



State of Wisconsin
2015 - 2016 LEGISLATURE

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2015 ASSEMBLY BILL 410

October 15, 2015 - Introduced by Representatives SANFELIPPO, ALLEN, BERNIER, R. BROOKS, KLEEFISCH, TITTL, OHNSTAD and NOVAK, cosponsored by Senators LEMAHIEU, LAZICH and WIRCH. Referred to Committee on State Affairs and Government Operations.

1 **AN ACT** *to repeal* 157.061 (5), 157.061 (7), 157.07 (6), 157.11 (9g) (a) 1. b., 157.62
2 (3) (b) 2., 157.625 (2) and 440.91 (1) (c) 2.; *to renumber and amend* 157.061
3 (12), 157.061 (13), 157.10, 157.12 (4), 157.62 (5), 440.90 (7), 440.90 (8), 440.90
4 (9), 440.91 (1) (c) 1. and 979.10 (1) (c); *to amend* 15.07 (1) (cs), 15.405 (3m) (d),
5 71.07 (5r) (a) 3., 71.28 (5r) (a) 3., 71.47 (5r) (a) 3., 157.061 (3), 157.061 (4),
6 157.061 (11r), 157.061 (14), 157.061 (15), 157.062 (1), 157.062 (2), 157.062 (6)
7 (b), 157.062 (6m), 157.062 (9), 157.064 (6), 157.064 (7), 157.07 (1), 157.07 (4),
8 157.08 (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) (intro.), 440.91 (2) (d),
3 440.91 (3), 440.91 (4), 440.91 (10), 440.92 (1) (a), 440.92 (1) (b) 1., 440.92 (1) (b)
4 3., 440.92 (1) (b) 4., 440.92 (1) (c), 440.92 (2) (a) (intro.), 440.92 (2) (d), 440.92
5 (3) (c) 3., 440.92 (6) (j), 440.92 (9) (title), 440.92 (9) (a), 440.92 (9) (b) (intro.),
6 440.92 (9) (b) 2., 440.92 (9) (b) 3., 440.92 (9) (d), 440.92 (9) (e), 440.92 (9) (f),
7 440.93 (2), 440.945 (5) (a), 440.945 (5) (b), 440.947 (5), 440.95 (3), 440.95 (4)
8 (intro.), 815.18 (3) (a) and 895.04 (5); and **to create** 157.061 (1p), 157.10 (1),
9 157.10 (2) (a) 1. to 4., 157.10 (2) (b), 157.10 (3), 157.10 (6), 157.10 (7), 157.62 (2)
10 (b) 6m., 157.62 (3) (b) 2g., 157.62 (3) (b) 2r., 157.62 (5) (a) to (j), 182.0175 (2) (c)
11 and 440.97 of the statutes; **relating to:** powers and duties of cemetery
12 authorities; inheritance of cemetery lots in which human remains are buried;
13 exemption of cemeteries from certain requirements concerning excavation; the
14 powers and duties of the Cemetery Board, the Department of Safety and
15 Professional Services, and the Department of Financial institutions; requiring
16 the exercise of rule-making authority; and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to laws concerning cemeteries, including the following:

Transfers of functions to the Cemetery Board.

Under current law, the Department of Safety and Professional Services (DSPS) and the Department of Financial Institutions (DFI) administer certain laws governing cemeteries not currently administered by the Cemetery Board (board). The laws administered by DSPS include the following:

1. The construction of mausoleums.
2. Various reporting requirements for cemetery authorities.
3. The certification of certain cemetery authorities as religious associations, which are subject, in part, to different rules than other cemetery authorities.
4. The audit of a cemetery authority's records, trust funds, and accounts.
5. The licensure and regulation of cemetery salespersons.

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6. The licensure and regulation of preneed sellers, the regulation of preneed sales contracts, and the regulation and audit of preneed trust funds.

7. The promulgation of certain rules implementing laws concerning cemeteries and the enforcement of those rules and laws.

With limited exceptions, the bill transfers the administration of the laws governing cemeteries currently administered by DSPS, including all of the functions specified above, to the board.

Under current law, seven or more residents of a county may form a cemetery association for the election of trustees to manage cemetery land owned by the cemetery association. A cemetery association is also a kind of cemetery authority. Currently, the organization and certain other aspects, including reporting requirements, of a cemetery association's functions are governed by DFI. The bill transfers all regulation of cemetery associations from DFI to the board.

Disposition of occupied cemetery lots and mausoleum spaces.

Under current law, ownership of a cemetery lot in which human remains are buried may not be transferred to another person who is not already an owner of the cemetery lot, unless the cemetery authority consents to the transfer. Upon the death of the owner of a cemetery lot, ownership descends to the owner's heirs. Current law does not specify who qualifies as an heir.

This bill establishes specific rules for the disposition of a cemetery lot or mausoleum space in which human remains are buried. Under the bill, upon the death of the last owner of a cemetery lot or mausoleum space, ownership of the cemetery lot or mausoleum space descends as follows:

1. To the owner's surviving spouse or domestic partner.
2. If there is no living spouse or domestic partner, to the owner's children.
3. If there is no living spouse, domestic partner, or child, to the owner's grandchildren.
4. If there is no living spouse, domestic partner, child, or grandchild, to the cemetery authority for the cemetery in which the cemetery lot or mausoleum space is located.

The bill provides that a cemetery authority is to be held harmless for any decision made by a majority of the owners of a cemetery lot or mausoleum space.

Changes to cemetery authority licensure requirements.

The board licenses cemetery authorities. Under current law, subject to certain exceptions, a cemetery authority must be licensed for each cemetery the cemetery authority operates that is at least five acres in size or for which the cemetery authority has at least \$100,000 in trust fund accounts or sells at least 20 cemetery lots or mausoleum spaces in one year. A cemetery authority must be registered for any cemetery the cemetery authority operates that does not satisfy at least one of those conditions.

