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LOUISIANA REVISED STATUTES TITLE 8 CEMETERIES

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* These Chapters may be accessed through our website @ www.lcb.state.la.us

CHAPTER 1. DEFINITIONS

§ 1. Definitions

As used in this Title the following words and phrases, unless the context otherwise clearly indicates, shall have the meaning hereinafter ascribed to each:

(1) "Board" means the Louisiana Cemetery Board.

(2) "Burial" means the placement of human remains in a grave.

(3) "Burial park" means a tract of land for the burial of human remains in the ground, used or intended to be used, and dedicated, for cemetery purposes.

(4) "Burial vault" means a casket container placed in a grave for the purpose of burying human remains.

(5) "Care", "endowed care", or "perpetual care" means the maintenance, repair and care of all places where interments have been or are to be made, including the improvements thereon, in keeping with a well maintained cemetery, and general overhead expense necessary for such purposes.

(6) "Care funds", as distinguished from receipts from annual charges or gifts for current or annual care, means any cash or cash equivalent impressed with a trust by the terms of any gift, grant, contribution, payment, devise or bequest, or pursuant to contract, accepted by any cemetery authority owning, operating, controlling or managing a privately operated cemetery, or by any trustee or licensee, agent or custodian for the same, under R.S. 8:454(B), and the amounts set aside under R.S. 8:454(A) and 454.1(C), and any income accumulated

therefrom, where legally so directed by the terms of the transaction by which the principal is established. The term "care funds" includes both general and special care funds.

(7) "Cemetery" means a place used or intended to be used for the interment of the human dead. It includes a burial park, for earth interments; or a mausoleum, for vault or crypt interments; or a columbarium, or scattering garden, for cinerary interments; or a combination of one or more of these.

(8) "Cemetery authority" means any person, firm, corporation, limited liability company, trustee, partnership, association or municipality owning, operating, controlling or managing a cemetery or holding lands within this state for interment purposes.

(9) "Cemetery business" and "cemetery purposes" mean any and all business and purposes requisite to, necessary for, or incident to establishing, maintaining, operating, improving or conducting a cemetery, interring human remains, and the care, preservation and embellishment of a cemetery.

(10) "Cemetery management organization" means a legal entity contracting as an independent contractor with a cemetery authority to manage a cemetery, but does not mean individual managers employed by or contracting directly with cemetery authorities operating under this title.

(11) "Cemetery sales organization" means any legal entity contracting as an independent contractor with a cemetery authority to conduct sales of one or more cemetery spaces, whether by deed, servitude, grant of right to use or otherwise, and/or cemetery products. It does not mean individual salesmen or sales managers employed by and contracting directly with

cemetery authorities operating under this law, nor does it mean funeral establishments or funeral directors operating under licenses authorized by R.S. 37:831 et seq., when dealing directly with a cemetery authority, with members of the family of a deceased person or other persons authorized by law to arrange for the funeral and/or interment of such deceased human being, or with an individual negotiating the sale of cemetery property as a part of his or her pre-need arrangements under Chapter 6 hereof.

(12) "Cemetery space" means a grave, crypt, vault, niche, tomb, lawn crypt or any other property used or intended to be used for the interment of human remains.

(13) "Columbarium" means a building or a structure, room or other space in a building or structure containing niches for permanent inurnment of cremated remains in a place used or intended to be used, and dedicated, for cemetery purposes.

(14) "Community cemetery" means a cemetery owned, operated, controlled or managed by any association or organization, in which the sale of lots, graves, crypts, vaults, or niches is restricted principally to individuals within a community.

(14.1) "Corporation" means any corporation or limited liability company now or hereafter organized, which is or may be authorized by its articles or operating agreement to conduct any one or more of the businesses of a cemetery.

(15) "Cremated remains" means human remains after cremation in a crematory.

(16) "Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory.

(17) "Crematory" means a building or structure containing one or more retorts for the reduction of bodies of deceased persons to cremated remains.

(18) "Crematory and columbarium" means a building or structure containing both a crematory and columbarium.

(19) "Crypt" or "vault" means a space in a mausoleum of sufficient size, used or intended to be used, to entomb human remains.

(20) "Directors" means the board of directors, board of trustees or other governing body of a cemetery authority, cemetery sales organization or cemetery management organization.

(20.1) "Disposition" means the interment, burial, cremation, or anatomical donation of the body of a deceased person or parts of the body of a deceased person. Disposition shall not include any prohibited act under Part I of Chapter 12 of Title 17 of the Louisiana Revised Statutes of 1950, the Louisiana Anatomical Gift Act, the Louisiana Unmarked Human Burial Sites Preservation Act, or the Louisiana Historic Cemetery Preservation Act.

(21) "Entombment" means the placement of human remains in a mausoleum.

(22) "Family burial ground" means a cemetery in which no lots are sold to the public and in which interments are restricted to a group of persons related to each other by blood or marriage.

(22.1) "Force majeure" means any of the following circumstances:

(a) A major storm, major flood, or other similar natural disaster.

(b) A major accident beyond the cemetery authority's control and not ultimately found to be the fault of the cemetery authority.

(c) The delay by the federal government or any of its agencies, or the state or any of its agencies or political subdivisions in granting necessary permits.

(d) A valid order of any federal or state court of competent jurisdiction that prevents the timely completion of a project.

(23) "Fraternal cemetery" means a cemetery owned, operated, controlled or managed by any fraternal organization or auxiliary organization thereof, in which the sale of lots, graves, crypts, vaults or niches is restricted principally to its members.

(24) "Grave" means a space of ground in a cemetery, used or intended to be used, for burial.

(25) "Human remains" means the body of a deceased person and includes the body in any stage of decomposition, as well as cremated remains.

(26) "Interment" means the disposition of human remains by inurnment, scattering, entombment or burial in a place used or intended to be used, and dedicated, for cemetery purposes.

(27) "Inurnment" means placing cremated remains in an urn or other suitable container and placing it in a niche, crypt or vault in a place used or intended to be used, and dedicated, for cemetery purposes.

(28) "Lawn crypts" means space for interment in preplaced chambers, or burial vaults, either side by side or multiple depth, covered by earth and/or sod and known also as

below-ground crypts, westministers or turf top crypts.

(29) "Lot" or "plot" means land in a cemetery used or intended to be used for the interment of human remains within a grave, mausoleum or lawn crypt or columbarium.

(30) "Mausoleum" or "tomb" means a structure or building, for the entombment of human remains in crypts or vaults in a place used or intended to be used, and dedicated, for cemetery purposes.

(31) "Municipal cemetery" means a cemetery owned, operated, controlled or managed by a municipality or other political subdivision of the state, or instrumentality thereof authorized by law to own, operate or manage a cemetery.

(32) "Niche" means a space in a columbarium used or intended to be used for inurnment of cremated human remains.

(33) "Owner" means a person to whom the cemetery authority has transferred full title to or the right of use of and/or interment in any cemetery space and who appears as the title holder in the official records of the cemetery authority.

(34) "Perpetual care cemetery" or "endowed care cemetery" means a cemetery wherein lots and other interment spaces are sold or transferred under the representation that the cemetery will receive perpetual or endowed care.

(35) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, trust or any other legal entity.

(36) "Privately owned cemetery" means any cemetery except a fraternal, municipal, or religious cemetery or a family burial ground.

(36.1) "Rearrangement" or "reuse" means the act of removing and disposing of a previously interred casket and the gathering and placing of human remains in an alternative container within the same cemetery space in order to accommodate additional interments.

(37) "Religious cemetery" means a cemetery that is owned, operated, controlled or managed by a recognized church, religious society, association or denomination, or by a cemetery authority or a corporation administering or through which is administered the temporalities of any recognized church, religious society, association or denomination.

(38) "Sale" means the sale of the full title to any cemetery space or the sale of the right of use of and/or interment in any cemetery space.

(39) "Temporary receiving vault" means a cemetery space used or intended to be used for the temporary placement of human remains.

(40) "Trustee" means the separate legal entity designated as trustee of a cemetery care fund.

Acts 1974, No. 417, §1. Amended by Acts 1980, No. 428, §1. Amended by Acts 1997, No. 921, § 1. Amended by Acts 1999, No. 1199, § 1. Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1999, paragraphs were redesignated so that the paragraphs would appear in alphabetical order. Amended by Acts 2001, No. 468, § 1.

Amended by Acts 2003, No. 1243, § 1. Amended by Acts 2006, No. 609, § 1. Amended by Acts 2010, No. 63, § 1. Amended by Acts 2015, No. 270, § 1.

CHAPTER 2. LOUISIANA CEMETERY BOARD

§ 61. Cemetery board created; appointments; terms

A. The Louisiana Cemetery Board is hereby created and shall be placed within the office of the governor. The board shall consist of seven members appointed by the governor. There shall be at least one member from each public service commission district existing at the time of the appointments and two members at large, who shall all be residents of Louisiana. Any change in the total membership or district of the public service commission shall not affect the term of any duly appointed member, but subsequent appointments shall be made so as to conform with membership and districts of the commission existing at the time of the subsequent appointments. The domicile of the board shall be in the parish of Jefferson. A majority of the board members shall constitute a quorum for all meetings.

B. Of the seven original members, five shall be appointed by the governor, at least one member from each public service commission district existing at the time of the appointments, from a list of ten nominees to be submitted by the Louisiana Cemeteries Association, Inc., not later than thirty days after July 31, 1974. Of the seven original members, two members shall be appointed by the governor at large, and such at large members and their successors shall not have any direct or indirect interest in either the cemetery or funeral business. Of the seven original members, the terms of the two members appointed at large shall expire January 1, 1976, the terms of two shall expire January 1, 1977, and the terms of three shall expire January 1, 1978. Thereafter, appointments shall be for a four-year term, and in the case of a member who is selected from a particular public service

commission district, the successor of said member shall be appointed from the same public service commission district from a list of two nominees to be submitted by the Louisiana Cemeteries Association, Inc. for each such successor to be appointed. The said list of nominees shall be furnished to the governor not later than October thirty-first of each calendar year prior to the expiration of the term of such members. Similarly, any vacancy on the board created through the resignation or death of an appointee from a particular public service commission district shall be filled by a successor from the same public service commission district whose name shall come from a list of two nominees to be furnished by the Louisiana Cemeteries Association, Inc., within thirty days after the creation of the vacancy. Similarly, any vacancy on the board created through the resignation or death of a member at large shall be filled by the governor within thirty days after the creation of the vacancy. Each appointment by the governor shall be submitted to the Senate for confirmation.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, §1; Acts 1991, No. 430, § 1; Acts 2001, No. 8, § 3, eff. July 1, 2001; Acts 2003, No. 774, § 2.

§ 62. Qualifications of members

Except for the two members at large to be appointed by the governor, the remaining members of the board shall be appointed only from persons who have had, immediately preceding their appointment, a minimum of five consecutive years experience in this state in the active administrative management of a cemetery authority and at the time of their appointment shall have the actual and full authority of a president, vice-president, secretary, treasurer, owner, director, officer or general manager of a cemetery corporation or of a general manager of any other form of cemetery authority, and they shall hold office only so long as they continue in

such active, actual and authoritative capacity. The five-year consecutive period shall be exclusive of time spent in the armed services.

Acts 1974, No. 417, § 1. Amended by Acts 2001, No. 468, § 1.

§ 63. Compensation; expenses

The members of the board shall receive no compensation but shall receive necessary traveling and other expenses directly related to the performance of their duties.

Acts 1974, No. 417, § 1.

§64. Officers; administrative director; employees

The board shall elect a chairperson, vice chairperson, and such other officers as it shall determine, from among its members. Each officer shall serve until his successor is elected and takes office. It may employ, fix the salaries, and prescribe the duties of an administrative director and such clerical, technical, and other employees as are necessary to carry out its duties.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1.

§ 65. Meetings

The board shall meet at least twice a year and may meet at such other times as it may designate. Meetings may be held at any place within this state.

Acts 1974, No. 417, § 1.

§ 66. Administration and enforcement of law

The board shall enforce and administer the provisions of this title.

Acts 1974, No. 417, § 1.

§ 66.1. Investigations

The board may, for purposes of discovering a violation of this Chapter or implementing rules or orders issued pursuant to this Title, perform any of the following:

(1) Make such public or private investigations within or outside of this state as the board deems necessary to determine whether any person has violated this Title, or implement rules or orders issued pursuant to this Title, or to aid in the enforcement of this Title, or in the prescribing of rules and forms under this Title.

(2) Require or permit any person to file a statement in writing, under oath, by affidavit or by authentic act, as the board or attorney general determines, as to all the facts and circumstances concerning the matter being investigated.

(3) Investigate a person and examine the books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records.

(4) Subpoena witnesses, compel their attendance, take evidence, and require the production of any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records which the board deems relevant or material to any investigation or proceedings under this Title.

