (1) (a)  
13          (intro.), 157.62 (1) (c), 157.62 (2) (d), 157.62 (4), 157.62 (6), 157.62 (7), 157.63  
14          (title), 157.63 (1), 157.63 (2) (intro.), 157.63 (2) (b), 157.63 (5), 157.635, 157.637,

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1 157.64 (2) (intro.) and (a), 157.65 (1) (a), 157.65 (1) (b), 157.65 (2), 440.90 (3),  
2 440.90 (14), 440.91 (1) (a), 440.91 (1m) (a), 440.91 (2) (d), 440.91 (3), 440.91 (4),  
3 440.91 (10), 440.92 (1) (a), 440.92 (1) (b) 1., 440.92 (1) (b) 3., 440.92 (1) (b) 4.,  
4 440.92 (1) (c), 440.92 (2) (a) (intro.), 440.92 (2) (d), 440.92 (3) (c) 3., 440.92 (6)  
5 (j), 440.92 (9) (title), 440.92 (9) (a), 440.92 (9) (b) (intro.), 440.92 (9) (b) 2., 440.92  
6 (9) (b) 3., 440.92 (9) (d), 440.92 (9) (e), 440.92 (9) (f), 440.93 (2), 440.945 (5) (a),  
7 440.945 (5) (b), 440.947 (5), 440.95 (3), 440.95 (4) (intro.), 815.18 (3) (a) and  
8 895.04 (5); and *to create* 157.061 (1p), 157.10 (1), 157.10 (2) (a) 1. to 4., 157.10  
9 (2) (b), 157.10 (3), 157.10 (6), 157.10 (7), 157.62 (2) (b) 6m., 157.62 (3) (b) 2g.,  
10 157.62 (3) (b) 2r., 157.62 (5) (a) to (j), 182.0175 (2) (c) and 440.97 of the statutes;  
11 **relating to:** powers and duties of cemetery authorities; inheritance of cemetery  
12 lots in which human remains are buried; exemption of cemeteries from certain  
13 requirements concerning excavation; the powers and duties of the Cemetery  
14 Board, the Department of Safety and Professional Services, and the  
15 Department of Financial institutions; requiring the exercise of rule-making  
16 authority; and providing a penalty.

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*Analysis by the Legislative Reference Bureau*

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

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

18 15.07 (1) (cs) No member of the auctioneer board, ~~cemetery board~~, or real estate  
19 appraisers board may be an officer, director, or employee of a private organization  
20 that promotes or furthers any profession or occupation regulated by that board.

21 **SECTION 2.** 15.405 (3m) (d) of the statutes is amended to read:

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1           15.405 **(3m)** (d) No member of the cemetery board may serve more than 2  
2 consecutive terms.

3           **SECTION 3.** 71.07 (5r) (a) 3. of the statutes is amended to read:

4           71.07 **(5r)** (a) 3. “Family member” ~~has the meaning given in s. 157.061 (7)~~  
5 means a spouse or an individual related by blood, marriage, or adoption within the  
6 3rd degree of kinship as computed under s. 990.001 (16).

7           **SECTION 4.** 71.28 (5r) (a) 3. of the statutes is amended to read:

8           71.28 **(5r)** (a) 3. “Family member” has the meaning given in s. ~~157.061 (7)~~ 71.07  
9 (5r) (a) 3.

10          **SECTION 5.** 71.47 (5r) (a) 3. of the statutes is amended to read:

11          71.47 **(5r)** (a) 3. “Family member” has the meaning given in s. ~~157.061 (7)~~ 71.07  
12 (5r) (a) 3.

13          **SECTION 6.** 157.061 (1p) of the statutes is created to read:

14          157.061 **(1p)** “Cemetery” means any land, including any mausoleum on the  
15 land, that is used or intended to be used, exclusively for the burial of human remains.

16          **SECTION 7.** 157.061 (3) of the statutes is amended to read:

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

23          **SECTION 8.** 157.061 (4) of the statutes is amended to read:

24          157.061 **(4)** “Dedicated” means platted ~~for use exclusively~~ as a cemetery and  
25 qualified for the exemption from general property taxes under s. 70.11 (13).

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1           **SECTION 9.** 157.061 (5) of the statutes is repealed.

2           **SECTION 10.** 157.061 (7) of the statutes is repealed.

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

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

10          **SECTION 12.** 157.061 (12) of the statutes is renumbered 157.061 (3g) and  
11 amended to read:

12          157.061 (3g) “Preneed sales contract” means an agreement for the sale of  
13 cemetery services and merchandise that is to be delivered after the date of the initial  
14 payment for the cemetery services and merchandise, or for the sale of an undeveloped  
15 space.

16          **SECTION 13.** 157.061 (13) of the statutes is renumbered 157.061 (3r) and  
17 amended to read:

18          157.061 (3r) “Preneed trust fund” means an account or other investment in  
19 which a portion of the proceeds cemetery services and merchandise received under  
20 a preneed sales contract is deposited.

21          **SECTION 14.** 157.061 (14) of the statutes is amended to read:

22          157.061 (14) “Public mausoleum” means a mausoleum ~~that holds or is intended~~  
23 ~~to hold more than 10 human remains or a mausoleum~~ in which at least one  
24 mausoleum space is offered for sale to the general public.

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

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1           157.061 (15) “Religious association” means any church, synagogue, or mosque  
2           or; any religious society organized under ch. 187; and any corporation whose articles  
3           of organization provide, subject to s. 182.030, that it shall be under the supervision  
4           and control of a church, synagogue, mosque, or religious society.

5           **SECTION 16.** 157.062 (1) of the statutes is amended to read:

6           157.062 (1) ORGANIZATION. Seven or more residents of the same county may  
7           form a cemetery association. They shall meet, select a chairperson and secretary,  
8           choose a name, fix the annual meeting date, and elect by ballot not less than 3 nor  
9           more than 9 trustees whom the chairperson and secretary shall immediately divide  
10          by lot into 3 classes, who shall hold their offices for 1, 2, and 3 years, respectively.  
11          Within 3 days, the chairperson and secretary shall certify the corporate name, the  
12          names, home addresses, and business addresses of the organizers and of the  
13          trustees, and their classification, and the annual meeting date acknowledged by  
14          them, and, except as provided in sub. (9), deliver the certification to the ~~department~~  
15          of ~~financial institutions~~ cemetery board. The association then has the powers of a  
16          corporation.

17          **SECTION 17.** 157.062 (2) of the statutes is amended to read:

18          157.062 (2) AMENDMENTS. The association may change its name, the number  
19          of trustees, or the annual meeting date by resolution at an annual meeting, or special  
20          meeting called for such purpose, by a majority vote of the members present, and,  
21          except as provided in sub. (9), by delivering to the ~~department of financial~~  
22          ~~institutions~~ cemetery board a copy of the resolution, with the date of adoption,  
23          certified by the president and secretary or corresponding officers.

24          **SECTION 18.** 157.062 (6) (b) of the statutes is amended to read:

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

16           **SECTION 19.** 157.062 (6m) of the statutes is amended to read:

17           157.062 (6m) FORMS. ~~The department of financial institutions~~ cemetery board  
18 may prescribe and furnish forms for providing the information required under subs.  
19 (1) to (6).

20           **SECTION 20.** 157.062 (9) of the statutes is amended to read:

21           157.062 (9) EXEMPTIONS FOR CERTAIN CEMETERIES. In lieu of delivering a  
22 certification, resolution, or copy of proceedings to the ~~department of financial~~  
23 ~~institutions~~ cemetery board under sub. (1), (2), or (6) (b), a cemetery association that  
24 is not required to be licensed under s. 440.91 (1) or registered under s. 440.91 (1m)

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1 shall deliver the certification, resolution, or copy of proceedings to the office of the  
2 register of deeds of the county in which the cemetery is located.