Under the bill, subject to certain exceptions, a cemetery authority must be licensed for each cemetery it operates that has at least three acres of land platted for use as a cemetery or for which the cemetery has at least \$50,000 in trust fund accounts. A cemetery authority must be registered for each cemetery it operates that does not satisfy at least one of those conditions. The bill also eliminates an option

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for a cemetery authority to be relieved of its obligation to renew a license under certain circumstances.

Changes to cemetery salesperson licensure requirements.

The board also licenses cemetery salespersons. Under current law, with one exception, an individual must be a licensed cemetery salesperson if the individual sells or solicits the sale of, or expects to sell or solicit the sale of, 20 or more cemetery lots or mausoleum spaces per year for two consecutive years. Under the bill, an individual must be a licensed cemetery salesperson if the individual sells or solicits the sale of, or expects to sell or solicit the sale of, a cemetery lot or mausoleum space, without regard to the quantity or frequency of sales.

Religious associations.

Under current law a cemetery authority that is a church, synagogue, or mosque, or a religious society organized under Wisconsin law, is a religious association for purposes of the laws governing cemeteries. Under the bill, a religious association also includes any corporation whose articles of organization provide, subject to Wisconsin law, that the corporation is under the supervision and control of a church, synagogue, mosque, or religious society.

Also under the bill, certain exemptions from the laws governing cemeteries that are applicable to a religious association are also applicable to a cemetery authority of a cemetery that is affiliated with a religious association, for that cemetery.

No deposit of care funds with county or city.

Current law regulates how a cemetery authority may deposit or invest funds it receives in trust for the care of a cemetery. One option under current law authorizes a cemetery authority to deposit the care funds with the treasurer of the county or city in which the cemetery is located. The bill eliminates that option for the deposit of care funds.

Changes to certain penalties.

Under current law, any person who opens or makes any highway, town way, or private way or constructs anything in the nature of a public easement over, through, in, or upon a cemetery, unless authorized by consent or by law, is punishable by a fine not to exceed \$300 or imprisonment in the county jail not to exceed one year. Under the bill, such a violation is punishable by a fine not to exceed \$3,000 and by imprisonment in the county jail not to exceed one year.

The bill also increases the potential fine for certain violations of the laws governing cemeteries, including laws governing preneed sellers and the investment of preneed trust funds, from \$1,000 to \$5,000 for a first offense, and the bill provides that a subsequent violation of such laws is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 15.07 (1) (cs) No member of the auctioneer board, ~~cemetery board~~, or real estate
3 appraisers board may be an officer, director, or employee of a private organization
4 that promotes or furthers any profession or occupation regulated by that board.

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

6 15.405 (3m) (d) No member of the cemetery board may serve more than 2
7 consecutive terms.

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

9 71.07 (5r) (a) 3. “Family member” ~~has the meaning given in s. 157.061 (7)~~
10 means a spouse or an individual related by blood, marriage, or adoption within the
11 3rd degree of kinship as computed under s. 990.001 (16).

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

13 71.28 (5r) (a) 3. “Family member” has the meaning given in s. ~~157.061 (7)~~ 71.07
14 (5r) (a) 3.

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

16 71.47 (5r) (a) 3. “Family member” has the meaning given in s. ~~157.061 (7)~~ 71.07
17 (5r) (a) 3.

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

19 157.061 (1p) “Cemetery” means any land, including any mausoleum on the
20 land, that is used or intended to be used, exclusively for the burial of human remains.

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

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1 157.061 (3) “Cemetery services and merchandise” means goods associated with
2 the burial of human remains, including monuments, markers, nameplates, vases,
3 and urns, and any services that are associated with supplying or delivering those
4 goods or with the burial of human remains, including the burial or entombment, and
5 that may be lawfully provided by a cemetery authority. The term does not include
6 caskets or outer burial containers.

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

8 157.061 (4) “Dedicated” means platted ~~for use exclusively~~ as a cemetery and
9 ~~qualified for the exemption from general property taxes under s. 70.11 (13).~~

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

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

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

13 157.061 (11r) “Payment of principal” means the portion of a payment for the
14 purchase of a cemetery lot, cemetery services and merchandise, or a mausoleum
15 space that represents the principal amount owed by the purchaser for the cemetery
16 lot, cemetery services and merchandise, or mausoleum space, and does not include
17 any portion of the payment that represents any taxes, finance or interest charges,
18 administrative fees, or insurance premiums.

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

21 157.061 (3g) “Preneed sales contract” means an agreement for the sale of
22 cemetery services and merchandise that is to be delivered after the date of the initial
23 payment for the cemetery services and merchandise, or for the sale of an undeveloped
24 space.

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

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

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

7 157.061 (14) “Public mausoleum” means a mausoleum ~~that holds or is intended~~
8 ~~to hold more than 10 human remains or a mausoleum~~ in which at least one
9 mausoleum space is offered for sale to the general public.

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

11 157.061 (15) “Religious association” means any church, synagogue, or mosque
12 ~~or~~; any religious society organized under ch. 187; and any corporation whose articles
13 of organization provide, subject to s. 182.030, that it shall be under the supervision
14 and control of a church, synagogue, mosque, or religious society.

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

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

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1 of financial institutions cemetery board. The association then has the powers of a
2 corporation.

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

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

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

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

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

2 157.062 **(6m)** FORMS. ~~The department of financial institutions~~ cemetery board
3 may prescribe and furnish forms for providing the information required under subs.
4 (1) to (6).