(5) Apply to a district court of competent jurisdiction for an order requiring a person's appearance before the board or attorney general, or a designee of either or both, in cases where the person has refused to obey a subpoena issued by the board or attorney general. The person may also be required to

produce documentary evidence germane to the subject of the investigation.

Added by Acts 2010, No. 965, § 1.

§ 66.2. Cease and desist orders

A. If it appears to the board or to the attorney general that a person has engaged in an act or practice constituting a violation of this Title, or the implementing of rules or orders issued under this Title, the board or the attorney general may issue a cease and desist order directed to the person that requires the person to cease and desist from engaging in such an act or practice. A person may request a hearing within thirty days of actual receipt of the cease and desist order, as evidenced by the date on the return service. If a hearing is not timely requested, the cease and desist order shall become final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a hearing officer authorized to hear the matter following a request for hearing.

B. The board or attorney general shall not be required to post a bond.

Added by Acts 2010, No. 965, § 1.

§ 67. Rules and regulations

The board may establish necessary rules and regulations for the administration and enforcement of this title and prescribe the form of statements and reports provided for herein, but such rules and regulations shall not be in conflict with or contrary to any of the provisions of this title or of R.S. 49:951, et seq.

Acts 1974, No. 417, § 1.

§ 68. Hearings

In conducting hearings or other proceedings as authorized hereunder, the board shall comply with and have all authority granted to it under the provisions of R.S. 49:951, et seq.

Acts 1974, No. 417, § 1.

§ 69. Actions to enforce law; attorney general; special counsel

The attorney general shall represent the board in all matters pertaining to the administration or enforcement of this Title, or both, except in those matters in which the board has employed special counsel. The board shall fix the compensation of such special counsel.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1.

§ 69.1. Service of pleadings upon board

Upon commencement of any action wherein a person or cemetery authority is alleged to be operating or conducting a cemetery business is named defendant ¹ the plaintiff's attorney shall mail a copy of the petition to the board within ten days of filing the action.

Added by Acts 1980, No. 428, § 1.

§69.2. Receiverships; procedure; powers, duties, and qualifications; disposition of cemetery

A. The Louisiana Cemetery Board shall notify the attorney general of the potential need for the establishment of a receivership if the board finds that a cemetery meets one or more of the following conditions:

¹ The language of this section appears as in the enrolled Act.

(1) Is insolvent. For purposes of this Section, the term "insolvent" shall mean any of the following:

(i) Having generally ceased to pay debts in the ordinary course of business with the exception of debts in which there is a bona fide dispute.

(ii) Being unable to pay debts as they become due.

(iii) Being insolvent within the meaning of federal bankruptcy law.

(2) Has utilized trust funds for personal or business purposes in a manner inconsistent with Chapter 7 or 8 of this Title and the rules and regulations of the board.

(3) Has consistently failed to deliver paid-in-full merchandise to consumers.

(4) Has had its certificate of authority revoked by the board.

(5) Has a certificate of authority from the board that is in suspension, conditional suspension, or has not been renewed or reinstated by the board once it has lapsed.

(6) Has never obtained a certificate of authority from the board but nonetheless is operating a cemetery.

(7) Has been found, pursuant to the on-site examinations and board hearings authorized by this Title, to have repeatedly violated provisions of this Title or the rules and regulations of the board.

(8) Has been found, pursuant to the on-site examinations and board hearings authorized by this Title, to be operating in a manner that is

harmful to the health, safety, or welfare of the public.

(9) Has failed to properly maintain the maps and interment records as required by this Title and the rules and regulations of the board.

(10) Has otherwise violated the provisions of this Title or the rules and regulations of the Board.

B.(1) When it appears to the attorney general that a cemetery has engaged in or is engaging in a practice declared to be unlawful by this Title or that any of the conditions set forth in Subsection A of this Section are met, the attorney general may apply only after a reasonable attempt is made by the board to force compliance to the district court for the jurisdiction in which the cemetery is located for either of the following:

(a) An order appointing a receiver of the assets of the cemetery.

(b) An ex parte temporary restraining order to protect the assets and records of the cemetery.

(2) The court, upon receipt of a petition for a temporary restraining order which is verified by the attorney general, shall, after being satisfied that the interests of the public require the issuance of a temporary restraining order shall order that the cemetery assets, including but not limited to bank accounts, be frozen and preserved or may issue an order requiring that certain documents held by the cemetery owner be preserved, or both.

(3) The court, upon receipts of a petition for the appointment of a receiver, shall conduct a hearing on whether or not to appoint a receiver within twenty-four hours after service of the

petition on the cemetery owner or licensee. If the court finds that it is in the best interest of the public that a receiver be appointed, the court shall direct that a copy of the order appointing the receiver be served on the cemetery authority engaged in or engaging in a practice declared to be unlawful under this Title by delivering the order to the last address of the cemetery that is on file with the board and the secretary of state.

(4) Upon the institution of a receivership by the court, the court shall have the authority to impound the property and business of the cemetery, including but not limited to maps, books, papers, documents, computers, and records appertaining thereto or so much thereof as the court may deem reasonably necessary to prevent further violation of this Title and so much thereof as the court may deem necessary to return the cemetery to compliance with this Title.

C.(1) A receiver appointed by the court shall take possession of the assets of the cemetery and shall be vested with the authority to administer, manage, and oversee all affairs of the cemetery.

(2) The appointed receiver shall not be required to post a bond for any activities undertaken pursuant to this Title or the rules and regulations of the board.

(3) The court may allow the receiver to file for protection under the bankruptcy code.

(4) The activities of the receiver shall not be limited or barred by the imposition of any penalties or conditions previously imposed upon the cemetery by the board.

(5) The receiver may pay the salaries and compensation that the receiver deems necessary for the administration and management of the cemetery.

(6) The receiver shall have the authority to hire and fire employees of the cemetery as he deems necessary in order to carry out all duties necessary for the administration and management of the cemetery.

(7) The receiver may be reimbursed for his expenditures under this Section from the assets of the cemetery as funds become available.

(8) The receiver shall also have all of the powers granted to receivers under R.S. 12:151 et seq.

(9) The receiver shall hold or have the qualifications to hold, pursuant to the qualification identified in this Title and in the rules and regulations of the board, a certificate of authority to operate a cemetery from the board. The appointments shall be limited to one year with reappointment permissible. Any person appointed under this Section shall be required to make an accounting to and file a report with the court, the attorney general, and the board at least once each ninety days.

(10) Compensation for such receivers shall be within the discretion of the court but shall not include actual expenditures by the receiver. The receiver shall be reimbursed for all actual receipts for expenditures as funds become available and certainly no later than at the termination of the receivership.

(11) The board shall not be liable for any expenses or fees of the receiver.

D.(1) Upon restoration of the cemetery so that it complies with the provisions of this Title and the rules and regulations of the board, the court shall terminate the receivership.

(2) Upon good cause shown, the court may terminate the receivership prior to compliance

with the provisions of this Title and the rules and regulations of the board to allow for the sale of the cemetery to a qualified purchaser who has agreed to complete the requirements for compliance with this Title and the rules and regulations of the board.

(3) If the owner of the cemetery cannot obtain a certificate of authority to operate the cemetery from the board, the cemetery property and assets shall be sold at a judicial sale pursuant to R.S. 9:3001 and R.S. 13:4341 et seq.

(4) The purchaser of the cemetery shall hold or be able to obtain, pursuant to the qualifications identified in this Title and in the rules and regulations of the board, a certificate of authority to operate a cemetery from the board.

(5) This Section shall not prohibit the court from allowing the sale of the cemetery to a municipal corporation.

(6) The receiver and his employees shall be prohibited from bidding on or purchasing the cemetery at the judicial sale. This provision shall not apply if the receiver is a governmental entity or a not-for-profit organization.

(7) In the order of sale of the cemetery, the court shall make a provision for notice to creditors and the filing of claims against the receivership. Any remaining funds held by the cemetery or funds realized through the sale of the cemetery under this Section shall be used to satisfy, in the following order:

(a) The reimbursement and compensation of the receiver.

(b) The cemetery's consumers or beneficiaries of the consumers.

(c) The cemetery's creditors.

(8) Upon payment of the receiver, consumers or beneficiaries of the consumers, and the creditors, the remaining funds acquired through the judicial sale of the cemetery shall be disbursed in the following order:

(a) Forty percent of the amount remaining following the payments required by Paragraph (7) of this Subsection shall be placed in the registry of the court for a period of two years and shall be disbursed to cover any unfunded liability, including but not limited to pre-need sales, that is not discovered during the receiver's review of the cemetery's records.

(b) The remaining sixty percent shall be disbursed to the owner against whom the receivership was instituted.

(c) Following the two year period required by Subparagraph (a) of this Paragraph, funds remaining in the registry of the court may be released to the owner against whom the receivership was instituted unless there is a reasonable showing that outstanding unfunded liabilities continue to exist. Upon such a showing, the court may order that the remaining funds stay in the court registry until such a time as the unfunded liabilities are satisfied.

(9) The provisions of this Section shall not apply to a cemetery which is located in an area which is under a gubernatorial declared disaster pursuant to R.S. 29:724, so long as the executive order is in effect.

Acts 2008, No. 541, § 1.

§ 70. Application for certificate of authority

The initial application for a certificate of authority, including without limitation an application for a new certificate required by R.S.

8:76, shall be made in writing by a cemetery authority to the board on a form prescribed by the board, accompanied by an application fee set by the board not to exceed one thousand dollars. Applications for renewal of a valid, subsisting, and unsuspended certificate of authority shall be made in similar fashion, accompanied by the regulatory charge provided for in this Title. All initial applications must show that the cemetery authority owns or is actively operating a cemetery which is subject to the provisions of this Title.

Acts 1974, No. 417, § 1. Amended by Acts 1992, No. 105, § 1. Amended by Acts 2003, No. 704, § 1. Amended by Acts 2015, No. 222, § 1.

§ 71. Proof of applicant's compliance with law, rules and regulations; financial responsibility and reputation

The board shall determine that the applicant and its officers, directors, owners, and managerial personnel are financially responsible, trustworthy, and have good personal and business reputations, in order that only cemeteries of permanent benefit to the community in which they are located will be established in this state. The board may require such proof as it deems advisable concerning the compliance by such applicant with all the laws, rules, regulations, ordinances, and orders applicable to it. If the board refuses to grant an applicant a certificate of authority, it shall inform the applicant in writing by registered or certified mail of the reasons therefor and the applicant shall be entitled to a hearing, if requested by the applicant in writing within thirty days of receipt of the denial. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:951, et seq.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1.

§ 72. Certificates; regulatory charges; suspension; restoration; late charge; requirement of certificate

A. The regulatory charges for a certificate of authority at all periods of the year are the same as provided in this Chapter. All regulatory charges shall be payable at the time of the filing of the application and prior to issuance of the certificate. All certificates issued by the board shall be valid unless suspended or revoked by the board. However, failure to pay the regulatory charge fixed by the board prior to the first day of February for any year shall effect the suspension of the certificate of authority, which may be restored upon payment of the prescribed charge, and an additional late charge of fifty percent of the amount of the prescribed regulatory charge or one hundred dollars, whichever is lesser.

B. No person shall engage in the operation of or conduct a cemetery business, including but not limited to the sale of cemetery merchandise, lots, or other interment spaces, without a valid subsisting and unsuspended certificate of authority.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1. Amended by Acts 1997, No. 921, § 1.

§ 73. Regulatory charges; rate

A. Every cemetery authority shall pay, for each cemetery operated by it, an annual regulatory charge, as fixed by the board, of not more than five dollars for each interment, entombment, and inurnment made during the preceding full calendar year, but not less than fifty dollars for each cemetery. Upon payment of the applicable charges and compliance with the other provisions hereof and the rules and regulations of the board, the board shall issue a certificate of authority.

B. The board may increase the regulatory charge specified in Subsection A of this Section to not more than twenty dollars to cover no more than the board's reasonable and ordinary expenses, including the cost of litigation.

Acts 1974, No. 417, § 1. Amended by Acts 1992, No. 105, § 1. Amended by Acts 2003, No. 704, § 1 Amended by Acts 2015, No. 222, § 1.

§ 74. Sale or interment; certificate of authority; penalty

It shall be a misdemeanor for any person to operate or conduct a cemetery business without a valid, subsisting, and unsuspended certificate of authority. Each sale, interment, or other act constituting the operation or conduct of a cemetery business shall be a separate violation, and for each violation there shall be a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for not less than thirty days nor more than six months, or both.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1.

§75. Refusal to grant, revocation, or suspension of certificate; injunction; fines; additional orders

A. For violation of any provision of this Title or the rules or regulations adopted and promulgated by the board in accordance with the Administrative Procedure Act, the board may, in addition to imposing fines, refuse to grant, revoke, or suspend a certificate of authority and may institute legal proceedings to enjoin any person from operating or conducting a cemetery business.