3 **SECTION 21.** 157.064 (6) of the statutes is amended to read:

4 157.064 (6) Whenever the majority of the members of a cemetery association,  
5 or of a religious association authorized to hold lands for cemetery purposes, present  
6 at an annual meeting or special meeting called for such purpose vote to convey all  
7 of the cemetery association's or religious association's cemetery property, trust funds  
8 and other property used for cemetery purposes to another cemetery association or  
9 religious association, the trustees of the association shall transfer the property upon  
10 the acceptance of the transfer by the other association by affirmative vote of a  
11 majority of its members present at an annual meeting or special meeting called for  
12 that purpose. Upon such acceptance, the title to the cemetery property, trust funds  
13 and other property of the transferring association vests in the accepting association  
14 under the control of the trustees of the accepting association. A conveyance under  
15 this subsection is subject to s. 157.08 (2). ~~This subsection does not apply to a religious~~  
16 ~~society organized under ch. 187.~~

17 **SECTION 22.** 157.064 (7) of the statutes is amended to read:

18 157.064 (7) Not more than 30 days after a transfer under sub. (6), the  
19 transferring association shall notify the ~~department of financial institutions~~  
20 cemetery board in writing of the transfer, including the name and address of the  
21 accepting association or its treasurer. The ~~department of financial institutions~~  
22 cemetery board may prescribe and furnish forms for providing the information  
23 required under this subsection.

24 **SECTION 23.** 157.07 (1) of the statutes is amended to read:

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1           157.07 (1) A cemetery authority shall cause to be surveyed and platted by a  
2 professional land surveyor those portions of the lands that are from time to time  
3 required for burial, into cemetery lots, drives, and walks, and record a plat or map  
4 of the land in the office of the register of deeds. ~~The plat or map may not be recorded~~  
5 ~~unless laid out and platted to the satisfaction of the county board of the county, and~~  
6 ~~the town board of the town in which the land is situated, or, if the land is situated~~  
7 ~~within a 1st class city, then only by the common council of that city.~~

8           **SECTION 24.** 157.07 (4) of the statutes is amended to read:

9           157.07 (4) The cemetery authority shall cause the plat or map to be recorded  
10 ~~within 30 days of the date of its approval, together with the evidence of the town and~~  
11 ~~county board's or common council's approval, which shall be a copy of the resolution~~  
12 ~~adopted by the county board and by the town board, or by the common council,~~  
13 ~~certified by the county clerk and the town clerk, respectively, or city clerk, and affixed~~  
14 ~~to the map or plat. For failure to do so, the plat shall be void, and no sale of a cemetery~~  
15 lot or mausoleum space may be made before the plat is recorded.

16           **SECTION 25m.** 157.07 (6) of the statutes is amended to read:

17           157.07 (6) This section does not apply to a religious ~~society organized under ch.~~  
18 187 association or a cemetery authority of a cemetery that is affiliated with a  
19 religious association.

20           **SECTION 26.** 157.08 (2) (b) of the statutes is amended to read:

21           157.08 (2) (b) Before a cemetery authority sells or encumbers any cemetery  
22 land, except for a sale described in par. (a), the cemetery authority shall notify the  
23 cemetery board in writing of the proposed sale or encumbrance. If within ~~60~~ 90 days  
24 after the cemetery board is notified of the proposed sale or encumbrance the cemetery  
25 board notifies the cemetery authority in writing that the cemetery board objects to



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1 the sale or encumbrance the cemetery authority may not sell or encumber the  
2 cemetery land unless the cemetery board subsequently notifies the cemetery  
3 authority in writing that the objection is withdrawn. The cemetery board may object  
4 to a sale or encumbrance only if it determines that the cemetery authority will not  
5 be financially solvent or that the rights and interests of owners of cemetery lots and  
6 mausoleum spaces will not be adequately protected if the sale or encumbrance  
7 occurs. The cemetery board may, before the expiration of the ~~60-day~~ 90-day period,  
8 notify the cemetery authority in writing that the cemetery board approves of the sale  
9 or encumbrance. Upon receipt of the cemetery board's written approval, the  
10 cemetery authority may sell or encumber the cemetery land and is released of any  
11 liability under this paragraph. The cemetery board shall make every effort to make  
12 determinations under this paragraph in an expeditious manner.

13 **SECTION 27m.** 157.08 (5) of the statutes is amended to read:

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

19 **SECTION 28.** 157.10 (title) of the statutes is amended to read:

20 **157.10 (title) Alienation, disposition, and use of cemetery lots and**  
21 **mausoleum spaces.**

22 **SECTION 29.** 157.10 of the statutes is renumbered 157.10 (2) (a) (intro.) and  
23 amended to read:

24 157.10 (2) (a) (intro.) While any person is buried in a cemetery lot or  
25 mausoleum space, the cemetery lot or mausoleum space shall be inalienable, without

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1 the consent of the cemetery authority, and on the death of the last owner, full  
2 ownership of the cemetery lot or mausoleum space shall descend to the owner's heirs;  
3 ~~but any~~ as follows:

4 (4) Any one or more of such heirs persons under sub. (2) (a) 1. to 3. may, only  
5 with the consent of the cemetery authority, convey to any other heir person under  
6 sub. (2) (a) 1. to 3. his or her interest in the cemetery lot or mausoleum space.

7 (5) No human remains may be buried in a cemetery lot or mausoleum space  
8 except the human remains of one having an interest in owner of the cemetery lot or  
9 mausoleum space, or a relative, or the husband or wife spouse of such person an  
10 owner, or his or her relative, except by the consent of all persons having an interest  
11 in a majority of the owners of the cemetery lot or mausoleum space.

12 **SECTION 30.** 157.10 (1) of the statutes is created to read:

13 157.10 (1) In this section, "owner" means a person named in the records of the  
14 cemetery authority who has an ownership interest in a cemetery lot or mausoleum  
15 space and a right to bury human remains in the cemetery lot or mausoleum space.

16 **SECTION 31.** 157.10 (2) (a) 1. to 4. of the statutes are created to read:

17 157.10 (2) (a) 1. To the owner's surviving spouse or domestic partner under ch.  
18 770.

19 2. If there is no living member of the class designated in subd. 1., to that owner's  
20 children, including by adoption.

21 3. If there is no living member of the class designated in subd. 1. or 2., to the  
22 owner's grandchildren, including by adoption.

23 4. If there is no living member of the class designated in subd. 1., 2., or 3., to  
24 the cemetery authority for the cemetery in which the cemetery lot or mausoleum  
25 space is located.

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1           **SECTION 32.** 157.10 (2) (b) of the statutes is created to read:

2           157.10 (2) (b) A cemetery lot or mausoleum space is not part of a decedent's net  
3           estate for purposes of s. 852.01.

4           **SECTION 33.** 157.10 (3) of the statutes is created to read:

5           157.10 (3) If ownership of a cemetery lot or mausoleum space descends to the  
6           cemetery authority under sub. (2) (a), the cemetery authority shall comply with s.  
7           157.115 (2) (c) to (h) for any grave in the cemetery lot or mausoleum space in which  
8           human remains are not buried.

9           **SECTION 34.** 157.10 (6) of the statutes is created to read:

10          157.10 (6) The cemetery authority shall be held harmless for any decision made  
11          by a majority of the owners of a cemetery lot or mausoleum space.