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

6 157.062 **(9)** EXEMPTIONS FOR CERTAIN CEMETERIES. In lieu of delivering a
7 certification, resolution, or copy of proceedings to the ~~department of financial~~
8 ~~institutions~~ cemetery board under sub. (1), (2), or (6) (b), a cemetery association that
9 is not required to be licensed under s. 440.91 (1) or registered under s. 440.91 (1m)
10 shall deliver the certification, resolution, or copy of proceedings to the office of the
11 register of deeds of the county in which the cemetery is located.

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

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

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

2 157.064 (7) Not more than 30 days after a transfer under sub. (6), the
3 transferring association shall notify the ~~department of financial institutions~~
4 cemetery board in writing of the transfer, including the name and address of the
5 accepting association or its treasurer. The ~~department of financial institutions~~
6 cemetery board may prescribe and furnish forms for providing the information
7 required under this subsection.

8 **SECTION 23.** 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 professional land surveyor those portions of the lands that are from time to time
11 required for burial, into cemetery lots, drives, and walks, and record a plat or map
12 of the land in the office of the register of deeds. ~~The plat or map may not be recorded~~
13 ~~unless laid out and platted to the satisfaction of the county board of the county, and~~
14 ~~the town board of the town in which the land is situated, or, if the land is situated~~
15 ~~within a 1st class city, then only by the common council of that city.~~

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

17 157.07 (4) The cemetery authority shall cause the plat or map to be recorded
18 ~~within 30 days of the date of its approval, together with the evidence of the town and~~
19 ~~county board's or common council's approval, which shall be a copy of the resolution~~
20 ~~adopted by the county board and by the town board, or by the common council,~~
21 ~~certified by the county clerk and the town clerk, respectively, or city clerk, and affixed~~
22 ~~to the map or plat. For failure to do so, the plat shall be void, and no sale of a cemetery~~
23 lot or mausoleum space may be made before the plat is recorded.

24 **SECTION 25.** 157.07 (6) of the statutes is repealed.

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

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1 157.08 (2) (b) Before a cemetery authority sells or encumbers any cemetery
2 land, except for a sale described in par. (a), the cemetery authority shall notify the
3 cemetery board in writing of the proposed sale or encumbrance. If within ~~60~~ 90 days
4 after the cemetery board is notified of the proposed sale or encumbrance the cemetery
5 board notifies the cemetery authority in writing that the cemetery board objects to
6 the sale or encumbrance the cemetery authority may not sell or encumber the
7 cemetery land unless the cemetery board subsequently notifies the cemetery
8 authority in writing that the objection is withdrawn. The cemetery board may object
9 to a sale or encumbrance only if it determines that the cemetery authority will not
10 be financially solvent or that the rights and interests of owners of cemetery lots and
11 mausoleum spaces will not be adequately protected if the sale or encumbrance
12 occurs. The cemetery board may, before the expiration of the ~~60-day~~ 90-day period,
13 notify the cemetery authority in writing that the cemetery board approves of the sale
14 or encumbrance. Upon receipt of the cemetery board's written approval, the
15 cemetery authority may sell or encumber the cemetery land and is released of any
16 liability under this paragraph. The cemetery board shall make every effort to make
17 determinations under this paragraph in an expeditious manner.

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

19 157.08 (5) ~~Subsections (1) and (2) (b) do not apply to a religious society~~
20 ~~organized under ch. 187, and sub. Subsection (2) (b) does not apply to a religious~~
21 ~~association, a cemetery authority of a cemetery that is affiliated with a religious~~
22 ~~association, or a cemetery authority that is not required to be licensed under s. 440.91~~
23 (1) or registered under s. 440.91 (1m).

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

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1 **157.10** (title) **Alienation, disposition, and use of cemetery lots and**
2 **mausoleum spaces.**

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

5 157.10 (2) (a) (intro.) While any person is buried in a cemetery lot or
6 mausoleum space, the cemetery lot or mausoleum space shall be inalienable, without
7 the consent of the cemetery authority, and on the death of the last owner, full
8 ownership of the cemetery lot or mausoleum space shall descend ~~to the owner's heirs;~~
9 ~~but any~~ as follows:

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

13 (5) No human remains may be buried in a cemetery lot or mausoleum space
14 except the human remains of ~~one having an interest in~~ owner of the cemetery lot or
15 mausoleum space, or a relative, or the ~~husband or wife~~ spouse of such person an
16 owner, or his or her relative, except by the consent of ~~all persons having an interest~~
17 ~~in a majority of the owners of the~~ cemetery lot or mausoleum space.

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

19 157.10 (1) In this section, "owner" means a person named in the records of the
20 cemetery authority who has an ownership interest in a cemetery lot or mausoleum
21 space and a right to bury human remains in the cemetery lot or mausoleum space.

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

23 157.10 (2) (a) 1. To the owner's surviving spouse or domestic partner under ch.
24 770.

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

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

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

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

9 157.10 (2) (b) A cemetery lot or mausoleum space is not part of a decedent's net
10 estate for purposes of s. 852.01.

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

12 157.10 (3) If ownership of a cemetery lot or mausoleum space descends to the
13 cemetery authority under sub. (2) (a), the cemetery authority shall comply with s.
14 157.115 (2) (c) to (h) for any grave in the cemetery lot or mausoleum space in which
15 human remains are not buried.

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

17 157.10 (6) The cemetery authority shall be held harmless for any decision made
18 by a majority of the owners of a cemetery lot or mausoleum space.

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

20 157.10 (7) A cemetery authority that is a religious association or that is the
21 cemetery authority of a cemetery affiliated with a religious association may adopt a
22 written policy for the disposition of cemetery lots and mausoleum spaces in a
23 cemetery organized and operated by, or affiliated with, the religious association that
24 is different from sub. (2) (a).