B. If the board finds that one or more grounds exist for the discretionary suspension or revocation of a certificate of authority issued pursuant to the provisions of this Chapter, it may,

in lieu of or in addition to the suspension or revocation, impose a fine upon the certificate holder in an amount not to exceed one thousand dollars for each non-willful violation and in an amount not to exceed ten thousand dollars for each willful violation, plus cost of the court reporter and the attorney fees of the board.

C. If the board finds that any natural or juridical person has violated the provisions of this Title or the rules or regulations adopted and promulgated by the authority vested in this Chapter, it may impose a fine upon that natural or juridical person in an amount not to exceed one thousand dollars for each non-willful violation and in an amount not to exceed ten thousand dollars for each willful violation, plus cost of the court reporter and the attorney fees of the board.

D. The board may grant not more than thirty days from the date of the order for the payment of any fine.

E. The board may apply to a district court of the parish in which the cemetery is located for, and such court shall have the authority to issue such additional orders as may be necessary to protect the health, welfare, or safety of the public.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1. Amended by Acts 2001, No. 468, § 1. Amended by Acts 2014, No. 67, § 1. Amended by Acts 2015, No. 222, § 1.

§ 76. Sale or transfer of cemetery authority; application for new certificate of authority; compliance required; late charge

A. Within thirty days after the sale or transfer of ownership or control of a cemetery or cemetery authority, the transferor must return its certificate of authority to the board. The transferee must file an application, within thirty

days, after the sale or transfer of ownership or control of a cemetery authority, and meet all the requirements of this Chapter. The application for a certificate of authority shall be accompanied by the prescribed regulatory charge.

B. Transferees which fail to file an application for a certificate of authority at the time required herein shall, in addition to the prescribed regulatory charge, pay an additional late charge of fifty percent of the prescribed regulatory charge or one hundred dollars whichever is lesser.

C. (1) Upon the filing of a completed application, the transferee may operate the business until its application is acted upon by the board. The board shall issue a certificate of authority to the transferee upon the transferee's compliance with all of the provisions and requirements of this Chapter.

(2) If the board refuses to grant the transferee a new certificate of authority, it shall inform the transferee in writing by registered or certified mail of the reasons therefor and the transferee shall be entitled to a hearing if requested within thirty days of receipt of the denial. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1. Amended by Acts 1997, No. 921, § 1. Amended by Acts 2006, No. 609, § 1.

§ 77. Cemetery fund

All monies received by the board shall be held by the treasurer of the board and shall be used to pay for services, machinery, equipment and supplies, travel and living expenses where necessary, and such other expenses as may be reasonably required in the orderly and efficient operation of the functions of the board.

Acts 1974, No. 417, § 1.

§ 78. Exemptions; exempt certificates of authority; renewal; fees

A. The provisions of R.S. 8:70, 71, 72, 73, and 76 shall not apply to family burial grounds, fraternal cemeteries, municipal cemeteries, community cemeteries, state cemeteries, federal cemeteries or religious cemeteries that do not sell cemetery spaces, sell the right of use or interment in any cemetery space, or charge a maintenance fee per cemetery space for an amount in excess of three hundred dollars.

B. The provisions of R.S. 8:70, 71, 72, 73, and 76 shall not apply to community cemeteries owned and operated by nonprofit corporations in existence prior to January 1, 2007, whose officers and directors serve on a voluntary basis without compensation for their services.

C. The provisions of R.S. 8:70, 71, 72, 73, and 76 shall not apply to columbarium facilities owned and operated by churches for the interment of human remains.

D. Notwithstanding the provisions of this Section, every cemetery authority or person, hereinafter in this Subsection referred to as the "applicant", seeking to be identified as a cemetery or columbarium facility that is exempt pursuant to the provisions of this Section, shall provide the board such proof as the board deems necessary to determine whether an applicant meets the qualifications for exemption. If the board determines that an applicant is qualified for exemption, the applicant shall apply for an exempt certificate of authority on a form prescribed by the board, accompanied by an application fee of two hundred fifty dollars to cover the board's reasonable and ordinary expenses associated with determining whether the applicant is in compliance with applicable

provisions of this Title.

E.(1) No later than April first and in three-year intervals thereafter, any cemetery authority or person holding an exempt certificate of authority shall apply for renewal of the certificate by submitting to the board such information as the board deems necessary to determine if the cemetery authority or person continues to meet the qualifications for exemption, in addition to a renewal fee of fifty dollars to maintain the exemption previously granted.

(2) Failure to submit the required information or pay the prescribed renewal fee by April first of the respective renewal interval shall effect the suspension of the applicable exempt certificate of authority. The board shall assess a late charge of twenty-five dollars to any cemetery authority or person making the submission of information and payment of the prescribed fee after April first of the respective renewal interval.

(3) The board may reinstate a suspended exempt certificate of authority after April first of the respective renewal interval, if the cemetery authority or person submits to the board the required information, payment of the prescribed renewal fee, and the assessed late charge of twenty-five dollars.

F. At any time, if the board determines a cemetery authority or person no longer meets the qualifications to maintain an exempt certificate of authority, the cemetery authority or person shall begin the process of applying for a nonexempt certificate of authority, as required by this Chapter, within thirty days of receipt of written notice of the board's determination of nonexemption.

Acts 1974, No. 417, § 1. Amended by Acts 1997, No. 921, § 1. Amended by Acts 2006, No. 669, § 1. Amended by Acts 2015, No. 222, § 1.

CHAPTER 3. PUBLICLY OWNED CEMETERIES

§ 101. Municipal corporations; establishment and maintenance of cemeteries

The governing authority of any municipal corporation may acquire, establish and maintain one or more public cemeteries.

Acts 1974, No. 417, § 1

§ 102. Ordinance creating cemetery; location

A public cemetery may be established by an ordinance passed by the governing authority of the municipality. However, no municipal cemetery shall be established at a greater distance than one mile from the limits of the municipality creating it.

Acts 1974, No. 417, § 1.

§ 103. Anticipation of revenues; bonds or certificates; taxes

In order to provide a site or grounds and additions thereto and to provide and maintain streets, curbing, aisles, walkways, outside fences, drainage, and any building that may be needed for the use of a sexton or caretaker, as well as any electrical illumination needed, and to provide for the employment of a sexton or caretaker and the cutting of grass and the acquisition of and planting and care of trees, shrubbery and flowers, the governing authority of the municipality may either anticipate the revenues of the municipality or issue bonds or certificates based thereon as provided by law, or submit to the taxpayers at a special election to be called and held in the municipality by the governing authority, pursuant to the law, to vote negotiable bonds, within the limitations authorized by law, for any of the above

purposes, and thereafter levy and collect taxes and pay and retire the bonds authorized at the election.

Acts 1974, No. 417, § 1.

§ 104. Funds for support and improvement; special municipal election authorized

In order to maintain streets, aisles, walkways, outside fences, drainage, cut the grass, and plant and care for shrubbery and flowers in any cemetery title to which is in the public and under the control and management of any municipality, and in order to employ a caretaker or sexton for these purposes, including the care of the interment spaces therein, the governing authority of a municipality may call a special election to provide funds for any or all of these purposes.

Acts 1974, No. 417, § 1.

§ 105. Maximum tax; use of proceeds

The special election may be for a sum not in excess of one mill on the dollar assessment on all real property subject to taxation, and may be held under the election laws relative to voting special taxes. It shall not be necessary to fund the revenues into bonds, but revenues may be spent as received for the purposes herein set forth.

Acts 1974, No. 417, § 1. Amended by Acts 1996, 1st Ex.Sess., No. 27, § 1.

§ 106. Rules and regulations; sexton and other employees

The municipal governing authority may establish all rules and regulations deemed necessary for a public cemetery and may employ a sexton and other employees and fix and pay their compensation.

Acts 1974, No. 417, § 1.

§ 107. Gifts, donations and contributions

The municipal governing authority may accept gifts for purposes of establishing and/or maintaining a public cemetery, provided there is no condition thereto inconsistent with the purposes herein set forth.

Acts 1974, No. 417, § 1.

§ 108. Expropriation

A municipal governing authority may expropriate private property, in accordance with law, for the purpose of providing public burial grounds or cemeteries.

Acts 1974, No. 417, § 1.

§ 109. Lots, plots, or burial spaces; permits for interment; sale

A municipal governing authority may establish lots, plots or interment spaces within its public cemeteries and issue permits for the interment therein of deceased persons or sell any lot, plot, or interment space to the public, at terms fixed by the governing authority, to be used and maintained exclusively for such purposes and subject to the laws of this state and ordinances of the municipality governing public cemeteries.

Acts 1974, No. 417, § 1.

§110. Contract to assure proper care; maintenance; and control

A municipal governing authority may contract with respect to any land acquired by it for cemetery purposes with any person on such terms and conditions and for such a period of time as will, in the discretion of the municipal

governing authority, assure the proper care, maintenance and control of the public cemeteries.

Acts 1974, No. 417, § 1.

§111. Roads and drainage; parishes may provide

The governing authority of each parish and municipal corporation in this state is authorized and directed to construct and maintain the necessary roads or streets and to provide for proper drainage in all cemeteries which are publicly owned within the parish or municipality.

Acts 1974, No. 417, § 1.

§112. Expropriation of abandoned private cemeteries

Whenever the governing authority of any municipal corporation or parish determines that a private cemetery within its jurisdiction is not being used or maintained and is in fact abandoned or that there is no longer in existence any person or legal entity with the legal authority to operate, control, or manage an existing cemetery, it may judicially expropriate the cemetery and thereafter operate and maintain the cemetery as a public cemetery and make expenditures necessary for the acquisition, operation, and maintenance thereof.

Acts 1974, No. 417, § 1. Amended by Acts 1984, No. 646, § 1.

§ 113. Powers of parish governing authorities

All the powers and authority granted to municipal corporations under this Chapter shall be granted to and may be exercised by any parish governing authority.

Added by Acts 1986, No. 330, § 1.

§ 114. Publicly owned cemeteries; mandatory trust accounts

A. Funds received by a municipality for a publicly owned cemetery shall be deposited immediately into a trust account and shall be used by a municipality only for the purposes of constructing, operating, or maintaining a publicly owned cemetery within that municipality.

B. If a municipality desires to use such funds for a purpose other than the purposes provided for in Subsection A of this Section, the municipality shall submit the measure to the electorate of the municipality in a special election called for that purpose.

Added by Acts 1997, No. 196, §1.

CHAPTER 4. CEMETERY COMPANIES

§ 201. Incorporation required

It is unlawful for any corporation, partnership, firm, trust, association, or individual to engage in or transact any of the business of a cemetery within this state except by means of a corporation authorized to operate a cemetery. The corporation shall engage in the cemetery business in this state only if it has received a certificate of authority from the board pursuant to the provisions of Chapter 2 of this Title. The provisions of this Section shall not apply to a family burial ground as defined in R.S. 8:1(22).

Acts 1974, No. 417, § 1. Amended by Acts 2015, No. 222, § 1.

§ 202. Corporations; how organized

Any private corporation authorized by its articles so to do may establish, maintain, manage, improve, or operate a cemetery, and conduct any or all of the businesses of a cemetery either for or without profit to its members or stockholders. A nonprofit corporation or a profit corporation may be organized in the manner provided in the general corporation laws of this state.

Acts 1974, No. 417, § 1.

§ 203. Prior operations not affected

The requirement in R.S. 8:201 shall not apply to any cemetery authority that is in existence and operating on July 31, 1974, and any such cemetery authority may continue to operate despite the fact that it may be owned and operated at the time by a corporation, partnership, firm, trust, association, or individual.

Acts 1974, No. 417, § 1. Amended by Acts 2014, No. 88, §

1.

§ 204. Specific powers; rule making and enforcement

A cemetery authority may make, adopt, amend, added to, revise, repeal or modify, and enforce rules and regulations for the use, care, control, management, restriction and protection of all or any part of its cemetery, including without limitation the following:

(1) It may restrict and limit the use of all property within its cemetery;

(2) It may regulate the uniformity, class and kind of all markers, monuments and other structures within the cemetery and its subdivisions;

(3) It may regulate or prohibit the erection and/or installation of monuments, markers, effigies, structures and foundations within the cemetery;

(4) It may regulate or prevent the introduction or care of plants or shrubs within the cemetery;

(5) It may prevent interment in any part of the cemetery of human remains not entitled to interment and prevent the use of interment spaces for purposes violative of its restrictions or rules and regulations;

(6) It may regulate the conduct of persons and prevent improper assemblages in the cemetery, and

(7) It may make and enforce rules and regulations for all other purposes deemed necessary by the cemetery authority for the proper conduct of the business of the cemetery, for the transfer of any interment space or the

right of interment, and the protection and safeguarding of the premises, and the principles, plans, and ideals on which the cemetery is conducted.