12          **SECTION 35.** 157.10 (7) of the statutes is created to read:

13          157.10 (7) A cemetery authority that is a religious association or that is the  
14          cemetery authority of a cemetery affiliated with a religious association may adopt a  
15          written policy for the disposition of cemetery lots and mausoleum spaces in a  
16          cemetery organized and operated by, or affiliated with, the religious association that  
17          is different from sub. (2) (a).

18          **SECTION 36.** 157.11 (2) of the statutes is amended to read:

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

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1 by publishing a class ~~3~~ 1 notice, under ch. 985, in the county. If the person fails to  
2 comply within 20 days thereafter, the cemetery authority may cause it to be done and  
3 recover from the person the expense. The cemetery authority may also impose a  
4 forfeiture not exceeding \$10 \$100 for violation of the regulations posted in 3  
5 conspicuous places in the cemetery, recoverable under ch. 778. Each employee and  
6 agent of the cemetery authority shall have constable powers in enforcing the  
7 regulations.

8 **SECTION 37.** 157.11 (9g) (a) 1. b. of the statutes is repealed.

9 **SECTION 38.** 157.11 (9g) (a) 1. c. of the statutes is amended to read:

10 157.11 **(9g)** (a) 1. c. If not invested as provided in subd. 1. a. ~~or b.~~, otherwise  
11 deposited by the cemetery authority in an investment approved by the cemetery  
12 board if the care funds are segregated and invested separately from all other moneys  
13 held by the cemetery authority.

14 **SECTION 39.** 157.11 (9g) (a) 2. of the statutes is amended to read:

15 157.11 **(9g)** (a) 2. The manner in which the care funds are invested may not  
16 permit the cemetery authority to withdraw the care fund's principal amount. The  
17 income from the investment of a care fund for the care of cemetery lots may be used  
18 only to maintain the cemetery lots and grounds, except that if the amount of income  
19 exceeds the amount necessary to maintain the cemetery lots or grounds properly, the  
20 excess amount may be used to maintain any other portion of the cemetery, including  
21 mausoleums. ~~If the care funds are deposited with a city or county, or previously~~  
22 ~~deposited with a village, there shall be paid to the cemetery authority annually~~  
23 ~~interest on funds so deposited of not less than 2% per year. The governing body of~~  
24 ~~any city or county, or any village or town in the case of previous deposits, may~~  
25 ~~determine to return all or a part of any funds deposited by a cemetery authority, and~~

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

11 **SECTION 40.** 157.11 (9g) (c) of the statutes is amended to read:

12 157.11 **(9g)** (c) Except as provided in sub. (11), any cemetery authority that sells  
13 a cemetery lot on or after November 1, 1991, shall deposit ~~15%~~ 15 percent of each  
14 payment of principal into a care fund under par. (a) within 30 business days after the  
15 last day of the month in which the payment is received, except as provided in sub.  
16 (7) (d) and s. 157.115 (2) (f). The total amount deposited must equal ~~15%~~ 15 percent  
17 of the total amount of all payments of principal that have been received, but not less  
18 than \$25.

19 **SECTION 41.** 157.11 (9m) of the statutes is amended to read:

20 157.11 **(9m)** ACTION BY DISTRICT ATTORNEY. If any money or property is not  
21 turned over when required by this section, or default occurs under a bond, the district  
22 attorney, upon the request of the ~~department of safety and professional services~~  
23 cemetery board, shall bring action to recover.

24 **SECTION 42.** 157.11 (10) of the statutes is amended to read:

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1           157.11 (10) ~~EXEMPTION FOR RELIGIOUS SOCIETIES~~ ASSOCIATIONS. Subsections (1)  
2 to (9), (9g) (a) and (b), (9m) and (9r) do not apply, but sub. (9g) (c) does apply, to a  
3 religious society ~~organized under ch. 187~~ association or a cemetery authority of a  
4 cemetery that is affiliated with a religious association, for that cemetery.

5           **SECTION 43.** 157.112 (3m) of the statutes is amended to read:

6           157.112 (3m) If none of the persons specified in sub. (3) (b) 1. to 4. are available  
7 for notification under sub. (3) (b), the cemetery authority shall maintain a record of  
8 its attempt to provide notification under sub. (3) (b) ~~for not less than 10 years from~~  
9 ~~the date of the reburial of the human remains under sub. (2)~~ as a part of the cemetery  
10 authority's permanent records.

11           **SECTION 44.** 157.115 (2) (a) 1. (intro.) of the statutes is amended to read:

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

19           **SECTION 45.** 157.115 (2) (a) 3. of the statutes is amended to read:

20           157.115 (2) (a) 3. “Owner” ~~means a person who, according to the records of the~~  
21 ~~cemetery authority of the cemetery in which an abandoned cemetery lot is located,~~  
22 ~~owns or partially owns the abandoned cemetery lot~~ has the meaning given in s.  
23 157.10 (1).

24           **SECTION 46.** 157.115 (2) (b) of the statutes is amended to read:

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1           157.115 (2) (b) No cemetery authority may resell an abandoned cemetery lot  
2 unless the cemetery authority complies with the requirements in this subsection.

3           **SECTION 47.** 157.115 (2) (c) of the statutes is amended to read:

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

10          **SECTION 48.** 157.115 (2) (d) (intro.) of the statutes is amended to read:

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

17          **SECTION 49.** 157.12 (title) of the statutes is amended to read:

18          **157.12 (title) Mausoleums and crematoriums.**

19          **SECTION 50.** 157.12 (2) (a) of the statutes is amended to read:

20          157.12 (2) (a) Any person who constructs a mausoleum or converts a building  
21 or other structure to a mausoleum shall comply with the rules of the department  
22 cemetery board and shall receive ~~department~~ the cemetery board's approval in  
23 writing of the plans and specifications prior to construction or conversion. No person  
24 may modify plans or specifications which that have been approved under this  
25 paragraph without approval in writing from the ~~department~~ cemetery board, unless

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1 such modifications are cosmetic in nature. The department cemetery board shall  
2 promulgate rules providing reasonable requirements governing the location,  
3 material, and construction of a mausoleum, in accordance with the requirements in  
4 par. (d). Any municipality may enact ordinances governing mausoleums at least as  
5 stringent as this section.

6 **SECTION 51.** 157.12 (2) (b) of the statutes is amended to read:

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



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1 or conversion of the public mausoleum have been corrected, the department  
2 cemetery board shall, within 30 days after receiving the notice, reinspect the public  
3 mausoleum and provide the cemetery authority with a written certification as to  
4 whether the construction or conversion complies with the approved plans. If a  
5 cemetery authority that has been provided with a temporary certification does not  
6 receive a written certification from the department cemetery board before the date  
7 on which the temporary certification expires that the construction or conversion  
8 complies with the approved plans, then, beginning on the date on which the  
9 certification expires, no person may sell a mausoleum space, except an undeveloped  
10 space that is sold in accordance with s. 440.92, or bury human remains in the public  
11 mausoleum until the defects are corrected and the department cemetery board  
12 subsequently inspects the public mausoleum and provides the cemetery authority  
13 with a certification that the construction or conversion complies with the approved  
14 plans. The department cemetery board may charge a reasonable fee to the cemetery  
15 authority for each inspection and certification provided under this paragraph if the  
16 inspection and certification are provided within the applicable 30-day period  
17 prescribed under this paragraph.