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

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1 157.11 (2) REGULATIONS. The cemetery authority may make regulations for
2 management and care of the cemetery. No person may plant, in the cemetery, trees
3 or shrubs, nor erect wooden fences or structures or offensive or dangerous structures
4 or monuments, nor maintain them if planted or erected in violation of the
5 regulations. The cemetery authority may require any person owning or controlling
6 a cemetery lot to do anything necessary to comply with the regulations by giving
7 reasonable personal notice in writing if the person is a resident of the state, otherwise
8 by publishing a class ~~3~~ 1 notice, under ch. 985, in the county. If the person fails to
9 comply within 20 days thereafter, the cemetery authority may cause it to be done and
10 recover from the person the expense. The cemetery authority may also impose a
11 forfeiture not exceeding \$~~10~~ \$100 for violation of the regulations posted in 3
12 conspicuous places in the cemetery, recoverable under ch. 778. Each employee and
13 agent of the cemetery authority shall have constable powers in enforcing the
14 regulations.

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

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

17 157.11 (9g) (a) 1. c. If not invested as provided in subd. 1. a. ~~or b.~~, otherwise
18 deposited by the cemetery authority in an investment approved by the cemetery
19 board if the care funds are segregated and invested separately from all other moneys
20 held by the cemetery authority.

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

22 157.11 (9g) (a) 2. The manner in which the care funds are invested may not
23 permit the cemetery authority to withdraw the care fund's principal amount. The
24 income from the investment of a care fund for the care of cemetery lots may be used
25 only to maintain the cemetery lots and grounds, except that if the amount of income

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

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

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

ASSEMBLY BILL 410**SECTION 41**

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

2 157.11 **(9m)** ACTION BY DISTRICT ATTORNEY. If any money or property is not
3 turned over when required by this section, or default occurs under a bond, the district
4 attorney, upon the request of the ~~department of safety and professional services~~
5 cemetery board, shall bring action to recover.

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

7 157.11 **(10)** EXEMPTION FOR RELIGIOUS SOCIETIES ASSOCIATIONS. Subsections (1)
8 to (9), (9g) (a) and (b), (9m) and (9r) do not apply, but sub. (9g) (c) does apply, to a
9 religious society organized under ch. 187 association or a cemetery authority of a
10 cemetery that is affiliated with a religious association, for that cemetery.

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

12 157.112 **(3m)** If none of the persons specified in sub. (3) (b) 1. to 4. are available
13 for notification under sub. (3) (b), the cemetery authority shall maintain a record of
14 its attempt to provide notification under sub. (3) (b) ~~for not less than 10 years from~~
15 ~~the date of the reburial of the human remains under sub. (2) as a part of the cemetery~~
16 authority's permanent records.

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

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

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

ASSEMBLY BILL 410

1 157.115 (2) (a) 3. “Owner” means a person who, according to the records of the
2 cemetery authority of the cemetery in which an abandoned cemetery lot is located,
3 owns or partially owns the abandoned cemetery lot has the meaning given in s.
4 157.10 (1).

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

6 157.115 (2) (b) No cemetery authority may resell an abandoned cemetery lot
7 unless the cemetery authority complies with the requirements in this subsection.

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

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

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

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

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

23 **157.12 (title) Mausoleums and crematoriums.**

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

ASSEMBLY BILL 410**SECTION 50**

1 157.12 (2) (a) Any person who constructs a mausoleum or converts a building
2 or other structure to a mausoleum shall comply with the rules of the department
3 cemetery board and shall receive ~~department~~ the cemetery board's approval in
4 writing of the plans and specifications prior to construction or conversion. No person
5 may modify plans or specifications ~~which~~ that have been approved under this
6 paragraph without approval in writing from the ~~department~~ cemetery board, unless
7 such modifications are cosmetic in nature. The ~~department~~ cemetery board shall
8 promulgate rules providing reasonable requirements governing the location,
9 material, and construction of a mausoleum, in accordance with the requirements in
10 par. (d). Any municipality may enact ordinances governing mausoleums at least as
11 stringent as this section.

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

13 157.12 (2) (b) The ~~department~~ cemetery board shall supervise construction of
14 any public mausoleum and conversion of any building to a public mausoleum. Within
15 30 days after receiving written notice from the cemetery authority that the
16 construction or conversion has been completed, the ~~department~~ cemetery board shall
17 inspect the public mausoleum and provide the cemetery authority with a written
18 certification as to whether the construction or conversion complies with approved
19 plans. If the ~~department~~ cemetery board determines that, except for certain minor
20 defects, the construction or conversion complies with the approved plans, the
21 ~~department~~ cemetery board may provide the cemetery authority with a written
22 temporary certification of compliance that is contingent on the correction of those
23 minor defects. A temporary certification is valid for a period designated by the
24 ~~department~~ cemetery board, not to exceed 6 months. No person may sell a
25 mausoleum space, except an undeveloped space that is sold in accordance with s.

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

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

ASSEMBLY BILL 410**SECTION 52**

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

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

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

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

21 440.78 (10) CONSTRUCTION OF CREMATORIIUMS A CREMATORY. (a) Any person who
22 constructs a ~~crematorium~~ crematory or converts a building or other structure to a
23 ~~crematorium~~ crematory shall comply with the rules of the department and shall
24 receive department approval in writing of the plans and specifications prior to
25 construction or conversion. The department may promulgate rules governing the

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1 location, material, and construction of any ~~erematorium~~ crematory. Any
2 municipality may enact ordinances governing ~~erematoriums~~ the construction of a
3 crematory that are at least as stringent as this subsection.

4 (b) The department shall supervise construction of any ~~erematorium~~ crematory
5 and conversion of any building or other structure to a ~~erematorium~~ crematory. No
6 person may modify departmental construction or conversion requirements without
7 written approval of the department. No ~~person~~ crematory authority may operate a
8 ~~erematorium~~ crematory unless the department certifies in writing that construction
9 or conversion complied with approved plans.