Acts 1974, No. 417, § 1.

§ 205. Rules and regulations; posting

The rules and regulations made pursuant to R.S. 8:204 shall be plainly printed or typewritten and maintained subject to inspection in the office of the cemetery authority.

Acts 1974, No. 417, § 1.

§ 206. Contracts required; disclosure

A cemetery authority offering to provide burial rights or a cemetery authority or other entity offering cemetery related merchandise and services shall provide to the customer, upon purchase, a written contract which complies with the requirements set forth in this Title and the rules and regulations of the Louisiana Cemetery Board.

Acts 2008, No. 188, § 1.

CHAPTER 5. ACQUISITION OF CEMETERY PROPERTY

§ 301. Right to acquire property

Cemetery authorities may take by purchase, donation or devise, property consisting of lands, mausoleums, crematories and columbariums, or other property within which the interment of the dead is or may be authorized by law.

Acts 1974, No. 417, § 1.

§ 302. Surveys and maps

A. Every cemetery authority from time to time as its property is developed for cemetery purposes shall, in the case of land, survey and subdivide it into sections, blocks, plots, avenues, walks, or other subdivisions, and make a good and substantial map or plat showing the sections, plots, avenues, walks or other subdivisions, with descriptive names or numbers. In the case of a mausoleum or a columbarium, it shall make a good and substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevations and other divisions, with descriptive names or numbers.

B. The preparation and use of any survey, map or plat hereinabove contemplated shall not constitute the dedication of the property depicted thereon solely for cemetery purposes, until and unless such property is actually used for said purposes. Accordingly, each such survey, map or plat may include undeveloped areas which may be marked "reserved for future development" and, when so marked, said areas, when subsequently developed and used for cemetery purposes shall be considered dedicated for such purposes, but if such areas are not to be used for cemetery purposes, the cemetery authority shall have the right to use such areas for any other lawful purposes.

C. Copies of such surveys, maps or plats shall be available for inspection by any interested party at the office of the cemetery authority.

D. Cemetery authorities organized after January 1, 1981, shall file the survey, map, or plat provided for in Subsection A of this Section with the board. Each cemetery authority shall file with the board a copy of any such survey, map, or plat affecting property acquired, developed, or used for cemetery purposes after January 1, 1981.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1.

§ 303. Maps and plats; amendment

Any part or subdivision of the property as shown in the survey, map or plat referred to in R.S. 8:301 may, by order of the directors of the cemetery authority, be resurveyed and altered in shape and size and an amended survey, map or plat may be prepared so long as such change does not disturb the interred remains of any deceased person. Said amended survey, map or plat shall be available for inspection as hereinabove provided.

Acts 1974, No. 417, § 1.

§ 304. Permanency of dedication

A. After property is dedicated to cemetery purposes pursuant to this Chapter, neither the dedication nor the title of a plot owner shall be affected by the dissolution of the cemetery authority, by nonuse on its part, by alienation of the property, or otherwise, except as provided in this Title.

B. An official act of dedication of cemetery property shall be filed with the clerk of the district court for the parish in which the cemetery is located and with the Louisiana Cemetery Board.

These requirements shall not apply to individual cemetery spaces within dedicated cemetery property. The provisions of this Subsection shall apply only to a cemetery established after June 21, 2008.

Acts 1974, No. 417, § 1. Amended by Acts 2008, No 423, § 1.

§305. Rule against perpetuities, etc., inapplicable

Dedication to cemetery purposes pursuant to this title is not invalid as violating any laws against perpetuities or the suspension of the power of alienation of title to or use of property but is expressly permitted and shall be deemed to be in respect for the dead, a provision for the interment of human remains, and a duty to and for the benefit of the general public.

Acts 1974, No. 417, § 1.

§ 306. Removal of dedication; procedure

A. The following is the intent of the legislature:

(1) That the protection of unmarked human burial sites has been entrusted to the Louisiana Division of Archaeology and the attorney general.

(2) Notice of judicial proceedings shall be given to the Louisiana Division of Archaeology and the attorney general in an action to cause the cemetery's dedication protection to be removed.

B. Property dedicated to cemetery purposes shall be held and used exclusively for cemetery purposes unless and until the dedication is removed from all or any part of it by judgment of the district court of the parish in which the property is situated in a proceeding

brought by the cemetery authority for that purpose and upon notice of hearing to the board and by publication as hereinafter provided, and proof satisfactory to the court: (1) That no interments were made in or that all interments have been removed from that portion of the property from which dedication is sought to be removed; and (2) That the portion of the property from which dedication is sought to be removed is not being used for interment of human remains.

C. When a petition is filed in court pursuant to Subsection B of this Section, a copy of the petition shall be served upon the Louisiana Division of Archaeology and the attorney general.

D.(1) The board or Louisiana Division of Archaeology shall have the right to intervene in any action filed pursuant to Subsection B of this Section.

(2) The attorney general may represent the board or the Louisiana Division of Archaeology in any action filed pursuant to Subsection B of this Section.

Acts 1974, No. 417, § 1. Amended by Acts 2010, No. 79, § 1.

§ 307. Notice of hearing

The notice of hearing by publication provided in R.S. 8:306 shall be given by publication once a week for at least three consecutive weeks in a newspaper of general circulation in the parish where the cemetery is located and the posting of copies of the notice in three conspicuous places on that portion of the property from which the dedication is to be removed. Said notice shall: (1) describe the portion of the cemetery property sought to be removed from dedication; (2) state that all remains have been removed or that no

interments have been made in the portion of the cemetery property sought to be removed from dedication; and (3) specify the time and place of hearing.

Acts 1974, No. 417, § 1.

§ 308. Sale of cemetery spaces; abandoned spaces, defined, sale

A. After completing the map or plat, a cemetery authority may sell and convey interment spaces, subject to such rules and regulations as may be then in effect or thereafter adopted by the cemetery authority, and subject to such other limitations, conditions and restrictions as may be inserted in the instrument of conveyance of such cemetery spaces.

B. In the event that any of the interment spaces in municipal, religious and nonprofit cemeteries, in the city of New Orleans have been abandoned as defined in Subsection C of the Section for more than a period of ten years, then a cemetery authority managing the cemetery in which such space is located, after advertising in the official journal of the city of New Orleans a notice attesting to such fact, may take possession of but not demolish such abandoned interment spaces and sell and convey same subject to rules and regulations as set forth in Subsection A of this Section.

C. Interment space shall be deemed to have been abandoned (1) after a cemetery authority shall have been unable after diligent efforts for twenty-five years to locate any of the owners or their successors or heirs, or, (2) in the event such interment space is no longer fit for human burial, there has been no interment in the preceding twenty-five years and the cemetery authority shall have been unable, after diligent efforts for one year, to locate any of the owners or their successors or heirs to provide care,

maintenance or repairs for an interment space. A cemetery authority shall be deemed to have made diligent efforts to locate the owners or their successors or heirs of an interment space for a specified period of time if such authority (1) has advertised a notice stating that such authority proposes to acquire such interment space pursuant to this Section, which notice shall be advertised (a) in the case of the twenty-five year period provided herein (i) once a year in each of the first twenty-four years of such period, and (ii) once a month during the last year of such twenty-five year period, and (b) in the case of the one year period provided herein, once a month during such one year period; (2) has posted a notice on the space to the same effect as that specified in clause (1) of this sentence, once a month during the last year of either of such periods of time; and (3) has mailed a registered/certified letter to the last known owners of said interment space which letter shall contain a notice to the same effect as that specified in clause (1) of this statement; provided, however, that the requirement of clause (3) of this sentence shall not be applicable to the extent that the records of the cemetery authority acting pursuant to this Section do not contain the name and address of any owner of said interment space or (4) be determined by a court of competent jurisdiction to have exercised diligent efforts to locate the owners; provided, however, that prior to the initiation of any such legal action the cemetery authority has conformed with the requirements of the one year period of monthly advertisements, postings, and mailings as provided hereinabove and evidence of such notices has been exhibited to the court.

Acts 1974, No. 417, § 1. Amended by Acts 1978, No. 747, § 1, eff. July 17, 1978. Amended by Acts 2011, 1st Ex. Sess. No. 34, § 1, eff. June 12, 2011.

§ 308.1. Franklin; interment space ownership

A. If the city of Franklin determines that the ownership of an unused interment space in a cemetery it governs is ambiguous because the right to use the space for interment may have been sold more than one hundred years previously, but no record of such a sale is extant, the city may assume control of and sell the interment space after diligent effort to locate possible current owners by a review of the public records and the procedure established in Subsection B of this Section.

B. The city shall publish a public notice in its official journal, once a month for twelve consecutive months, attempting to locate owners of any such spaces. Such notice shall, at a minimum, provide each of the following:

(1) The identity of the interment spaces, either individually or by description of the general area of the cemetery where multiple spaces are located.

(2) A statement explaining that the right of interment in such a space may have been sold more than one hundred years previously, but the city has no record of such a sale.

(3) An address where a person who can show an ownership interest in such a space may present evidence of such ownership.

(4) A specific date after which the city assumes full ownership of any unclaimed spaces and after which a previous owner has no right, title, or interest in or to such a space.

C. After compliance with Subsection B of this Section, the city shall have full ownership and control of any interment spaces referenced in the notices specified in Subsection B of this Section, if no person files suit or otherwise

presents sufficient evidence of an ownership interest on or before the date specified in Paragraph (B)(4) of this Section. However, if a person's claim of ownership is presented on a timely basis but evidence is insufficient to justify a belief therein, the claim for which the person may file suit is subject to a liberative prescription of one year from the date specified in Paragraph (B)(4) of this Section. If the person does not timely file suit as specified in this Subsection, the city may thereafter sell and convey such interment spaces as provided by law.

Acts 2015, No. 73, § 1.

§ 309. Execution of conveyances

All conveyances made by a cemetery authority shall be signed by such officer or officers as are authorized by the cemetery authority.

Acts 1974, No. 417, § 1.

§ 310. Interment spaces indivisible

All interment spaces the use of which has been conveyed by deed or certificate of ownership are indivisible except with the consent of the cemetery.

Acts 1974, No. 417, § 1.

§ 311. Commission on sales prohibited

It shall be unlawful for a cemetery authority, directly or indirectly, to pay or offer to pay to any person, firm or corporation not licensed under this title, a commission or bonus or rebate or other thing of value for the sale of an interment space. This shall not apply to a person employed by the cemetery authority to make such sales.

Acts 1974, No. 417, § 1.

§ 312. Employment of solicitors prohibited

It shall be unlawful for any person, firm or corporation, directly or indirectly, to pay or cause to be paid or offer to pay to any other person, firm or corporation, except the employee of a cemetery authority or a duly licensed cemetery sales organization, any commission, bonus, rebate or other thing of value in consideration for recommending that a dead human being be disposed of in any crematory or interred in an interment space.

Acts 1974, No. 417, § 1.

§313. Exemption from seizure and sale; mortgage prohibited

Property dedicated for cemetery purposes, including cemetery spaces and the land on which they stand, shall be exempt from seizure and sale for debt and shall not be susceptible for mortgage or other hypothecation, whether legal or conventional, and it shall be unlawful for any clerk of court or recorder of mortgages to record or certify any mortgage or encumbrance as bearing against any such property.

Acts 1974, No. 417, § 1.

§ 314. Record of ownership and transfers

A record shall be kept by each cemetery authority of the ownership of each interment space in the cemetery conveyed by it and of all transfers thereof. No transfer of any interment space heretofore or hereafter made, or of any right of interment, shall be complete or effective until actually recorded in the official records of the cemetery authority.

Acts 1974, No. 417, § 1.

§ 315. Inspection of records

The official records of each cemetery authority shall be open to inspection by the owner or duly authorized representative of an interment space during the customary office hours of the cemetery.

Acts 1974, No. 417, § 1.

§316. Opening of roads, railroads through cemetery; consent required, exception

After dedication pursuant to this title, and as long as the property remains dedicated to cemetery purposes, no railroad, street, road, alley, pipe line, pole line or other public thoroughfare or utility shall be laid out, through, over or across any part of it without the consent of the cemetery authority owning and operating it. If said cemetery authority is not in existence or not operating, then the consent of not less than two-thirds of the owners of interment spaces shall be required.

Acts 1974, No. 417, § 1.

§ 317. Certain cemetery lands exempt from taxes

Property dedicated for cemetery purposes, including cemetery spaces and the land on which they stand, shall be exempt from all taxation to the fullest extent permitted by the constitution and laws of this state.

Acts 1974, No. 417, § 1.

CHAPTER 6. CEMETERY SALES AND MANAGEMENT ORGANIZATION

§ 401. License to engage in business

No person shall engage in the business of a cemetery sales organization or a cemetery management organization except as authorized by this title and without first obtaining a license from the board.