18 **SECTION 52.** 157.12 (3) (a) 3. of the statutes is amended to read:

19 157.12 (3) (a) 3. The operator shall make deposits required under subsds. 1. and  
20 2. within 30 days after the last day of the month in which the payment is received.  
21 The municipality in which the mausoleum is located may, by ordinance, require a  
22 larger fund, but only if the department cemetery board notifies the municipality in  
23 writing that the department cemetery board approves of the requirement. The  
24 department cemetery board may promulgate rules establishing uniform standards  
25 for approvals under this subdivision.

**SENATE BILL 302****SECTION 53**

1           **SECTION 53.** 157.12 (3) (b) of the statutes is amended to read:

2           157.12 (3) (b) The cemetery's treasurer is the custodian of the fund. The  
3 treasurer shall file with the cemetery, at the cemetery's expense, a bond with sureties  
4 approved by the ~~department of safety and professional services~~ cemetery board to  
5 indemnify the cemetery against loss if the treasurer fails to maintain the fund. No  
6 indemnity is required if the terms of sale of a mausoleum space require the purchaser  
7 to pay directly to a trust company in the state, designated by the cemetery as  
8 custodian of the fund. The fund shall be invested as provided in s. 157.19. Income  
9 from investment may be used only to maintain the mausoleum, except that if the  
10 amount of income exceeds the amount necessary to properly maintain the  
11 mausoleum the excess amount may be used to maintain any portion of the cemetery.

12           **SECTION 54.** 157.12 (4) of the statutes is renumbered 440.78 (10) and amended  
13 to read:

14           440.78 (10) CONSTRUCTION OF ~~CREMATORIUMS~~ A CREMATORY. (a) Any person who  
15 constructs a ~~crematorium~~ crematory or converts a building or other structure to a  
16 ~~crematorium~~ crematory shall comply with the rules of the department and shall  
17 receive department approval in writing of the plans and specifications prior to  
18 construction or conversion. The department may promulgate rules governing the  
19 location, material, and construction of any ~~crematorium~~ crematory. Any  
20 municipality may enact ordinances governing ~~crematoriums~~ the construction of a  
21 crematory that are at least as stringent as this subsection.

22           (b) The department shall supervise construction of any ~~crematorium~~ crematory  
23 and conversion of any building or other structure to a ~~crematorium~~ crematory. No  
24 person may modify departmental construction or conversion requirements without  
25 written approval of the department. No ~~person~~ crematory authority may operate a

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1 ~~crematorium~~ crematory unless the department certifies in writing that construction  
2 or conversion complied with approved plans.

3 **SECTION 55.** 157.125 (1) of the statutes is amended to read:

4 157.125 (1) If a trust is created for the care of a burial place or grave but no  
5 trustee is named in the will to administer the trust, the circuit court having  
6 jurisdiction may name the county treasurer of the county in which the burial place  
7 or grave is situated as trustee, except as provided in sub. (2). If not contrary to the  
8 terms of the trust, the county treasurer may contract with the person in charge of the  
9 burial place or grave for its care and pay to that person the income from the trust  
10 property or the part of the income that may be necessary for that purpose, ~~and if.~~ If  
11 there is no person in charge of the burial place or grave, then the income shall be paid  
12 to the city, village, or town, in which the burial place or grave is situated, and for the  
13 purposes of this subsection, the governing body of that municipality has the duty of  
14 caring for the burial place or grave to the extent of money received for that purpose.  
15 The county treasurer shall annually render an account to the circuit court as  
16 provided in ch. 701 and the person or municipality receiving money for such care  
17 shall also render an annual accounting to the circuit court and the ~~department~~  
18 cemetery board as provided in s. 157.62 (2) (b) 3. to 7.

19 **SECTION 56.** 157.125 (2) of the statutes is amended to read:

20 157.125 (2) If the burial place or grave is located in a cemetery owned and  
21 operated by, or affiliated with, a religious ~~society~~ association ~~organized under ch. 187~~  
22 association, the court shall name the religious ~~society~~ association as the trustee  
23 unless the religious ~~society~~ association petitions the court to name the county  
24 treasurer as the trustee.

25 **SECTION 57.** 157.19 (5) (a) of the statutes is amended to read:

**SENATE BILL 302****SECTION 57**

1           157.19 (5) (a) This section does not apply to care funds under s. 157.11 (9g) that  
2           are deposited with a city or county as provided under s. 157.11 (9g) (a), to care funds  
3           of a cemetery for which a certification under s. 157.63 is effective, to preneed trust  
4           funds of a cemetery for which a certification under s. 440.92 (9) is effective, or to care  
5           funds or preneed trust funds of a cemetery authority that is not required to be  
6           licensed under s. 440.91 (1) or registered under s. 440.91 (1m).

7           **SECTION 58.** 157.19 (5) (b) of the statutes is amended to read:

8           157.19 (5) (b) If the cemetery board determines that care funds under s. 157.11  
9           (9g) that have not been deposited with a city or county as provided in s. 157.11 (9g)  
10          (a) are not being properly segregated from other moneys held by the cemetery  
11          authority or that those care funds are not being properly invested as required in s.  
12          157.11 (9g) (a), the cemetery board may require the cemetery authority to deposit  
13          those care funds with a financial institution for investment under this section.

14          **SECTION 59.** 157.60 of the statutes is amended to read:

15          **157.60 Public easement in cemetery.** Any person who shall open or make  
16          opens or makes any highway, town way, or private way or ~~shall construct~~ constructs  
17          any railroad, turnpike, or canal or anything in the nature of a public easement over,  
18          through, in, or upon such part of any enclosure, being the property of any town, city,  
19          village or municipality, religious society association, or of private proprietors  
20          proprietor, as may be used for the burial of the dead, unless an authority for that  
21          purpose shall be is specially granted by law or unless the consent of such town, city,  
22          village municipality, religious society association, or private proprietors,  
23          respectively, ~~shall be proprietor~~ is first obtained by the person, shall be punished by  
24          imprisonment in the county jail not more than one year or and by fine not exceeding  
25          ~~\$300~~ \$3,000.

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1           **SECTION 60.** 157.62 (1) (a) (intro.) of the statutes is amended to read:

2           157.62 (1) (a) (intro.) Except as provided in par. (b) and s. 157.625, every  
3 cemetery association shall file an annual report with the ~~department of financial~~  
4 ~~institutions~~ cemetery board. The report shall be made on a calendar-year basis  
5 unless the ~~department of financial institutions~~ cemetery board, by rule, provides for  
6 other reporting periods. The report is due on the 60th day after the last day of the  
7 reporting period. The annual report shall include all of the following:

8           **SECTION 61.** 157.62 (1) (c) of the statutes is amended to read:

9           157.62 (1) (c) The ~~department of financial institutions~~ cemetery board may  
10 prescribe and furnish forms for reports required under this subsection. If the  
11 ~~department of financial institutions~~ cemetery board prescribes forms under this  
12 paragraph, the ~~department of financial institutions~~ cemetery board shall mail the  
13 forms to cemetery associations required to file under par. (a) no later than 60 days  
14 before the reports are due.

15           **SECTION 62.** 157.62 (2) (b) 6m. of the statutes is created to read:

16           157.62 (2) (b) 6m. The names of the officers of the cemetery authority.

17           **SECTION 63.** 157.62 (2) (d) of the statutes is amended to read:

18           157.62 (2) (d) The department board shall review each report filed under par.  
19 (a) to determine whether the cemetery authority is complying with this subchapter.

20           **SECTION 64.** 157.62 (3) (b) 2. of the statutes is repealed.