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

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

ASSEMBLY BILL 410**SECTION 56**

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

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

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

8 157.19 (5) (a) This section does not apply ~~to care funds under s. 157.11 (9g) that~~
9 ~~are deposited with a city or county as provided under s. 157.11 (9g) (a)~~, to care funds
10 of a cemetery for which a certification under s. 157.63 is effective, to preneed trust
11 funds of a cemetery for which a certification under s. 440.92 (9) is effective, or to care
12 funds or preneed trust funds of a cemetery authority that is not required to be
13 licensed under s. 440.91 (1) or registered under s. 440.91 (1m).

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

15 157.19 (5) (b) If the cemetery board determines that care funds under s. 157.11
16 (9g) ~~that have not been deposited with a city or county as provided in s. 157.11 (9g)~~
17 (a) are not being properly segregated from other moneys held by the cemetery
18 authority or that those care funds are not being properly invested as required in s.
19 157.11 (9g) (a), the cemetery board may require the cemetery authority to deposit
20 those care funds with a financial institution for investment under this section.

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

22 **157.60 Public easement in cemetery.** Any person who ~~shall open or make~~
23 opens or makes any highway, town way, or private way or ~~shall construct~~ constructs
24 any railroad, turnpike, or canal or anything in the nature of a public easement over,
25 through, in, or upon such part of any enclosure, being the property of any ~~town, city,~~

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1 ~~village or~~ municipality, religious society association, or of private proprietors
2 proprietor, as may be used for the burial of the dead, unless an authority for that
3 purpose ~~shall be~~ is specially granted by law or unless the consent of such ~~town, city,~~
4 village municipality, religious society association, or private proprietors,
5 respectively, ~~shall be proprietor is~~ first obtained by the person, shall be punished by
6 imprisonment in the county jail not more than one year ~~or~~ and by fine not exceeding
7 ~~\$300~~ \$3,000.

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

9 157.62 (1) (a) (intro.) Except as provided in par. (b) and s. 157.625, every
10 cemetery association shall file an annual report with the ~~department of financial~~
11 ~~institutions~~ cemetery board. The report shall be made on a calendar-year basis
12 unless the ~~department of financial institutions~~ cemetery board, by rule, provides for
13 other reporting periods. The report is due on the 60th day after the last day of the
14 reporting period. The annual report shall include all of the following:

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

16 157.62 (1) (c) The ~~department of financial institutions~~ cemetery board may
17 prescribe and furnish forms for reports required under this subsection. If the
18 ~~department of financial institutions~~ cemetery board prescribes forms under this
19 paragraph, the ~~department of financial institutions~~ cemetery board shall mail the
20 forms to cemetery associations required to file under par. (a) no later than 60 days
21 before the reports are due.

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

23 157.62 (2) (b) 6m. The names of the officers of the cemetery authority.

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

ASSEMBLY BILL 410**SECTION 63**

1 157.62 (2) (d) The ~~department~~ board shall review each report filed under par.
2 (a) to determine whether the cemetery authority is complying with this subchapter.

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

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

5 157.62 (3) (b) 2g. All records supporting the accounting under sub. (2) (b) 3.,
6 including records that show, for each deposit, the name of the purchaser or
7 beneficiary of the contract relating to the deposit and the item purchased.

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

9 157.62 (3) (b) 2r. All records supporting the accounting under sub. (2) (b) 4.,
10 including records that show, for each deposit, the name of the purchaser or
11 beneficiary of the contract relating to the deposit and the item purchased.

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

13 157.62 (4) RECORDS MAINTENANCE. The records under sub. (3) (b) 1. shall be
14 permanently maintained by the cemetery authority or licensee. Each record under
15 sub. (3) (b) 2. 2g. shall be maintained for not less than ~~3~~ 15 years after the date of
16 the deposit. Each record under sub. (3) (b) 2r. shall be permanently maintained by
17 the cemetery authority or licensee. Each copy of a contract under sub. (3) (b) 3. shall
18 be maintained for not less than 3 years after all of the obligations of the contract have
19 been fulfilled. The ~~department~~ cemetery board may promulgate rules to establish
20 longer time periods for maintaining records under sub. (3) (b) ~~2.~~ 2g. and 3.

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

23 157.62 (5) RULES; RECORDS. (intro.) The ~~department~~ cemetery board ~~may~~ shall
24 promulgate rules requiring cemetery authorities and licensees to maintain other
25 records and establishing minimum time periods for the maintenance of those

ASSEMBLY BILL 410

1 records. The records shall include detailed information for each deceased person
2 buried in a cemetery, including all of the following:

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

4 157.62 (5) (a) The name of the deceased.

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

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

7 (d) The date of death.

8 (e) The date of burial.

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

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

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

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

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

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

16 157.62 (6) AUDIT. Except as provided in ss. 157.625, 157.63 (5), and 440.92 (9)

17 (e), the department cemetery board may audit, at reasonable times and frequency,

18 the records, trust funds, and accounts of any cemetery authority, including records,

19 trust funds, and accounts pertaining to services provided by a cemetery authority

20 which that are not otherwise subject to the requirements under this chapter. The

21 department cemetery board may conduct audits under this subsection on a random

22 basis, and shall conduct all audits under this subsection without providing prior

23 notice to the cemetery authority.

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

ASSEMBLY BILL 410**SECTION 71**

1 157.62 (7) RULES; FILING FEE. The ~~department~~ cemetery board may promulgate
2 rules establishing a filing fee to accompany the report required under sub. (2) (a).
3 The filing fee shall be based on the approximate cost of regulating cemetery
4 authorities.