Acts 1974, No. 417, § 1.

§ 402. Application for license

Any person wishing to establish and operate the business of a cemetery sales organization or a cemetery management organization must operate as a corporation as required by R.S. 8:201 and shall file with the board a written application for a license to operate. The application shall be on a form issued by the board which shall require, as a minimum, that the documents and information submitted to the board shall include:

(1) A statement of the states or other jurisdictions in which the corporation presently is conducting the business activity for which a license is being applied and any adverse order, judgment, or decree entered against the applicant in each jurisdiction or by any court.

(2) The corporation's name, address, the form of its organization, and the address of each of its offices within and without the state.

(3) The name, address, and principal occupation for the past five years of every director and officer of the applicant, and the name, address, and principal occupation for the past five years of every principal owner and principal stockholder. For this purpose, any

individual whose interest in the applicant exceeds ten percent shall be considered a principal owner or stockholder.

(4) A copy of the articles of incorporation that establish the legal entity of the applicant.

(5) A narrative description of the promotional plan for the sale of cemetery property and services.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1.

§ 403. Application fee; annual fee

The application shall be accompanied by an initial filing fee of two hundred fifty dollars for each cemetery sales organization and each cemetery management organization. An annual fee of a like amount shall be paid. If ninety percent or more of the applicant is owned by an existing cemetery authority operating under the provisions of this Title, the initial filing fee, as well as the annual fee, shall be one-half of the sums set out herein.

Acts 1974, No. 417, § 1. Amended by Acts 2015, No. 222, § 1.

§ 404. Investigation by board

Upon receipt of an application, together with the filing fee, the board shall cause an investigation to be made, prior to approval of an applicant, to determine the following:

(1) The legal entity that is to conduct the business of applicant and if said entity is a foreign corporation, whether or not it is qualified to do business in Louisiana; and

(2) The identity of the principal owners, principal stockholders, and of all directors and officers, and the ability, experience, financial

stability and integrity of each of said parties to conduct the business stated in the application.

Acts 1974, No. 417, § 1.

§ 405. Issuance of license; board's discretion

The board, after receipt and consideration of the application and investigation report, may issue or refuse to issue the authority to engage in the business requested.

Acts 1974, No. 417, § 1.

§ 406. Denial procedure

If the board intends to deny an application for authority, it shall give written notice thereof to the applicant. The notice shall state a time and a place for hearing before the board and a summary statement of the reasons for the proposed denial. The notice shall be mailed by certified mail to the applicant at the address stated in the application at least fifteen days prior to the scheduled hearing date. The board may require the applicant to pay the costs of such hearing if the proposed denial is sustained. An appeal from the board's decision may be had to the district court of the board's domicile.

Acts 1974, No. 417, § 1.

§ 407. Sale or transfer of cemetery sales or cemetery management organization; application for new license; compliance required

Within ten days after the sale or transfer of ownership or control of a cemetery sales or management organization, the transferor organization must return its license to the board. The transferee, within ten days, must apply for a new license and meet all the requirements of this Chapter. Upon the filing of a completed application, the transferee may operate the

business until its application is acted upon by the board.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1.

§ 408. Penalties

Any person, cemetery sales organization or cemetery management organization violating the provisions of this chapter shall be guilty of a misdemeanor punishable by a fine of not less than two hundred dollars nor more than one thousand dollars or by imprisonment of not less than thirty days nor more than one year, or both, and shall be subject to revocation of his or its license to operate.

Acts 1974, No. 417, § 1.

CHAPTER 6-A. ABANDONED CEMETERIES

§ 411. Definitions

As used in this Chapter, the following terms have the meanings hereinafter ascribed to them:

(1) "Abandoned cemetery" means any cemetery for which the board, in its discretion and after having been provided with the requisite title information establishing the title owner of the property, determines it is impossible or impractical to locate the current owner based upon its findings, including but not limited to a presentation of title history by the applicant for an abandoned cemetery sales and management license.

(2) "Abandoned cemetery sales and management license" means any license issued by the board pursuant to the provisions of this Chapter.

(3) "Board" means the Louisiana Cemetery Board.

(4) "Division" means the division of archaeology of the office of cultural development within the Department of Culture, Recreation and Tourism.

(5) "Licensee" means any person who has been issued an abandoned cemetery sales and management license by the board.

Acts 2016, No. 413, § 1.

§ 412. Application for license; qualifications; fees

A. The board may charge an application fee for an abandoned cemetery sales and management license in the amount of two

hundred fifty dollars and an annual license renewal fee in the amount of two hundred fifty dollars.

B. An abandoned cemetery sales and management license shall be issued only to a nonprofit juridical person, and the officers and directors of such entities shall serve voluntarily and without compensation for their services.

(1) Any excess funds realized by a licensee shall be deposited into a trust account, and the funds of the account may be used only for the maintenance and upkeep of the cemetery and the cemetery records.

(2) Nothing herein shall restrict a licensee from paying necessary expenses and maintenance costs to contractors.

C. Nonprofit juridical persons whose officers, directors, or members have ancestors within an abandoned cemetery and who meet the qualifications to obtain a cemetery management organization or cemetery sales organization license pursuant to R.S. 8:402 may apply to the board, pursuant to this Chapter, for an abandoned cemetery sales and management license.

D.(1) Prior to the issuance of any license issued pursuant to this Chapter, the board shall consult with the division regarding the reasonableness of the operation of any abandoned cemetery.

(2) The division may impose reasonable conditions and limitations on any license issued by the board relative to a particular abandoned cemetery.

(3) The division shall have a cause of action for specific performance against any licensee who violates the provisions of this Subsection.

§ 413. Licensee authority; restrictions

A. A licensee shall have exclusive authority to operate the cemetery, regardless of any other person who subsequently applies for licensure to operate the same cemetery, for as long as his abandoned cemetery sales and management license is valid.

B. A licensee may do any of the following relative to the cemetery subject to the license:

(1) Sell grave spaces, openings, and closings in the cemetery.

(2) Make and enforce written rules and regulations for the operation and maintenance of the cemetery.

C.(1) A licensee is expressly prohibited from selling merchandise in any manner that would either require monies to be deposited into a trust fund as required by the provisions of Chapter 8 of this Title or otherwise necessitate adherence to any provision of Chapter 8 of this Title.

(2) Any merchandise or service sold by a licensee shall be delivered or performed within one hundred twenty days of entering into the applicable contract with the consumer.

D.(1)The licensee is prohibited from destroying or removing any original grave markers from the premises of the cemetery without obtaining the permission required by R.S. 8:659.

(2) Nothing in this Subsection shall prohibit the licensee from removing trash or other common waste or debris from the cemetery premises.

§ 414. Additional powers of the board

The board may do the following:

(1) Refuse issuance of an abandoned cemetery sales and management license if the board finds that ownership of the abandoned cemetery is in dispute.

(2) Revoke or suspend an abandoned cemetery sales and management license if the board finds:

(a) The existence of credible evidence of an ownership dispute for the cemetery subject to the license.

(b) The violation by a licensee of any provision of this Title or any applicable rule or regulation promulgated by the board.

(3) Summarily suspend an abandoned cemetery sales and management license, pursuant to R.S. 8:49:961, when the board finds that public health, safety, or welfare imperatively requires emergency action.

(4) Impose upon a licensee certain retroactive recordkeeping or record creation requirements, including but not limited to the creation of known interment logs, plats, and maps, and any other documentation reasonably necessary for the cemetery subject to the license to be operated in compliance with the provisions of this Title.

§ 415. Labor by prisoners permitted

A. For the purpose of abating any public health or safety risks, the state or any local political subdivision may, after consultation with the division, use prison labor, subject to the provisions of R.S. 15:708, to clean and maintain

abandoned cemeteries.

B. (1) The state or any local political subdivision shall obtain the consent of a licensee prior to using prison labor to perform any work on a cemetery that is subject to an abandoned cemetery sales and management license.

(2) In the event that a licensee consents to the use of prison labor on the abandoned cemetery subject to his license, the licensee shall reimburse the appropriate prison any cost incurred by use of the prison labor.

C. The cost of any use of prison labor on an abandoned cemetery shall be reimbursed to the appropriate prison by the requesting governmental entity except as provided for in Paragraph (B)(2) of this Section.

Acts 2016, No. 413, § 1.

§ 416. Liability

A. A licensee shall adhere to all provisions of this Title that would otherwise be applicable to an actual owner of the cemetery.

B. (1) Any liability that results from the unlawful act or inadequate management of a prior owner or operator of a cemetery shall be strictly limited to the prior owner or operator.

(2) No cause or right of action shall be enforceable against a licensee for any unlawful action or inadequate management of a prior owner or operator of the cemetery.

C. Noting in this Section is intended to relieve a licensee from his own independent liability.

Acts 2016, No. 413, § 1.

§ 417. Inadvertent discovery

In the event of an inadvertent discovery of an unknown or unmarked grave by a licensee, the licensee shall document the existence of the grave and close the grave, but he shall neither disturb any human remains therein nor reuse the grave without the authority of those individuals identified in R.S. 8:659.

Acts 2016, No. 413, § 1.

§ 418. Scope

No provision within this Chapter shall supersede any other provisions of this Title to the contrary.

Acts 2016, No. 413, § 1.

CHAPTER 7. CEMETERY CARE FUND

§ 451. Corporate operation

It shall be unlawful to operate a perpetual or endowed care cemetery in this state except by means of a corporation organized under the laws of this state. This Section, however, shall not apply to any person, firm or corporation which, prior to August 1, 1962, owned and operated a cemetery in which said persons, firm or corporation had sold or contracted to sell interment spaces with a provision for perpetual or endowed care, if said person, firm or corporation has complied with the provisions of R.S. 8:457.

Acts 1974, No. 417, § 1. Amended by Acts 2001, No. 468, § 1.

§ 452. Certification of trust fund in articles of incorporation; amendments

No certificate of authority shall be issued to a corporation organized for the purpose of maintaining and operating a perpetual or endowed care cemetery unless its articles of incorporation provide for the establishment of a trust fund for such care in accordance with the provisions of this Chapter. Prior to commencing business, the corporation shall execute a written instrument establishing the trust fund and the trustee therein designated shall acknowledge in writing receipt of the minimum deposit required by this Chapter. The trust agreement shall be open for inspection and a copy of such agreement and any amendments thereto, as well as the receipt of the trustee, shall be filed with the board for approval within thirty days of execution.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1. Amended by Acts 1997, No. 921, § 1.

§ 453. Cemeteries in existence on August 1, 1962; acts prohibited

No owner of a cemetery in existence on August 1, 1962 who previously to such date has not sold or contracted to sell any interment space in said cemetery with a provision for perpetual or endowed care shall thereafter advertise or otherwise hold out to the public that said cemetery or any individual interment space therein is entitled to perpetual or endowed care unless the owner has established a trust fund for perpetual or endowed care as provided by this chapter.

Acts 1974, No. 417, § 1.

§ 454. Trust funds required

A. No corporation hereafter organized for the operation of a perpetual or endowed care cemetery and no cemetery authority not operating prior to August 1, 1962 as a perpetual or endowed care cemetery shall advertise or sell interment spaces in said cemetery under the representation that said cemetery or any individual interment space therein is entitled to perpetual or endowed care, until there has been established a trust fund to provide for such care in the sum of fifty thousand dollars in cash, or in lieu thereof securities listed upon a national exchange or obligations of the United States government, any state, parish, county or municipality, having a fair market value equal to said amount of cash on the date of deposit.

B. The trust fund so created shall be evidenced by an instrument in writing and shall be placed with a designated trustee which shall be a federally insured financial institution or trust company located in Louisiana and authorized to exercise trust or fiduciary powers under the laws of Louisiana or the United States.

Amended by Acts 2001, No. 468, § 1. Amended by Acts

§ 454.1 Administration of trust funds; maintenance; exemption from seizure

A. The principal of the trust fund shall remain permanently intact and only the income therefrom shall be expended. The income shall be used solely for the care of those portions of the cemetery in which interment spaces have been sold with a provision for perpetual or endowed care. It is the intent of this Section that the income of said fund shall be used solely for the care of interment spaces sold with a provision for perpetual or endowed care and for the care of other portions of the cemetery immediately surrounding said spaces as may be necessary to preserve the beauty and dignity of the spaces sold. The fund or its income shall never be used for the development, improvement or embellishment of unsold portions of the cemetery so as to relieve the cemetery authority of the ordinary cost incurred in preparing such property for sale.

B. The cemetery shall be maintained in a reasonable condition which shall include but not be limited to leveling of grounds where interments have been made, removal of all debris, mowing and edging, resulting in a well-kept appearance at all times.