21           **SECTION 65.** 157.62 (3) (b) 2g. of the statutes is created to read:

22           157.62 (3) (b) 2g. All records supporting the accounting under sub. (2) (b) 3.,  
23 including records that show, for each deposit, the name of the purchaser or  
24 beneficiary of the contract relating to the deposit and the item purchased.

25           **SECTION 66.** 157.62 (3) (b) 2r. of the statutes is created to read:

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1           157.62 (3) (b) 2r. All records supporting the accounting under sub. (2) (b) 4.,  
2 including records that show, for each deposit, the name of the purchaser or  
3 beneficiary of the contract relating to the deposit and the item purchased.

4           **SECTION 67.** 157.62 (4) of the statutes is amended to read:

5           157.62 (4) RECORDS MAINTENANCE. The records under sub. (3) (b) 1. shall be  
6 permanently maintained by the cemetery authority or licensee. Each record under  
7 sub. (3) (b) ~~2.~~ 2g. shall be maintained for not less than ~~3~~ 15 years after the date of  
8 the deposit. Each record under sub. (3) (b) 2r. shall be permanently maintained by  
9 the cemetery authority or licensee. Each copy of a contract under sub. (3) (b) 3. shall  
10 be maintained for not less than 3 years after all of the obligations of the contract have  
11 been fulfilled. The ~~department~~ cemetery board may promulgate rules to establish  
12 longer time periods for maintaining records under sub. (3) (b) ~~2.~~ 2g. and 3.

13           **SECTION 68.** 157.62 (5) of the statutes is renumbered 157.62 (5) (intro.) and  
14 amended to read:

15           157.62 (5) RULES; RECORDS. (intro.) The ~~department~~ cemetery board may shall  
16 promulgate rules requiring cemetery authorities and licensees to maintain other  
17 records and establishing minimum time periods for the maintenance of those  
18 records. The records shall include detailed information for each deceased person  
19 buried in a cemetery, including all of the following:

20           **SECTION 69.** 157.62 (5) (a) to (j) of the statutes are created to read:

21           157.62 (5) (a) The name of the deceased.

22           (b) The last-known address of the deceased.

23           (c) The date of birth of the deceased.

24           (d) The date of death.

25           (e) The date of burial.

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1 (f) The exact location in the cemetery where the deceased is buried.

2 (g) The name of the person authorizing the burial and his or her relationship  
3 to the deceased.

4 (h) The name of the funeral establishment, as defined in s. 445.01 (6).

5 (i) The type of burial vault used, if any.

6 (j) The type and style of the grave marker, monument, or other memorial used.

7 **SECTION 70.** 157.62 (6) of the statutes is amended to read:

8 157.62 (6) AUDIT. Except as provided in ss. 157.625, 157.63 (5), and 440.92 (9)  
9 (e), the ~~department~~ cemetery board may audit, at reasonable times and frequency,  
10 the records, trust funds, and accounts of any cemetery authority, including records,  
11 trust funds, and accounts pertaining to services provided by a cemetery authority  
12 which that are not otherwise subject to the requirements under this chapter. The  
13 ~~department~~ cemetery board may conduct audits under this subsection on a random  
14 basis, and shall conduct all audits under this subsection without providing prior  
15 notice to the cemetery authority.

16 **SECTION 71.** 157.62 (7) of the statutes is amended to read:

17 157.62 (7) RULES; FILING FEE. The ~~department~~ cemetery board may promulgate  
18 rules establishing a filing fee to accompany the report required under sub. (2) (a).  
19 The filing fee shall be based on the approximate cost of regulating cemetery  
20 authorities.

21 **SECTION 72.** 157.625 (2) of the statutes is repealed.

22 **SECTION 73.** 157.63 (title) of the statutes is amended to read:

23 **157.63 (title) Reporting and auditing exemptions; certification of**  
24 **compliance of cemetery organized and operated by, or affiliated with, a**  
25 **religious society association.**

**SENATE BILL 302****SECTION 74**

1           **SECTION 74.** 157.63 (1) of the statutes is amended to read:

2           157.63 (1) In lieu of filing an annual report under s. 157.62 (2), a religious  
3 association or a cemetery authority of a cemetery that is affiliated with a religious  
4 society organized under ch. 187 association, or that religious ~~society~~ association, may  
5 file an annual certification with the ~~department~~ cemetery board as provided in this  
6 section.

7           **SECTION 75.** 157.63 (2) (intro.) of the statutes is amended to read:

8           157.63 (2) (intro.) A certification under this section shall be made on a form  
9 prescribed and furnished by the ~~department~~ cemetery board and include all of the  
10 following:

11           **SECTION 76.** 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~~ association under this section that, during the  
14 reporting period under s. 157.62, each cemetery and the cemetery authority of each  
15 cemetery specified under par. (a) have either fully complied or have substantially  
16 complied with ss. 157.11 (9g) (c) and 157.12 (3).

17           **SECTION 77.** 157.63 (5) of the statutes is amended to read:

18           157.63 (5) During the effective period specified under sub. (4), the ~~department~~  
19 cemetery board may not audit the care funds or any records or accounts relating to  
20 the care funds of a cemetery to which a certification under this section applies.

21           **SECTION 78.** 157.635 of the statutes is amended to read:

22           **157.635 Regulations of cemetery organized and operated by, or**  
23 **affiliated with, a religious society association.** Nothing in this subchapter  
24 prohibits a religious association or a cemetery authority of a cemetery that is  
25 affiliated with a religious ~~society organized under ch. 187~~ association from



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1 prohibiting the burial of the human remains of an individual in the cemetery if the  
2 individual was in a class of individuals who are prohibited under regulations adopted  
3 by the cemetery authority or religious ~~society~~ association from being buried in the  
4 cemetery.

5 **SECTION 79.** 157.637 of the statutes is amended to read:

6 **157.637 Veteran burials.** A cemetery authority of a cemetery, other than a  
7 cemetery that is organized and operated by, or affiliated with, a religious ~~society~~  
8 ~~organized under ch. 187~~ association, may not prohibit the burial, ~~as defined in s.~~  
9 157.061 (1), of the human remains of a person specified in s. 45.61 (2) at the cemetery  
10 if the cemetery authority is paid in its usual and customary manner for the burial.

11 **SECTION 80.** 157.64 (2) (intro.) and (a) of the statutes are amended to read:

12 157.64 (2) (intro.) Any person who intentionally does any of the following may  
13 be fined not more than \$1,000 \$5,000 or imprisoned for not more than 90 days, or  
14 both, for the first offense and may be fined not more than \$10,000 or imprisoned for  
15 not more than 9 months, or both, for each subsequent offense:

16 (a) Violates s. 157.08 (2) (b), 157.11 (9g), or 157.12 (2) (b), (c), or (d) ~~or (4) (b).~~

17 **SECTION 81.** 157.65 (1) (a) of the statutes is amended to read:

18 157.65 (1) (a) If the ~~department of safety and professional services~~ cemetery  
19 board has reason to believe that any person is violating or has violated this  
20 subchapter or any rule promulgated under this subchapter and that the continuation  
21 of that activity might cause injury to the public interest, the ~~department of safety and~~  
22 ~~professional services~~ cemetery board may investigate.

23 **SECTION 82.** 157.65 (1) (b) of the statutes is amended to read:

24 157.65 (1) (b) If the ~~department of safety and professional services~~ cemetery  
25 board has reason to believe that any person is violating s. 157.12 or any rule

**SENATE BILL 302****SECTION 82**

1 promulgated under s. 157.12 and that the continuation of that activity might cause  
2 injury to the public interest, the ~~department of safety and professional services~~  
3 cemetery board may investigate.