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

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

7 **157.63 (title) Reporting and auditing exemptions; certification of**
8 **compliance of cemetery organized and operated by, or affiliated with, a**
9 **religious society association.**

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

11 157.63 (1) In lieu of filing an annual report under s. 157.62 (2), a religious
12 association or a cemetery authority of a cemetery that is affiliated with a religious
13 ~~society organized under ch. 187~~ association, or that religious society association, may
14 file an annual certification with the ~~department~~ cemetery board as provided in this
15 section.

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

17 157.63 (2) (intro.) A certification under this section shall be made on a form
18 prescribed and furnished by the ~~department~~ cemetery board and include all of the
19 following:

20 **SECTION 76.** 157.63 (2) (b) of the statutes is amended to read:

21 157.63 (2) (b) A notarized statement of a person who is legally authorized to
22 act on behalf of the religious society association under this section that, during the
23 reporting period under s. 157.62, each cemetery and the cemetery authority of each
24 cemetery specified under par. (a) have either fully complied or have substantially
25 complied with ss. 157.11 (9g) (c) and 157.12 (3).

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

2 157.63 (5) During the effective period specified under sub. (4), the department
3 cemetery board may not audit the care funds or any records or accounts relating to
4 the care funds of a cemetery to which a certification under this section applies.

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

6 **157.635 Regulations of cemetery organized and operated by, or**
7 **affiliated with, a religious society association.** Nothing in this subchapter
8 prohibits a religious association or a cemetery authority of a cemetery that is
9 affiliated with a religious society ~~organized under ch. 187~~ association from
10 prohibiting the burial of the human remains of an individual in the cemetery if the
11 individual was in a class of individuals who are prohibited under regulations adopted
12 by the cemetery authority or religious society association from being buried in the
13 cemetery.

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

15 **157.637 Veteran burials.** A cemetery authority of a cemetery, other than a
16 cemetery that is organized and operated by, or affiliated with, a religious society
17 ~~organized under ch. 187~~ association, may not prohibit the burial, ~~as defined in s.~~
18 157.061 (1), of the human remains of a person specified in s. 45.61 (2) at the cemetery
19 if the cemetery authority is paid in its usual and customary manner for the burial.

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

21 157.64 (2) (intro.) Any person who intentionally does any of the following may
22 be fined not more than \$1,000 \$5,000 or imprisoned for not more than 90 days, or
23 both, for the first offense and may be fined not more than \$10,000 or imprisoned for
24 not more than 9 months, or both, for each subsequent offense:

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

ASSEMBLY BILL 410**SECTION 81**

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

2 157.65 (1) (a) If the ~~department of safety and professional services cemetery~~
3 board has reason to believe that any person is violating or has violated this
4 subchapter or any rule promulgated under this subchapter and that the continuation
5 of that activity might cause injury to the public interest, the ~~department of safety and~~
6 ~~professional services cemetery board~~ may investigate.

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

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

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

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

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

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

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

5 440.90 **(3)** “Cemetery services and merchandise” has the meaning given in s.
6 157.061 (3).

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

9 440.90 **(3e)** “Preneed sales contract” has the meaning given in s. 157.061 ~~(12)~~
10 ~~(3g)~~.

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

13 440.90 **(3m)** “Preneed seller” means an individual who sells or solicits the sale
14 of cemetery services and merchandise or an undeveloped space under a preneed sales
15 contract or, if such an individual is employed by or acting as an agent for a cemetery
16 authority or any other person, the cemetery authority or other person.

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

19 440.90 **(3s)** “Preneed trust fund” has the meaning given in s. 157.061 ~~(13)~~ (3r).

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

21 440.90 **(14)** “Wholesale cost ratio” means the actual cost to a preneed seller to
22 supply and deliver cemetery services and merchandise or to construct an
23 undeveloped space divided by the price paid by the purchaser, excluding sales tax,
24 finance or interest charges, administrative fees, and insurance premiums.

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

ASSEMBLY BILL 410**SECTION 90**

1 440.91 (1) (a) Any cemetery authority that operates a cemetery that is ~~5~~ has
2 3 acres or more in size, that sells ~~20~~ or more cemetery lots or mausoleum spaces at
3 a cemetery during a calendar year, of dedicated cemetery land or that has \$100,000
4 \$50,000 or more in trust fund accounts for a cemetery shall apply to the board for a
5 license for that cemetery. A cemetery authority that operates more than one
6 cemetery shall apply for a separate license for each cemetery that is ~~5~~ has 3 acres
7 or more in size and for each cemetery at which it sells ~~20~~ or more burial spaces of
8 dedicated cemetery land or at which it ~~that~~ has \$100,000 \$50,000 or more in trust
9 fund accounts.

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

12 440.91 (1) (c) The renewal dates for licenses granted under par. (b) are specified
13 in s. 440.08 (2) (a) and the renewal fees for such licenses are determined by the
14 department under s. 440.03 (9) (a), ~~except that a licensed cemetery authority is not~~
15 ~~required to renew its license if the cemetery authority sells less than 20 cemetery lots~~
16 ~~or mausoleum spaces at a cemetery during a calendar year, or that has less than~~
17 ~~\$100,000 in trust fund accounts for a cemetery.~~

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

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

20 440.91 (1m) (a) Except as provided in sub. (6m), any cemetery authority that
21 operates a cemetery that is has less than ~~5~~ 3 acres in size, that sells fewer than ~~20~~
22 ~~cemetery lots or mausoleum spaces at a cemetery during a calendar year, of dedicated~~
23 cemetery land or that has less than \$100,000 \$50,000 in trust fund accounts for a
24 cemetery shall register with the board. A cemetery authority that operates more
25 than one cemetery shall submit a separate registration to the board for each

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1 cemetery that is has less than ~~5~~ 3 acres in size, that sells fewer than ~~20~~ cemetery
2 lots or mausoleum spaces at a cemetery during a calendar year, of dedicated cemetery
3 land or that has less than ~~\$100,000~~ \$50,000 in trust fund accounts.