C. After the establishment of the trust fund, a minimum of ten percent of the gross sales price received for any interment space sold or transferred under the representation that such interment space shall receive perpetual or endowed care shall be deposited in the trust fund; however, in computing the amount to be deposited therein for property sold after the creation of the fund, the cemetery authority shall be entitled to credit for the amount originally deposited upon creation of the trust fund. For each interment space provided without charge,

the deposit shall in no event be less than ten percent of the fair market value of said interment space.

D. Notwithstanding any provision of law to the contrary, the principal of the trust fund and all income therefrom shall be exempt from seizure, under any writ, mandate, or process whatsoever, by the creditors of the beneficiaries, the trustee, and the cemetery authority or any person owning, operating, managing, conducting or providing perpetual or endowed care to or for, the cemetery for which the trust fund was created.

Added by Acts 2001, No. 468, § 1.

§ 455. Annual report by cemeteries

All cemeteries subject to the provisions of this chapter shall file with the trustee, as defined herein, not later than ninety days after the close of the business year, a report setting forth the volume and the gross selling price of sales upon which a deposit with the trustee is required by this chapter.

Acts 1974, No. 417, § 1.

§456. Annual report by trustee; final accounting by trustee required

A.(1) Not later than sixty days after the receipt of the report required by R.S. 8:455, the trustee shall file with the board, with a copy to the clerk of the district court for the parish in which the cemetery is located, an annual report on a form prescribed by the board setting forth all of the following:

(a) All receipts and disbursements of cash, all receipts and deliveries of other trust property during the regular business year of the cemetery authority, and a detailed list of all items of trust property in the trust at the end of each year.

(b) A statement showing the total amount of the endowment and perpetual care trust funds invested in each of the investments authorized by law, and the amount of cash on hand not invested.

(2) The report shall be verified by the president or vice president and one other officer of the cemetery authority.

B. Within sixty days of the resignation of a trustee and transfer of the trust fund to the successor trustee, the resigning trustee shall file with the board, with a copy to the clerk of the district court for the parish in which the cemetery is located, a final accounting showing in detail all receipts and disbursements of cash and all receipts and deliveries of other trust property, and set forth a detailed list of all items of trust property in the trust from the last reporting period through the date of resignation and transfer of the trust fund to the successor trustee.

Acts 1974, No. 417, § 1. Amended by Acts 1997, No. 921, § 1. Amended by Acts 2014, No. 88, § 1. Amended by Acts 2015, No. 222, § 1.

§456.1. Resignation of trustee; orderly transfer of trust fund

Whenever a trustee resigns, the following documentation shall be filed with the board to insure an orderly transfer of the trust fund from the resigning trustee to the successor trustee:

(1) A written statement from the cemetery authority to the present trustee, requesting it resign as trustee of the trust fund, if the trust agreement permits, or a written statement from the cemetery authority accepting the resigning trustee's resignation.

(2) A written statement from the present trustee stating it will resign as trustee of the trust fund for the cemetery authority or a written

statement from the present trustee advising it wishes to resign as trustee of a trust fund, if the trust agreement permits.

(3) A written statement from the successor trustee, qualified under R.S. 8:454(B)(1), accepting the trust fund.

(4) A final accounting from the resigning trustee, and a copy of the transmittal letter forwarding the assets of the trust fund to the successor trustee.

(5) A written statement from the successor trustee acknowledging receipt of the assets of the trust fund. A list of the assets should be contained in the statement.

Added by Acts 1997, No. 921, § 1.

§ 457. Application of Chapter

A. Any cemetery in existence on August 1, 1962, which, prior to such date, sold or contracted to sell interment spaces with a provision for perpetual or endowed care, qualifies for the exceptions set forth in this Chapter if the owner of said cemetery filed in the office of the recorder of mortgages for the parish in which said cemetery is located, a sworn affidavit executed by said owner, or its principal officer, setting forth the following:

(1) That a care fund was in existence for said cemetery, the principal of which was equal to a minimum of ten percent of the gross sales of interment spaces made by said cemetery since its inception or since January 1, 1961, whichever date is later.

(2) The nature and character of the assets comprising such care fund.

(3) The name of the financial institution or

trustees or other entity which had custody and control of such fund.

B. A like affidavit shall be filed at the end of each fiscal year thereafter for the operation of such cemetery.

C. No cemetery in existence on August 1, 1962, which prior to such date had sold or contracted to sell lots in said cemetery with a provision for perpetual or endowed care shall thereafter continue to operate as a perpetual or endowed care cemetery without having filed and without hereafter filing the affidavits required by this section. However, an affidavit filed by a cemetery before July 31, 1974 and recorded in the mortgage records of the parish of its domicile, setting forth that the perpetual care or endowed care fund has been properly and continually maintained since January 1, 1961, shall be considered conclusive proof that the provisions of this section have been complied with and shall place said cemetery authority within the excepted cemeteries.

Acts 1974, No. 417, § 1. Amended by Acts 1983, No. 525, § 1. Amended by Acts 2001, No. 468, § 1.

§ 458. Prohibited acts; injunctions

No person or cemetery authority shall offer for sale or sell any interment space in any cemetery with a provision for perpetual or endowed care, or in any manner represent, advertise, or hold out to the public that said cemetery, or any portion thereof, is entitled to perpetual or endowed care unless and until such person or authority has complied with the provisions of this Chapter. The board may institute legal proceedings to enjoin any person or cemetery authority from violating the provisions of this Section.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1.

§ 459. Cemeteries exempt

The provisions of this chapter shall not apply to any family burial ground or religious, fraternal, municipal, state or federal cemetery.

Acts 1974, No. 417, § 1.

§ 459.1. Trust fund transfers

A. The provisions of R.S. 8:459 notwithstanding, whenever the ownership or management of a cemetery is transferred and by virtue of such transfer becomes a family burial ground or a religious, fraternal, municipal, state, or federal cemetery, the existing perpetual care trust fund of such transferred cemetery shall remain permanently intact and only the income therefrom shall be expended. The income shall be used solely for the upkeep and maintenance of said cemetery.

B. The trustee of any such perpetual care trust fund shall be a federally insured financial institution or trust company located in Louisiana and authorized to exercise trust or fiduciary powers under the laws of Louisiana or the United States.

C. No further contributions to such fund shall be required except for payments on those contracts in existence at the time of such transfer.

D. The provisions of this Chapter shall apply to the use and administration of such funds.

E. The provisions of this Section shall not apply to the transfer of ownership or management of a cemetery from one religious, fraternal, municipal, state, or federal cemetery authority to another religious, fraternal, municipal, state, or federal cemetery authority, where both transferor and transferee are exempt from the provisions of this Chapter as provided in

R.S. 8:459.

Added by Acts 1986, No. 113, § 1. Amended by Acts 2001, No. 468, § 1. Amended by Acts 2004, No. 67, § 1.

§ 460. Penalties

Whoever violates any of the provisions of this chapter, shall, upon conviction, be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

Acts 1974, No. 417, § 1.

§461. Examination of endowment funds; expenses

A. The board shall examine the endowment care funds of each cemetery authority governed by the provisions of this Title, including those organized before and after August 1, 1962, at the following time or times:

(1) Whenever it deems necessary but at least once every three years.

(2) Whenever the cemetery authority or trustee in charge of endowment or perpetual care funds fails to file the reports required by this Chapter.

(3) Whenever the board is requested by verified petition signed by twenty-five individual interment space owners, alleging that the endowment or perpetual care funds are not in compliance with this title, in which case the examination shall be at the expense of the petitioners.

B. The expense of the examination as provided herein shall not exceed two hundred fifty dollars per day for each examiner engaged in the examination, but when the examination requires more than two days, the cost shall be paid by the cemetery authority in an amount not

to exceed a total of five hundred dollars, unless irregularities are found, in which case the cemetery authority shall pay the full cost of the examination. The examination shall be privately conducted in the principal office of the cemetery authority or trustee.

Acts 1974, No. 417, § 1. Amended by Acts 2015, No. 222, § 1.

§ 462. Examination expense; effect of refusal to pay; disposition

If a cemetery authority refuses to pay examination expenses, the board may refuse it a certificate of authority and may revoke any existing certificate of authority.

Acts 1974, No. 417, § 1. Amended by Acts 2015, No. 222, § 1.

§ 463. Powers, duties, records, concerning examination of funds

In making such examination, the board shall:

(1) Have free access to the books and records relating to the endowment or perpetual care funds, their collection and investment, and the number of interment spaces under endowment or perpetual care. Such books and records shall be made available for examination in the principal office of the cemetery authority or trustee located within the state of Louisiana;

(2) Inspect and examine the endowment or perpetual care funds to determine their condition and the existence of the investments; and

(3) Ascertain if the cemetery authority has complied with all laws applicable to endowment or perpetual care funds.

Acts 1974, No. 417, § 1. Amended by Acts 1997, No. 921, § 1.

§ 464. Action required when authority fails to deposit minimum endowment or perpetual funds

A. If an examination made by the board, or any report filed with it, shows that there has not been collected and deposited in the endowment or perpetual care fund the minimum amounts required by this Title, the board shall require such cemetery authority to comply immediately with such requirement.

B. (1) Upon the failure of a cemetery authority to meet the requirements of this Chapter, the board shall have the authority to institute legal proceedings in district court in the parish where the cemetery is physically located for the purpose of recovering from the cemetery authority, and any other responsible party, the amounts necessary to satisfy the deficiencies in the endowment or perpetual care funds.

(2) The board may, in the same or other legal proceedings, recover from the cemetery authority and any other responsible party all reasonable costs, fees, and expenses incurred by the board, including but not limited to the costs of all examinations, audits, accountant and attorney's fees, cost of administrative proceedings and hearings, and any other cost incurred by the board in the enforcement of the provisions of this Title, any other provisions of law notwithstanding.

(3) Notwithstanding any other provisions of law, if the board fails to prove that the cemetery authority or other responsible party is not in compliance with the requirements of this Section, then the board shall not recover any costs, fees, or any expenses incurred by it and shall be responsible for paying all reasonable costs, fees, or expenses incurred by the cemetery authority or responsible party who was accused of not being in compliance.

Acts 1974, No. 417, § 1. Amended by Acts 1991, No. 430, § 1.

§465. Order requiring reinvestment in compliance with law; actions for preservation and protection

A. All funds held in trust for perpetual care purposes shall be administered by the trustee with such skill and care as a man of ordinary prudence, discretion, and intelligence would exercise in the management of his own affairs, not in regard to speculation but in regard to the permanent disposition of his funds, considering the probable income as well as the probable safety of his capital, subject to the following restrictions:

(1) No such funds shall hereafter, directly or indirectly, be loaned to or invested with any of the following:

(a) Any officer, director, or employee of the cemetery authority.

(b) Any trustee of said funds.

(c) Anyone related by blood, adoption, or marriage to any individuals included in (a) and (b) above.

(d) The cemetery authority itself.

(e) Any business entity of which a controlling interest is held, directly or indirectly, by any of the foregoing persons or legal entities.

(f) Any other cemetery authority, or mortuary or funeral establishment.

(2) An affidavit from the borrower that, to the best of said borrower's knowledge and belief, the subject loan is not in violation of these restrictions, shall suffice to establish for the trustee a conclusive presumption that such is the

case.

(3) It shall be prohibited for:

(a) An endowment or perpetual care trust to make one or more loans to any person or entity the cumulative value of which would constitute more than twenty-five percent of the total investment portfolio of the lending care fund, or to have more than two-thirds of the total assets of such funds invested in loans as described in Subparagraph (h) of Paragraph (4) of this Subsection.

(b) Any person or entity listed in Paragraph (A)(1) of this Section to pay or receive a commission, bonus, rebate, or other thing of value in connection with the loan or investment of such funds.

(4) Investment of such funds shall only be made in any of the following:

(a) Bonds, certificates, notes, or other evidences of indebtedness of the United States, or of the state of Louisiana.

(b) General obligations of any state or political subdivision of a state.

(c) Debentures issued by land banks and federal intermediate credit banks and debentures issued by banks for cooperatives.

(d) The bonds, certificates, notes, and other evidence of indebtedness of any municipality, parish, road, drainage, subdrainage, sewerage, gravity drainage, or school district, or of any authorized public board or commission of Louisiana.

(e) Paving certificates issued by any municipality in Louisiana.

(f) Any other form of security as permitted by R.S. 8:454.

(g) Repealed by Acts 2004, No. 68, § 1.

(h) Loans secured by a mortgage or mortgages on improved immovable property situated exclusively in the state of Louisiana for not more than an aggregate of seventy-five percent of the appraised value of the property and for a term amortized over a period not exceeding thirty years; and unless otherwise provided by regulation of the Louisiana Cemetery Board must bear interest at not less than the maximum rate permitted at the time of investment by the Federal Housing Administration for loans to be insured.