4 **SECTION 83.** 157.65 (2) of the statutes is amended to read:

5 157.65 (2) The department of justice or any district attorney, upon informing  
6 the department of justice, may commence an action in circuit court in the name of  
7 the state to restrain by temporary or permanent injunction any violation of this  
8 subchapter. The court may, prior to entry of final judgment, make such orders or  
9 judgments as may be necessary to restore to any person any pecuniary loss suffered  
10 because of the acts or practices involved in the action, if proof of such loss is submitted  
11 to the satisfaction of the court. The department of justice may subpoena persons and  
12 require the production of books and other documents, and may request the cemetery  
13 board described in s. 15.405 (3m) or the ~~department of safety and professional~~  
14 ~~services~~ to exercise its authority under sub. (1) to aid in the investigation of alleged  
15 violations of this subchapter.

16 **SECTION 84.** 182.0175 (2) (c) of the statutes is created to read:

17 182.0175 (2) (c) *Exemption for cemeteries.* This subsection does not apply to any  
18 excavation in connection with the burial, as defined in s. 157.061 (1), of human  
19 remains in a cemetery, as defined in s. 157.061 (1p).

20 **SECTION 85.** 440.90 (3) of the statutes is amended to read:

21 440.90 (3) “Cemetery services and merchandise” has the meaning given in s.  
22 157.061 (3).

23 **SECTION 86.** 440.90 (7) of the statutes is renumbered 440.90 (3e) and amended  
24 to read:

**SENATE BILL 302**

1           440.90 **(3e)** “Preneed sales contract” has the meaning given in s. 157.061 ~~(12)~~  
2           ~~(3g)~~.

3           **SECTION 87.** 440.90 (8) of the statutes is renumbered 440.90 (3m) and amended  
4           to read:

5           440.90 **(3m)** “Preneed seller” means an individual who sells or solicits the sale  
6           of cemetery services and merchandise or an undeveloped space under a preneed sales  
7           contract or, if such an individual is employed by or acting as an agent for a cemetery  
8           authority or any other person, the cemetery authority or other person.

9           **SECTION 88.** 440.90 (9) of the statutes is renumbered 440.90 (3s) and amended  
10          to read:

11          440.90 **(3s)** “Preneed trust fund” has the meaning given in s. 157.061 ~~(13)~~ (3r).

12          **SECTION 89.** 440.90 (14) of the statutes is amended to read:

13          440.90 **(14)** “Wholesale cost ratio” means the actual cost to a preneed seller to  
14          supply and deliver cemetery services and merchandise or to construct an  
15          undeveloped space divided by the price paid by the purchaser, excluding sales tax,  
16          finance or interest charges, administrative fees, and insurance premiums.

17          **SECTION 90.** 440.91 (1) (a) of the statutes is amended to read:

18          440.91 **(1)** (a) Any cemetery authority that operates a cemetery ~~that is 5 acres~~  
19          ~~or more in size, that sells 20 or more cemetery lots or mausoleum spaces at a cemetery~~  
20          ~~during a calendar year, or that has \$100,000~~ \$50,000 or more in trust fund accounts  
21          for a cemetery shall apply to the board for a license for that cemetery. A cemetery  
22          authority that operates more than one cemetery shall apply for a separate license for  
23          each cemetery ~~that is 5 acres or more in size and for each cemetery at which it sells~~  
24          ~~20 or more burial spaces or at which it has \$100,000~~ \$50,000 or more in trust fund  
25          accounts.

**SENATE BILL 302****SECTION 91**

1           **SECTION 91.** 440.91 (1) (c) 1. of the statutes is renumbered 440.91 (1) (c) and  
2 amended to read:

3           440.91 (1) (c) The renewal dates for licenses granted under par. (b) are specified  
4 in s. 440.08 (2) (a) and the renewal fees for such licenses are determined by the  
5 department under s. 440.03 (9) (a), ~~except that a licensed cemetery authority is not~~  
6 ~~required to renew its license if the cemetery authority sells less than 20 cemetery lots~~  
7 ~~or mausoleum spaces at a cemetery during a calendar year, or that has less than~~  
8 ~~\$100,000 in trust fund accounts for a cemetery.~~

9           **SECTION 92.** 440.91 (1) (c) 2. of the statutes is repealed.

10          **SECTION 93.** 440.91 (1m) (a) of the statutes is amended to read:

11          440.91 (1m) (a) Except as provided in sub. (6m), any cemetery authority that  
12 operates a cemetery that is less than 5 acres in size, that sells fewer than 20 cemetery  
13 lots or mausoleum spaces at a cemetery during a calendar year, or that has less than  
14 \$100,000 \$50,000 in trust fund accounts for a cemetery shall register with the board.  
15 A cemetery authority that operates more than one cemetery shall submit a separate  
16 registration to the board for each cemetery that is less than 5 acres in size, that sells  
17 fewer than 20 cemetery lots or mausoleum spaces at a cemetery during a calendar  
18 year, or that has less than \$100,000 \$50,000 in trust fund accounts.

19          **SECTION 95.** 440.91 (2) (d) of the statutes is amended to read:

20          440.91 (2) (d) Any other information which the department board may  
21 reasonably require to enable it to determine the competency of the salesperson to  
22 transact the business of a cemetery salesperson in a manner which safeguards the  
23 interest of the public.

24          **SECTION 96.** 440.91 (3) of the statutes is amended to read:

**SENATE BILL 302**

1           440.91 (3) Any cemetery salesperson may transfer to the employment of a  
2 cemetery authority, other than the cemetery authority that certified the salesperson  
3 under sub. (2), by filing a transfer form with the ~~department~~ board and paying the  
4 transfer fee specified in s. 440.05 (7).

5           **SECTION 97.** 440.91 (4) of the statutes is amended to read:

6           440.91 (4) Renewal applications shall be submitted to the ~~department~~ board  
7 on a form provided by the ~~department~~ board on or before the applicable renewal date  
8 specified under s. 440.08 (2) (a) and shall include the applicable renewal fee  
9 determined by the department under s. 440.03 (9) (a).

10          **SECTION 98.** 440.91 (10) of the statutes is amended to read:

11          440.91 (10) Nothing in this section requires an individual who is licensed as  
12 a preneed seller under s. 440.92 (1) to be licensed as a cemetery salesperson under  
13 sub. (2) if the individual only sells or solicits the sale of cemetery services and  
14 merchandise or undeveloped spaces under preneed sales contracts.

15          **SECTION 99.** 440.92 (1) (a) of the statutes is amended to read:

16          440.92 (1) (a) Except as provided in subs. (4), (9) (a), and (10), every individual  
17 who sells or solicits the sale of cemetery services and merchandise or an undeveloped  
18 space under a preneed sales contract and, if the individual is employed by or acting  
19 as an agent for a cemetery authority or any other person, that cemetery authority or  
20 other person is also required to be licensed under this subsection.

21          **SECTION 100.** 440.92 (1) (b) 1. of the statutes is amended to read:

22          440.92 (1) (b) 1. Submits an application to the ~~department~~ board on a form  
23 provided by the ~~department~~ board.

24          **SECTION 101.** 440.92 (1) (b) 3. of the statutes is amended to read:

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1           440.92 (1) (b) 3. Subject to ss. 111.321, 111.322, and 111.335, submits evidence  
2 satisfactory to the department board that the person does not have a conviction  
3 record.