4 **SECTION 94.** 440.91 (2) (intro.) of the statutes is amended to read:

5 440.91 (2) (intro.) Except as provided in sub. (10), every individual who sells
6 or solicits the sale of, or that expects to sell or solicit the sale of, ~~20 or more~~ a cemetery
7 lots lot or mausoleum spaces per year during ~~2 consecutive calendar years~~ space shall
8 be licensed by the board. An individual may not be licensed as a cemetery
9 salesperson except upon the written request of a cemetery authority and the
10 payment of the initial credential fee determined by the department under s. 440.03
11 (9) (a). The cemetery authority shall certify in writing to the board that the
12 individual is competent to act as a cemetery salesperson. An applicant for licensure
13 as a cemetery salesperson shall furnish to the board, in such form as the board
14 prescribes, all of the following information:

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

16 440.91 (2) (d) Any other information which the ~~department~~ board may
17 reasonably require to enable it to determine the competency of the salesperson to
18 transact the business of a cemetery salesperson in a manner which safeguards the
19 interest of the public.

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

21 440.91 (3) Any cemetery salesperson may transfer to the employment of a
22 cemetery authority, other than the cemetery authority that certified the salesperson
23 under sub. (2), by filing a transfer form with the ~~department~~ board and paying the
24 transfer fee specified in s. 440.05 (7).

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

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1 440.91 (4) Renewal applications shall be submitted to the department board
2 on a form provided by the department board on or before the applicable renewal date
3 specified under s. 440.08 (2) (a) and shall include the applicable renewal fee
4 determined by the department under s. 440.03 (9) (a).

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

6 440.91 (10) Nothing in this section requires an individual who is licensed as
7 a preneed seller under s. 440.92 (1) to be licensed as a cemetery salesperson under
8 sub. (2) if the individual only sells or solicits the sale of cemetery services and
9 merchandise or undeveloped spaces under preneed sales contracts.

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

11 440.92 (1) (a) Except as provided in subs. (4), (9) (a), and (10), every individual
12 who sells or solicits the sale of cemetery services and merchandise or an undeveloped
13 space under a preneed sales contract and, if the individual is employed by or acting
14 as an agent for a cemetery authority or any other person, that cemetery authority or
15 other person is also required to be licensed under this subsection.

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

17 440.92 (1) (b) 1. Submits an application to the department board on a form
18 provided by the department board.

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

20 440.92 (1) (b) 3. Subject to ss. 111.321, 111.322, and 111.335, submits evidence
21 satisfactory to the department board that the person does not have a conviction
22 record.

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

24 440.92 (1) (b) 4. Meets any other reasonable requirements established by the
25 department board by rule to determine fitness to sell cemetery services and

ASSEMBLY BILL 410**SECTION 102**

1 merchandise or an undeveloped space under a preneed sales contract. The rules may
2 not require applicants to meet minimum education, experience, or prior employment
3 requirements or to pass any examination.

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

5 440.92 (1) (c) Renewal applications shall be submitted to the ~~department~~ board
6 on a form provided by the ~~department~~ board on or before the applicable renewal date
7 specified under s. 440.08 (2) (a) and shall include the applicable renewal fee
8 determined by the department under s. 440.03 (9) (a).

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

10 440.92 (2) (a) (intro.) A preneed sales contract for the sale of cemetery services
11 and merchandise shall provide for the delivery of cemetery merchandise in one of the
12 following ways:

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

14 440.92 (2) (d) A preneed seller may not sell any undeveloped space unless the
15 plans for the construction of the mausoleum have been submitted to the ~~department~~
16 ~~of safety and professional services~~ board for approval under s. 157.12 (2) (a) and the
17 preneed sales contract includes the following language in not less than 10-point
18 boldface type: "THE PLANS FOR CONSTRUCTING THE MAUSOLEUM SPACE
19 HAVE BEEN SUBMITTED TO THE ~~DEPARTMENT OF SAFETY AND~~
20 ~~PROFESSIONAL SERVICES~~ CEMETERY BOARD FOR APPROVAL. THE
21 SELLER IS RESPONSIBLE FOR ALL COSTS REQUIRED TO OBTAIN
22 APPROVAL OF THE PLANS BY THE ~~DEPARTMENT OF SAFETY AND~~
23 ~~PROFESSIONAL SERVICES~~ CEMETERY BOARD, COMPLETE THE
24 CONSTRUCTION, AND OBTAIN CERTIFICATION OF THE CONSTRUCTION

ASSEMBLY BILL 410**SECTION 105**

1 BY THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES
2 CEMETERY BOARD.”

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

4 440.92 (3) (c) 3. The preneed seller files with the department board a bond
5 furnished by a surety company authorized to do business in this state or files with
6 the department board and maintains an irrevocable letter of credit from a financial
7 institution and the amount of the bond or letter of credit is sufficient to secure the
8 cost to the cemetery authority of constructing the mausoleum.

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

10 440.92 (6) (j) The board may audit, at reasonable times and frequency, the
11 records, trust funds and accounts of any preneed seller licensed under sub. (1),
12 including records, trust funds and accounts pertaining to services provided by a
13 preneed seller which are not otherwise subject to the requirements under this
14 section. The department board may conduct audits under this paragraph on a
15 random basis, and shall conduct all audits under this paragraph without providing
16 prior notice to the preneed seller.

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

18 440.92 (9) (title) EXEMPTIONS; CERTIFICATION OF COMPLIANCE OF CEMETERY
19 AFFILIATED WITH RELIGIOUS SOCIETY ASSOCIATION.