(5) Whenever any of the funds of an endowment or perpetual care trust are invested in or secured by a mortgage or whenever such a mortgage represents part of the assets of such a fund, the trustee shall retain in its own or constructive custody and furnish the cemetery authority with the following documents:

(a) The face and reverse side of the mortgage note or notes.

(b) A certified copy of the mortgage and of any corporate resolution or power of attorney authorizing its execution, and evidencing the recordation thereof.

(c) A copy of a survey of the property and its improvements.

(d) An original, or photo copy, of an appraisal current at the time of the mortgage, said appraisal to be made by an appraiser meeting the qualifications of the board, as provided by rule and regulation.

(e) A title opinion of a licensed Louisiana

attorney or mortgagee title insurance policy issued by an insurer authorized to do and doing business in Louisiana, on a standard form approved by either the Federal National Mortgage Association or by the American Land Title Association, in an amount not less than the original indebtedness, certifying or insuring the title to be good and merchantable and free of all prior liens and encumbrances.

(f) Policies or certificates of casualty and property insurance by an insurer admitted to and doing business in Louisiana, in such kinds and amounts as required by a financial institution trustee investing or loaning its own funds, covering the current year.

(g) Certificates from the tax collector showing payment of all ad valorem taxes and assessments against the property mortgaged, for the last year for which such taxes were payable and for at least two years prior thereto.

B. Whenever the board finds, after notice and hearing, that any endowment or perpetual care funds have been invested in violation of this title, it shall, by written order mailed to the trustee and to the cemetery authority, require the reinvestment of the funds in conformity with this title within the period specified by it, which shall not be more than six months. Such period may be extended by the board in its discretion.

C. The board may bring actions for the preservation and protection of endowment or perpetual care funds in the district court of the parish in which the cemetery is located, and the court may appoint a substitute trustee or trustees and make any other order necessary for the preservation, protection and recovery of endowment or perpetual care funds whenever a cemetery authority or the trustee of such funds has:

(1) Transferred or attempted to transfer any property to or make any loan from or investment with the endowment or perpetual care funds in violation of Subsection A of this Section.

(2) failed to reinvest endowment or perpetual care funds in accordance with a board order issued under authority of Subsection B of this Section; or,

(3) invested endowment or perpetual care funds in violation of this title; or,

(4) taken action or failed to take action to preserve and protect the endowment or perpetual care funds, evidencing a lack of concern therefor; or,

(5) become financially irresponsible or transferred control of the cemetery authority to any person who, or business entity which, is financially irresponsible; or,

(6) become in danger of insolvency or has gone into bankruptcy or receivership; or,

(7) taken any action in violation of this title or failed to take action required by this title or has failed to comply with lawful rules, regulations and orders of the board.

D. Whenever the board has reason to believe that endowment or perpetual care funds are in danger of being lost or dissipated during the time required for notice and hearing, it may immediately apply to the district court of the parish in which the cemetery is located for any order which appears necessary for the preservation and protection of endowment or perpetual care funds, including but not limited to immediate substitution of trustees.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1; Acts 1983, No. 525, § 1. Amended by Acts 2001, No. 468, § 1. Amended by Acts 2004, No. 68, § 1.

§ 466. Annual report of cemetery authority; contents; fees

A. Each cemetery authority that has sold interment space subject to endowment or perpetual care, including those cemetery authorities organized before and after August 1, 1962, shall file with the board annually, on or before the thirtieth day of June, a written report on a form prescribed by the board setting forth all of the following:

(1) The number of contracts written in the reporting period for the sale of interment spaces or interment rights.

(2) The amount of gross sales or receipts from contracts of sales of all interment spaces or interment rights and the amount of any discounts.

(3) The amount of gross sales or receipts from perpetual care contracts, if any, sold separately from interment spaces or interment rights.

(4) The fair market value of interment spaces or interment rights provided without charge.

(5) The amount of deposits due the endowment or perpetual care trust fund for the reporting period and the dates the funds were deposited with the trustee.

B. The report shall be verified by the president or vice president and one other officer of the cemetery authority and shall be certified by the accountant or auditor preparing the same.

C. The cemetery authority shall pay to the board a report filing fee of not more than five dollars for each contract subject to endowment or perpetual care entered into in the annual report

period, as specified in Subsection A of this Section. Report filing fees shall be due and payable at the time of filing the report and shall be used to cover the board's reasonable and ordinary expenses. Failure to pay report filing fees within six months after the close of the business year shall result in a late charge assessed by the board to the cemetery authority in the amount of one hundred dollars.

Acts 1974, No. 417, § 1. Amended by Acts 2015, No. 222, § 1.

§ 467. Examination of reports

The board shall examine the reports filed with it as to their compliance with the requirements of the law.

Acts 1974, No. 417, § 1.

CHAPTER 8. MERCHANDISE TRUST FUND

§ 501. Application

A. Except as hereinafter provided, no person or legal entity, including a cemetery authority, shall, directly or indirectly, enter into a contract for the sale of personal property or services which may be used in a cemetery in connection with the disposing or commemorating of the memory of a deceased human being, if delivery of such personal property or performance of such services is to be made more than one hundred twenty days after entering into such contract, except as provided in R.S. 8:502(A), 502.1 and 502.2.

B. The provisions of this Chapter shall apply to but not be limited to the sale of burial vaults, grave liners, urns, memorials, vases, foundations, memorial bases, and similar merchandise and related services commonly sold or used in cemeteries, including interment fees. However, the provisions of this Chapter shall not apply to cemetery spaces or the right of use or interment in any cemetery space.

Acts 1974, No. 417, § 1. Amended by Acts 1997, No. 921, § 1. Amended by Acts 2012, No. 98, § 1

§ 502. Payments to trust; amounts required

A.(1)(a) Any cemetery authority or other entity entering into a contract for the sale of such personal property as described in R.S. 8:501 of this Chapter, when the delivery of the personal property within the meaning of R.S. 8:502.1, is made more than one hundred twenty days after entering into such contract, shall deposit seventy percent of the price charged, less sales taxes, for each item of personal property contracted for, contracted for at a discount, or contracted for without charge into a trust fund established for

that purpose.

(b) The deposit shall in no event be less than seventy percent of the price charged for such item or one hundred twenty-five percent of the wholesale cost, whichever is greater.

(c) The board shall establish rules and regulations regarding the method of determining wholesale cost.

(2)(a) Any cemetery authority or other entity entering into a contract for the sale of such services as described in R.S. 8:501, when the delivery of the services is made more than one hundred twenty days after entering into such contract, shall deposit seventy percent of the price charged for each service into a trust fund established for that purpose.

(b) For each service contracted for at a discount or contracted for without charge, the deposit shall in no event be less than seventy percent of the highest price charged for such service during the preceding twelve months.

B. If the contract is financed with or sold to a financial institution or entity other than the seller, the contract shall be considered paid in full, both as to time and amount, and the trust requirements shall be satisfied within twenty days after the close of the month of receipt of funds by the cemetery authority or other entity, except as provided in R.S. 8:502.1 and 502.2.

C. The trust fund shall be administered by a trustee in accordance with a written trust instrument.

D. Each deposit herein required shall be paid into the trust fund so established within twenty days after the close of the month of receipt from the purchaser by the cemetery authority or other entity, except that the entire

amount required to be deposited based upon the sales price, less sales taxes, shall be so deposited in trust within seven years from the date of the original sale, regardless of whether or not all amounts due therefor shall have actually been paid.

E. Each deposit into any such trust fund shall be identified by the cemetery authority or other entity by furnishing the trustee with the name of the purchaser, the amount of the retail sales price, and the amount of money required to be deposited, together with a copy of the contract of sale. The cemetery authority or other entity shall allocate, not less than annually, to each separate account its share of the total income earned and reported by the trustee, based upon the proportion that the balance in each such account bears to the total balances in all such accounts. The trustee may commingle the deposits in such trust fund for purposes of the management thereof and the investment of funds therein. The cemetery authority or other entity shall keep detailed records of the amount of money deposited from time to time and the income allocated on each account.

F. The trust shall be operated in conformity with R.S. 8:454(B) and 465(A) with respect to the nature and character of the trust and duties of the trustee.

Acts 1974, No. 417, § 1. Amended by Acts 1983, No. 525, § 1. Amended by Acts 2003, No. 502, § 1, eff. Jan. 1, 2004. Amended by Acts 2004, No. 67, § 1. Amended by Acts 2012, No. 98, § 1

§502.1. Determination of personal property delivery

Personal property shall be delivered within the meaning of R.S. 8:501 when any of the following occur:

(1) Actual delivery of the personal property is made to the contract beneficiary.

(2) Delivery of the personal property is made to the cemetery authority or other entity for the contract beneficiary and the personal property is permanently affixed to real property or a mausoleum.

(3) Delivery of the personal property is made to the cemetery authority or other entity for the contract beneficiary with the storage provided by the cemetery authority or other entity, and the cemetery authority or other entity:

(a) Maintains and submits to the board, not less than annually, a merchandise inventory log of all personal property in storage at the date of such report, including a detailed description of all such personal property with the name of the contract beneficiary.

(b) Submits evidence that all stored personal property is insured against casualty, theft, and any loss normally assumed by a compensated depositary or bailee for hire.

(c) Permits the board or its designee, at any time, to examine all stored personal property and examine any documents pertaining thereto.

(4) The cemetery authority or other entity has paid its supplier for pre-need personal property, and the supplier has caused such personal property to be manufactured and stored and has caused title to such personal property to be transferred to the contract beneficiary, and has agreed to ship such personal property upon his request or the request of the cemetery authority or other entity.

Added by Acts 1997, No. 921, § 1. Amended by Acts 2012, No. 98, § 1

§ 502.2. Suppliers

No person, firm, or corporation shall be deemed a supplier for purposes of R.S. 8:502.1 unless it does all of the following:

(1) Permanently and unalterably identifies all such personal property with the name of the contract beneficiary.

(2) Submits to the board not less than annually a report of all personal property which has been purchased through a Louisiana cemetery authority or other entity and which at the date of such report was then in storage.

(3) Permits the board or its designee, at any time, to examine stored personal property which was purchased through a Louisiana cemetery authority or other entity and to examine any document pertaining thereto.

(4) Submits evidence of a bond insuring the existing and good title of any personal property due any contract beneficiary purchased through a Louisiana cemetery authority or other entity.

(5) Submits evidence insuring that all personal property purchased through a Louisiana cemetery authority or other entity and being stored by said supplier is insured for casualty, theft, or other loss normally assumed by a compensated depositary and/or bailee for hire.

Added by Acts 1997, No. 921, § 1.

§ 502.3. Trust fund exempt from seizure

Except as otherwise provided in this Chapter, the principal of the trust fund and all income therefrom shall be exempt from seizure, under any writ, mandate, or process whatsoever, by the creditors of the beneficiaries, the trustee, the cemetery authority, or any person or other

entity providing cemetery merchandise or services for which the trust fund was created.

Added by Acts 2010, No. 18, § 1.

§ 503. Withdrawals from trust

A. The funds shall be held in trust both as to principal and income earned thereon, and shall remain intact, except that the costs of operation of the trust may be deducted from the income earned thereon, until delivery of the personal property is made or the services are performed by the cemetery authority or other entity or until the death of the person for whose benefit the said contract was made. Upon delivery of the personal property or performance of the services, the cemetery authority or other entity shall certify such delivery or performance to the trustee and the amount of money plus income on deposit with trustee to the credit of that particular contract. Upon such certification, or in case of death prior to such certification, and upon submission of documentation as required by rules and regulations promulgated by the board, the amount of money on deposit to the credit of each particular contract, including principal and income earned thereon, shall be forthwith paid to the cemetery authority or other entity. The trustee may rely upon all such certifications herein required to be made and shall not be liable to anyone for such reliance.

B. If for any reason a cemetery authority or other entity that has entered into a contract for the sale of personal property or services and has made the deposit into the trust fund as herein required to be made cannot or does not provide the personal property or perform the services called for by the contract within a reasonable time after request in writing to do so, the purchaser or his heirs or assigns or duly authorized representative shall have the right to provide such personal property or services, and, having done so, shall be entitled to receive the

deposit to the credit of that particular contract. Written instructions to the trustee by the cemetery authority or other entity directing the trustee to refund the amount of money on deposit, or an affidavit by either the purchaser or one of his heirs or assigns or duly authorized representative, stating that the personal property or services were not provided, shall be sufficient authority for the trustee to make refund of the funds on deposit to the person submitting the affidavit. The trustee shall not be held responsible for any such refunds made on account of the cemetery authority's or other entity's written direction or an affidavit submitted in accord with this section. However, nothing herein contained shall relieve the cemetery authority or other entity from any liability for nonperformance of the contract terms.

C. If the cemetery authority or other entity cannot deliver the personal property sold because of a national emergency, the provisions of Subsection B shall be suspended for the duration of said emergency and for fifteen days following the termination thereof.