4           **SECTION 102.** 440.92 (1) (b) 4. of the statutes is amended to read:

5           440.92 (1) (b) 4. Meets any other reasonable requirements established by the  
6 department board by rule to determine fitness to sell cemetery services and  
7 merchandise or an undeveloped space under a preneed sales contract. The rules may  
8 not require applicants to meet minimum education, experience, or prior employment  
9 requirements or to pass any examination.

10          **SECTION 103.** 440.92 (1) (c) of the statutes is amended to read:

11          440.92 (1) (c) Renewal applications shall be submitted to the department board  
12 on a form provided by the department board on or before the applicable renewal date  
13 specified under s. 440.08 (2) (a) and shall include the applicable renewal fee  
14 determined by the department under s. 440.03 (9) (a).

15          **SECTION 104.** 440.92 (2) (a) (intro.) of the statutes is amended to read:

16          440.92 (2) (a) (intro.) A preneed sales contract for the sale of cemetery services  
17 and merchandise shall provide for the delivery of cemetery merchandise in one of the  
18 following ways:

19          **SECTION 105.** 440.92 (2) (d) of the statutes is amended to read:

20          440.92 (2) (d) A preneed seller may not sell any undeveloped space unless the  
21 plans for the construction of the mausoleum have been submitted to the department  
22 of safety and professional services board for approval under s. 157.12 (2) (a) and the  
23 preneed sales contract includes the following language in not less than 10-point  
24 boldface type: “THE PLANS FOR CONSTRUCTING THE MAUSOLEUM SPACE  
25 HAVE BEEN SUBMITTED TO THE DEPARTMENT OF SAFETY AND

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1     ~~PROFESSIONAL SERVICES~~ CEMETERY BOARD FOR APPROVAL. THE  
2     SELLER IS RESPONSIBLE FOR ALL COSTS REQUIRED TO OBTAIN  
3     APPROVAL OF THE PLANS BY THE ~~DEPARTMENT OF SAFETY AND~~  
4     ~~PROFESSIONAL SERVICES~~ CEMETERY BOARD, COMPLETE THE  
5     CONSTRUCTION, AND OBTAIN CERTIFICATION OF THE CONSTRUCTION  
6     BY THE ~~DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES~~  
7     CEMETERY BOARD.”

8           **SECTION 106.** 440.92 (3) (c) 3. of the statutes is amended to read:

9           440.92 (3) (c) 3. The preneed seller files with the ~~department~~ board a bond  
10          furnished by a surety company authorized to do business in this state or files with  
11          the ~~department~~ board and maintains an irrevocable letter of credit from a financial  
12          institution and the amount of the bond or letter of credit is sufficient to secure the  
13          cost to the cemetery authority of constructing the mausoleum.

14          **SECTION 107.** 440.92 (6) (j) of the statutes is amended to read:

15          440.92 (6) (j) The board may audit, at reasonable times and frequency, the  
16          records, trust funds and accounts of any preneed seller licensed under sub. (1),  
17          including records, trust funds and accounts pertaining to services provided by a  
18          preneed seller which are not otherwise subject to the requirements under this  
19          section. The ~~department~~ board may conduct audits under this paragraph on a  
20          random basis, and shall conduct all audits under this paragraph without providing  
21          prior notice to the preneed seller.

22          **SECTION 108.** 440.92 (9) (title) of the statutes is amended to read:

23          440.92 (9) (title) EXEMPTIONS; CERTIFICATION OF COMPLIANCE OF CEMETERY  
24          AFFILIATED WITH RELIGIOUS SOCIETY ASSOCIATION.

25          **SECTION 109.** 440.92 (9) (a) of the statutes is amended to read:

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1           440.92 (9) (a) If the cemetery authority of a cemetery that is affiliated with a  
2 religious society ~~organized under ch. 187~~ association or that religious society  
3 association files an annual certification with the ~~department~~ board as provided in  
4 this subsection, neither the cemetery authority nor any employee of the cemetery is  
5 required to be licensed as a cemetery preneed seller under sub. (1) during the period  
6 for which the certification is effective.

7           **SECTION 110.** 440.92 (9) (b) (intro.) of the statutes is amended to read:

8           440.92 (9) (b) (intro.) A certification under this subsection shall be made on a  
9 form prescribed and furnished by the ~~department~~ board and include all of the  
10 following:

11           **SECTION 111.** 440.92 (9) (b) 2. of the statutes is amended to read:

12           440.92 (9) (b) 2. The name, address and social security number of each  
13 employee of the cemetery who sold or solicited the sale of cemetery merchandise or  
14 an undeveloped space under a preneed sales contract for the cemetery during the  
15 12-month period immediately preceding the date on which the certification is filed  
16 with the ~~department~~ board.

17           **SECTION 112.** 440.92 (9) (b) 3. of the statutes is amended to read:

18           440.92 (9) (b) 3. A notarized statement of a person who is legally authorized to  
19 act on behalf of the religious ~~society~~ association under this subsection that, during  
20 the 12-month period immediately preceding the date on which the certification is  
21 filed with the ~~department~~ board, each employee specified under subd. 2. and the  
22 cemetery authority have either fully complied or have substantially complied with  
23 subs. (2), (3) (a) and (b) and (5).

24           **SECTION 113.** 440.92 (9) (d) of the statutes is amended to read:



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1           440.92 (9) (d) A certification under this subsection is effective for the 12-month  
2           period immediately following the date on which the certification is filed with the  
3           department board.

4           **SECTION 114.** 440.92 (9) (e) of the statutes is amended to read:

5           440.92 (9) (e) During the effective period specified under par. (d), the  
6           department board may not audit the preneed trust funds or any records or accounts  
7           relating to the preneed trust funds of the cemetery authority or any employee of the  
8           cemetery to which a certification under this subsection applies.

9           **SECTION 115.** 440.92 (9) (f) of the statutes is amended to read:

10          440.92 (9) (f) The religious ~~society~~ association that is affiliated with a cemetery  
11          to which a certification under this subsection applies is liable for the damages of any  
12          person that result from the failure of any employee specified under par. (b) 2. or the  
13          cemetery authority to fully comply with sub. (2), (3) (a) or (b) or (5) during the  
14          12-month period for which such compliance has been certified under this subsection.

15          **SECTION 116.** 440.93 (2) of the statutes is amended to read:

16          440.93 (2) The department board shall determine in each case the period that  
17          a limitation, suspension or revocation of a certificate is effective. This subsection  
18          does not apply to a limitation or suspension under s. 440.13 (2) (a).

19          **SECTION 117.** 440.945 (5) (a) of the statutes is amended to read:

20          440.945 (5) (a) If the department board has reason to believe that any person  
21          is violating this section and that the continuation of that activity might cause injury  
22          to the public interest, the department board may investigate.

23          **SECTION 118.** 440.945 (5) (b) of the statutes is amended to read:

24          440.945 (5) (b) The department of justice or any district attorney, upon  
25          informing the department of justice, may commence an action in circuit court in the

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1 name of the state to restrain by temporary or permanent injunction any violation of  
2 this section. The court may, prior to entry of final judgment, make such orders or  
3 judgments as may be necessary to restore to any person any pecuniary loss suffered  
4 because of the acts or practices involved in the action, if proof of such loss is submitted  
5 to the satisfaction of the court. The department of justice may subpoena persons and  
6 require the production of books and other documents, and may request the  
7 ~~department of safety and professional services~~ board to exercise its authority under  
8 par. (a) to aid in the investigation of alleged violations of this section.