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

21 440.92 (9) (a) If the cemetery authority of a cemetery that is affiliated with a
22 religious ~~society organized under ch. 187~~ association or that religious ~~society~~
23 association files an annual certification with the department board as provided in
24 this subsection, neither the cemetery authority nor any employee of the cemetery is

ASSEMBLY BILL 410**SECTION 109**

1 required to be licensed as a cemetery preneed seller under sub. (1) during the period
2 for which the certification is effective.

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

4 440.92 (9) (b) (intro.) A certification under this subsection shall be made on a
5 form prescribed and furnished by the department board and include all of the
6 following:

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

8 440.92 (9) (b) 2. The name, address and social security number of each
9 employee of the cemetery who sold or solicited the sale of cemetery merchandise or
10 an undeveloped space under a preneed sales contract for the cemetery during the
11 12-month period immediately preceding the date on which the certification is filed
12 with the department board.

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

14 440.92 (9) (b) 3. A notarized statement of a person who is legally authorized to
15 act on behalf of the religious ~~society~~ association under this subsection that, during
16 the 12-month period immediately preceding the date on which the certification is
17 filed with the department board, each employee specified under subd. 2. and the
18 cemetery authority have either fully complied or have substantially complied with
19 subs. (2), (3) (a) and (b) and (5).

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

21 440.92 (9) (d) A certification under this subsection is effective for the 12-month
22 period immediately following the date on which the certification is filed with the
23 department board.

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

ASSEMBLY BILL 410**SECTION 114**

1 440.92 (9) (e) During the effective period specified under par. (d), the
2 department board may not audit the preneed trust funds or any records or accounts
3 relating to the preneed trust funds of the cemetery authority or any employee of the
4 cemetery to which a certification under this subsection applies.

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

6 440.92 (9) (f) The religious ~~society~~ association that is affiliated with a cemetery
7 to which a certification under this subsection applies is liable for the damages of any
8 person that result from the failure of any employee specified under par. (b) 2. or the
9 cemetery authority to fully comply with sub. (2), (3) (a) or (b) or (5) during the
10 12-month period for which such compliance has been certified under this subsection.

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

12 440.93 (2) The department board shall determine in each case the period that
13 a limitation, suspension or revocation of a certificate is effective. This subsection
14 does not apply to a limitation or suspension under s. 440.13 (2) (a).

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

16 440.945 (5) (a) If the ~~department~~ board has reason to believe that any person
17 is violating this section and that the continuation of that activity might cause injury
18 to the public interest, the department board may investigate.

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

20 440.945 (5) (b) The department of justice or any district attorney, upon
21 informing the department of justice, may commence an action in circuit court in the
22 name of the state to restrain by temporary or permanent injunction any violation of
23 this section. The court may, prior to entry of final judgment, make such orders or
24 judgments as may be necessary to restore to any person any pecuniary loss suffered
25 because of the acts or practices involved in the action, if proof of such loss is submitted

ASSEMBLY BILL 410**SECTION 118**

1 to the satisfaction of the court. The department of justice may subpoena persons and
2 require the production of books and other documents, and may request the
3 ~~department of safety and professional services~~ board to exercise its authority under
4 par. (a) to aid in the investigation of alleged violations of this section.

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

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

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

14 440.95 (3) Except as provided in subs. (1) and (2), any person who violates s.
15 440.91 or 440.947 or any rule promulgated under s. 440.91 may be fined not more
16 than ~~\$1,000~~ \$5,000 or imprisoned for not more than 6 months, or both, for the first
17 offense and may be fined not more than \$10,000 or imprisoned for not more than 9
18 months, or both, for each subsequent offense.

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

20 440.95 (4) (intro.) Any person who intentionally does any of the following may
21 be fined not more than ~~\$1,000~~ \$5,000 or imprisoned for not more than 90 days, or
22 both, for the first offense and may be fined not more than \$10,000 or imprisoned for
23 not more than 9 months, or both, for each subsequent offense:

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

ASSEMBLY BILL 410**SECTION 122**

1 **440.97 Injunctive relief.** Notwithstanding s. 440.21, if it appears upon
2 complaint to the board by any person, or if it is known to the board, that any person
3 is operating a cemetery, practicing as a cemetery salesperson, or practicing as a
4 cemetery preneed seller without a license required under this subchapter, the board,
5 the attorney general, or the district attorney of the proper county may investigate
6 and may, in addition to any other remedies, bring an action in the name and on behalf
7 of the state against the person to enjoin the person from such practice.

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

9 815.18 (3) (a) *Provisions for burial.* Cemetery lots, aboveground burial
10 facilities, burial monuments, tombstones, coffins, cremation urns, urn vaults, outer
11 burial containers, or other articles for the burial of the dead owned by the debtor and
12 intended for the burial of the debtor or the debtor's family.

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

14 895.04 (5) If the personal representative brings the action, the personal
15 representative may also recover the reasonable cost of medical expenses, funeral
16 expenses, including the reasonable cost of a cemetery lot and care of the lot, grave
17 marker ~~and care of the lot~~ or other burial monument, coffin, cremation urn, urn
18 vault, outer burial container, or other article intended for the burial of the dead. If
19 a relative brings the action, the relative may recover ~~such~~ those medical expenses,
20 funeral expenses, including the cost of a cemetery lot, grave marker and care of the
21 lot, on behalf of himself or herself or of any person who has paid or assumed liability
22 for ~~such~~ those expenses.

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

ASSEMBLY BILL 410**SECTION 125****1 157.113 Permission to place cremated human remains in a cemetery.**

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

5 SECTION 126. Nonstatutory provisions.

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

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

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

ASSEMBLY BILL 410**SECTION 126**

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

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

ASSEMBLY BILL 410**SECTION 126**

1 with respect to the pending matter are considered as having been submitted to or
2 taken by the cemetery board.

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

8 **SECTION 127. Initial applicability.**

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

11 **SECTION 128. Effective date.**

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

14 (END)