9 **SECTION 119.** 440.947 (5) of the statutes is amended to read:

10 440.947 (5) A person who sells a casket, outer burial container or cemetery  
11 merchandise shall retain a copy of the price list specified in sub. (2) (intro.) for at least  
12 one year after the date of its last distribution to a prospective buyer and shall retain  
13 a copy of each form that is provided to a buyer under sub. (3) (intro.) for at least one  
14 year after completion of a sale. A person required to retain a copy under this  
15 subsection shall make the copy available for inspection by the ~~department~~ board  
16 upon request.

17 **SECTION 120.** 440.95 (3) of the statutes is amended to read:

18 440.95 (3) Except as provided in subs. (1) and (2), any person who violates s.  
19 440.91 or 440.947 or any rule promulgated under s. 440.91 may be fined not more  
20 than ~~\$1,000~~ \$5,000 or imprisoned for not more than 6 months, or both, for the first  
21 offense and may be fined not more than \$10,000 or imprisoned for not more than 9  
22 months, or both, for each subsequent offense.

23 **SECTION 121.** 440.95 (4) (intro.) of the statutes is amended to read:

24 440.95 (4) (intro.) Any person who intentionally does any of the following may  
25 be fined not more than ~~\$1,000~~ \$5,000 or imprisoned for not more than 90 days, or

**SENATE BILL 302**

1     both, for the first offense and may be fined not more than \$10,000 or imprisoned for  
2     not more than 9 months, or both, for each subsequent offense:

3             **SECTION 122.** 440.97 of the statutes is created to read:

4             **440.97 Injunctive relief.** Notwithstanding s. 440.21, if it appears upon  
5     complaint to the board by any person, or if it is known to the board, that any person  
6     is operating a cemetery, practicing as a cemetery salesperson, or practicing as a  
7     cemetery preneed seller without a license required under this subchapter, the board,  
8     the attorney general, or the district attorney of the proper county may investigate  
9     and may, in addition to any other remedies, bring an action in the name and on behalf  
10    of the state against the person to enjoin the person from such practice.

11            **SECTION 123.** 815.18 (3) (a) of the statutes is amended to read:

12            815.18 (3) (a) *Provisions for burial.* Cemetery lots, aboveground burial  
13    facilities, burial monuments, tombstones, coffins, cremation urns, urn vaults, outer  
14    burial containers, or other articles for the burial of the dead owned by the debtor and  
15    intended for the burial of the debtor or the debtor's family.

16            **SECTION 124.** 895.04 (5) of the statutes is amended to read:

17            895.04 (5) If the personal representative brings the action, the personal  
18    representative may also recover the reasonable cost of medical expenses, funeral  
19    expenses, including the reasonable cost of a cemetery lot and care of the lot, grave  
20    marker ~~and care of the lot~~ or other burial monument, coffin, cremation urn, urn  
21    vault, outer burial container, or other article intended for the burial of the dead. If  
22    a relative brings the action, the relative may recover such those ~~medical~~ expenses,  
23    ~~funeral expenses, including the cost of a cemetery lot, grave marker and care of the~~  
24    ~~lot,~~ on behalf of himself or herself or of any person who has paid or assumed liability  
25    for such those expenses.

**SENATE BILL 302****SECTION 125**

1           **SECTION 125.** 979.10 (1) (c) of the statutes is renumbered 157.113 and amended  
2 to read:

3           **157.113 Permission to place cremated human remains in a cemetery.**

4 No person may deposit any cremated human remains of a corpse in any a cemetery,  
5 including in the casket of another person, without the permission of the person who  
6 owns or is in charge of the cemetery cemetery authority.

7           **SECTION 126. Nonstatutory provisions.**

8           (1) TRANSFER OF REGULATION OF CEMETERIES AND CEMETERY AUTHORITIES.

9           (a) *Tangible personal property.* On the effective date of this paragraph, all  
10 tangible personal property, including records, of the department of safety and  
11 professional services and the department of financial institutions that is primarily  
12 related to the regulation of cemeteries, cemetery authorities, and cemetery preneed  
13 sellers, sales contracts, and trust funds under subchapter II of chapter 157, 2013  
14 stats., and subchapter IX of chapter 440, 2013 stats., as determined by the secretary  
15 of safety and professional services and the secretary of financial institutions, as  
16 appropriate, is transferred to the cemetery board.

17           (b) *Contracts.* All contracts entered into by the department of safety and  
18 professional services and the department of financial institutions in effect on the  
19 effective date of this paragraph that are primarily related to the regulation of  
20 cemeteries, cemetery authorities, and cemetery preneed sellers, sales contracts, and  
21 trust funds under subchapter II of chapter 157, 2013 stats., and subchapter IX of  
22 chapter 440, 2013 stats., as determined by the secretary of safety and professional  
23 services and the secretary of financial institutions, as appropriate, remain in effect  
24 and are transferred to the cemetery board. The cemetery board shall carry out any

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1 obligations under such a contract until the contract is modified or rescinded by the  
2 cemetery board to the extent allowed under the contract.

3 (c) *Rules and orders.* All rules promulgated by the department of safety and  
4 professional services and the department of financial institutions that relate to the  
5 regulation of cemeteries, cemetery authorities, and cemetery preneed sellers, sales  
6 contracts, and trust funds under subchapter II of chapter 157, 2013 stats., and  
7 subchapter IX of chapter 440, 2013 stats., as determined by the secretary of safety  
8 and professional services and the secretary of financial institutions, as appropriate,  
9 that are in effect on the effective date of this paragraph, remain in effect until their  
10 specified expiration dates or until amended or repealed by the cemetery board. All  
11 orders issued by the department of safety and professional services and the  
12 department of financial institutions relating to the regulation of cemeteries,  
13 cemetery authorities, and cemetery preneed sellers, sales contracts, and trust funds  
14 under subchapter II of chapter 157, 2013 stats., and subchapter IX of chapter 440,  
15 2013 stats., as determined by the secretary of safety and professional services and  
16 the secretary of financial institutions, as appropriate, that are in effect on the  
17 effective date of this paragraph remain in effect until their specified expiration dates  
18 or until modified or rescinded by the cemetery board.

19 (d) *Pending matters.* Any matter pending with the department of safety and  
20 professional services or the department of financial institutions on the effective date  
21 of this paragraph that is primarily related to the regulation of cemeteries, cemetery  
22 authorities, and cemetery preneed sellers, sales contracts, and trust funds under  
23 subchapter II of chapter 157, 2013 stats., and subchapter IX of chapter 440, 2013  
24 stats., as determined by the secretary of safety and professional services or the  
25 secretary of financial institutions, as appropriate, is transferred to the cemetery

**SENATE BILL 302****SECTION 126**

1 board, and all materials submitted to and actions taken by the department of safety  
2 and professional services or the department of financial institutions, as appropriate,  
3 with respect to the pending matter are considered as having been submitted to or  
4 taken by the cemetery board.

5 (2) RETURN OF CARE FUNDS. Within 180 days after the effective date of this  
6 subsection, each county, city, village, or town holding care funds under section 157.11  
7 (9g) (a), 2013 stats., shall pay those care funds to the appropriate cemetery authority.  
8 The cemetery authority shall invest those care funds under sections 157.11 (9g) (a)  
9 and 157.19 of the statutes, as affected by this act.

10 **SECTION 127. Initial applicability.**

11 (1) The treatment of section 440.92 (2) (d) of the statutes first applies to a  
12 preneed sales contract entered into on the effective date of this subsection.

13 **SECTION 128. Effective date.**

14 (1) This act takes effect on the first day of the 4th month beginning after  
15 publication.

16 (END)