D. If the purchaser defaults in making payments, the cemetery authority or other entity shall have the right to cancel the contract and to withdraw from the trust fund the entire balance to the credit of the defaulting purchaser's account as liquidating damages. In such event, the trustee shall deliver said balance to the cemetery authority or other entity upon its certification, and upon receiving said certification the trustee may rely thereon and shall not be liable to anyone for such reliance.

Acts 1974, No. 417, § 1. Amended by Acts 2013, No 77, § 1.

§ 504. Payments to purchaser; change of domicile

If after final payment a purchaser moves his

domicile to a point that makes delivery of the personal property or services impossible or impractical, the trustee shall refund to the purchaser the principal amount of money on deposit to the credit of that particular contract, less the income earned thereon, which shall be paid to the seller.

Acts 1974, No. 417, § 1.

§505. Annual reports by trustee, final accounting by trustee required

A. Every year after August 15, 1997, the trustee, within ninety days after the close of the cemetery authority's business year, shall file with the board a financial report of the merchandise trust fund, setting forth the principal thereof, the investments and payments made therefrom, and the income earned and disbursed. The board may require the trustee to make such additional financial reports as it deems reasonably advisable.

B. Within sixty days of the resignation of a trustee and transfer of the trust fund to the successor trustee, the resigning trustee shall file with the board a financial report of the merchandise trust fund, setting forth the principal thereof, the investments and payments made therefrom, and the income earned and disbursed from the last reporting period through the date of resignation and transfer of the trust fund to the successor trustee.

Acts 1974, No. 417, § 1. Amended by Acts 1997, No. 921, § 1. Amended by Acts 2014, No. 88, § 1.

§505.1. Annual report by cemeteries or other entities; report filing fee

A. Each cemetery authority or other entity subject to the provisions of this Chapter shall file with the board, no later than six months after the close of the business year, a report setting forth

the number of contracts written in the reporting period for the sale of personal property or services for future delivery subject to the provisions of R.S. 8:502 and 502.1(3) and (4), the gross sales, and gross receipts from sales of personal property or services for future delivery upon which deposits were made with the trustee pursuant to R.S. 8:502, and a merchandise inventory log detailing all personal property stored pursuant to R.S. 8:502.1(3), along with evidence that all stored personal property is insured against casualty, theft, and any loss normally assumed by a compensated depository or bailee for hire.

B. For each contract entered into in the reporting period and subject to the provisions of R.S. 8:502, and 502.1(3) and (4), the cemetery authority or other entity shall pay a report filing fee of not more than ten dollars per contract to cover the cost of the board's reasonable and ordinary expenses. Report filing fees shall be due and payable at the time of the filing of the report. Failure to pay the report filing fees within six months after the close of the business year will result in a late fee of one hundred dollars.

Added by Acts 1997, No. 921, § 1. Amended by Acts 2012, No. 98, § 1

§505.2. Resignation of trustee; orderly transfer of trust fund

Whenever a trustee resigns, the following documentation must be filed with the board to insure an orderly transfer of the trust fund from the resigning trustee to the successor trustee:

(1) A written statement from the cemetery authority or other entity to the present trustee, requesting it resign as trustee of the trust fund, if the trust agreement permits or a written statement from the cemetery authority or other entity accepting the resigning trustee's resignation.

(2) A written statement from the present trustee stating it will resign as trustee of the trust fund; or a written statement from the present trustee advising it wishes to resign as trustee of the trust fund, if the trust agreement permits.

(3) A written statement from the successor trustee, qualified under R.S. 8:454(B)(1), accepting the trust fund.

(4) A final accounting from the resigning trustee and a copy of the transmittal letter forwarding the assets of the trust fund to the successor trustee.

(5) A written statement from the successor trustee acknowledging receipt of the assets of the trust fund. A list of the assets should be contained in the statement.

Added by Acts 1997, No. 921, § 1.

§ 506. Examination by board; expenses

A. The board may examine the business of any cemetery authority or other entity that is engaged in making contracts for the sale of personal property or services as contemplated in this Chapter at the following time or times:

(1) Whenever it deems necessary but at least once every three years.

(2) Whenever the cemetery authority, other entity, or trustee in charge of merchandise trust funds fails to file the reports required by this Chapter.

(3) Whenever the board is requested by verified petition signed by twenty-five individuals purchasing personal property or services alleging that the cemetery authority or other entity is not in compliance with this Chapter, in which case the examination shall be at the expense of the petitioners.

B. The expense of the examination as provided herein shall not exceed two hundred fifty dollars per day for each examiner engaged in the examination, but when the examination requires more than two days, the cost shall be paid by the cemetery authority or other entity in an amount not to exceed a total of five hundred dollars, unless irregularities are found, in which case the cemetery authority or other entity shall pay the full cost of the examination.

C. In making such examination, the board shall:

(1) Have free access to the books and records relating to the merchandise trust funds; their collection and investment, and individual contracts for the sale of personal property or services as described in this Chapter; said books and records shall be made available for examination in the principal office of the cemetery authority, other entity or trustee located within the state of Louisiana.

(2) Inspect and examine the merchandise trust funds to determine their condition and the existence of the investments.

(3) Ascertain if the cemetery authority or other entity has complied with all laws applicable to merchandise trust funds.

Acts 1974, No. 417, § 1. Amended by Acts 1997, No. 921, § 1. Amended by Acts 2012, No. 98, § 1 Amended by Acts 2015, No. 222, § 1.

§506.1. Failure to make required deposits; action

A. If any report filed with, or any examination made by, the board show that the minimum amounts required have not been collected and deposited in the merchandise trust fund, the board shall require the cemetery authority, or other legal entity required to

establish a merchandise trust fund, to immediately comply with the requirements of this Title.

B. (1) Upon failure of the cemetery authority, or other legal entity, to comply, the board shall have the authority to institute legal proceedings in the district court, in the parish in which the cemetery is physically located for the purpose of recovering the amounts necessary to satisfy the deficiencies in the merchandise trust fund.

(2) The board may, in addition to the recovery mentioned in Paragraph (1) of this Subsection, recover any and all reasonable costs, fees, and expenses, including but not limited to all examinations, audits, accountant and attorney's fees, administrative proceedings and hearings, and any other costs incurred in the enforcement of the provisions of this Title, and any other provisions of law notwithstanding.

(3) Notwithstanding any other provisions of law, if the board fails to prove that the cemetery authority or other responsible party is not in compliance with the requirements of this Section, then the board shall not recover any costs, fees, or any expenses incurred by it and shall be responsible for paying all reasonable costs, fees, or expenses incurred by the cemetery authority or responsible party who was accused of not being in compliance.

Added by Acts 1991, No. 430, § 2.

§ 507. Nonwaiver of provisions of chapter

Any provision of any contract for the sale of personal property or the performance of services herein contemplated which waives any of the provisions of this Chapter 8 shall be void.

Acts 1974, No. 417, § 1.

§ 508. Penalties

Any cemetery authority or other entity, as defined in this Chapter 8, failing to make the required deposits to the trust fund or otherwise violating the provisions of this Chapter 8 shall be guilty of a misdemeanor, punishable by fine of not less than two hundred dollars or more than one thousand dollars, or by imprisonment of not less than thirty days nor more than one year, or both, and each violation of this Chapter 8 shall constitute a separate offense.

Acts 1974, No. 417, § 1.

§ 509. Trustee's duty of care

The trust shall be administered in conformity with R.S. 8:465 with respect to the nature and character of the trust investments and the duties of the trustee.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1. Amended by Acts 2004, No. 67, § 1.

§ 510. Exceptions; trust fund transfers

A. The provisions of this Chapter shall not apply to any family burial ground or a religious, fraternal, municipal, state, or federal cemetery, except as otherwise provided in R.S. 8:510(B).

B. (1) Whenever the ownership or management of a cemetery authority or other entity which has created a merchandise trust fund pursuant to the provisions of this Chapter is transferred and by virtue of such transfer becomes a family burial ground or a religious, fraternal, municipal, state, or federal cemetery, the existing merchandise trust fund shall be used only for those purposes set forth in the merchandise trust agreement, or as otherwise permitted by law.

(2) The trustee of any such fund shall be a federally insured financial institution or trust company located in Louisiana and authorized to exercise trust or fiduciary powers under the laws of Louisiana or the United States.

(3) The trust shall be administered in conformity with R.S. 8:465 with respect to the nature and character of the trust investments and the duties of the trustee.

(4) No further contributions shall be required except for payments on those contracts in existence at the time of such transfer.

(5) The provisions of R.S. 8:503, 504, 505, and 509 shall apply to the use and administration of such funds.

Acts 1974, No. 417, § 1. Amended by Acts 1986, No. 113, § 1. Amended by Acts 2004, No. 67, § 1.

§ 511. Nonretroactive effect

Notwithstanding any other provision of the law to the contrary, the provisions of this Chapter shall apply only to contracts that are entered into subsequent to July 31, 1974.

Added by Acts 1986, No. 113, § 1.

CHAPTER 9. MAUSOLEUMS OR SIMILAR STRUCTURES

§ 601. Application of chapter

This chapter applies to all structures, including but not limited to mausoleums, tombs, columbariums, niches, lawn crypts and underground crypts used, intended to be used or converted or altered for use for the interment of the remains of two or more persons, whether erected under, above or partially below the surface of the earth.

Acts 1974, No. 417, § 1.

§ 602. Standards of construction

No structure shall be built or altered for use or to be used for interment purposes unless constructed of such material and workmanship as will insure its durability and permanence. The cemetery authority shall have the right to establish and enforce standards of construction for all work done in the cemetery.

Acts 1974, No. 417, § 1.

§603. Ordinances and specifications to be complied with

Each structure shall comply with the ordinances, specifications, and building codes relating to mausoleums and related structures of the state and of the parish and municipality in which the structure is located.

Acts 1974, No. 417, § 1.

§604. Improper construction a nuisance; penalty

Every owner or builder of a structure erected or converted in violation of this title shall

be guilty of maintaining a public nuisance and, upon conviction, shall be punishable by a fine of not less than five hundred dollars nor more than five thousand dollars or by imprisonment for not less than one month nor more than six months, or both.

Acts 1974, No. 417, § 1.

§ 605. Construction in compliance with existing laws

The penalties of this chapter shall not apply as to any structure that is in existence on July 31, 1974, which at the time of construction was constructed in compliance with the laws then existing, provided its continued use is not in violation of the laws for the protection of the public health.

Acts 1974, No. 417, § 1.

§606. Commencement and completion requirements; application form; application fee

A.(1) Prior to the first sale of a cemetery space or the right of use or interment in any cemetery space in a structure which has not yet been constructed, the cemetery authority shall submit to the board all of the following:

(a) A copy of the preliminary plans.

(b) A map or plat delineating the sections, blocks, plots, avenues, walks, halls, rooms, corridors, elevations, or other subdivisions, with descriptive name or numbers.

(c) A copy of all sales promotion material.

(d) A copy of the pre-construction sales contract.

(2) The cemetery authority shall submit the information required in this Subsection on an application form prescribed by the board, accompanied by an application fee of two hundred fifty dollars to cover the board's reasonable and ordinary expenses associated with determining compliance with applicable provisions of this Title.

Acts 1974, No. 417, § 1. Amended by Acts 1999, No. 1199, § 1. Amended by Acts 2004, No. 66, § 1. Amended by Acts 2010, No. 63, § 1. Amended by Acts 2015, No. 222, § 1.

B. A cemetery authority shall be required to commence construction pursuant to the plans filed with the board within forty-eight months after the date of the first sale of each section of the structure in which sales, contracts for sales, or reservations for sales are being made, and the construction of each such section shall be completed within five years after the date of the said first sale. However, extensions not to exceed one year, may be granted by the board for reasonable cause. Further extensions may be granted pursuant to Subsection C of this Section. If the structure is not completed within the time specified herein, all monies paid plus any monetary penalties assessed by the board shall be paid to the purchasers, unless the cemetery authority delivers a completed interment space acceptable to the purchaser in lieu of the interment space purchased.

C. The board, at its discretion, may grant an extension to the time period set forth in Subsection B of this Section based upon the occurrence of a force majeure event. Such an extension shall be granted only for reasonable cause. Each force majeure event shall be treated as a separate incident.

D. Failure to commence or complete a section within the time herein required shall be a misdemeanor punishable by fine of not less than two hundred dollars nor more than one thousand dollars or by imprisonment of not less than thirty days nor more than one year, or both.

CHAPTER 10. HUMAN REMAINS

§ 651. Interring or cremating

Except in cases of lawful dissection or where a dead body shall rightfully be carried through or removed from the state for the purposes of interment or cremation elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body, after dissection, shall be decently interred or cremated within a reasonable time after death.

Acts 1974, No. 417, § 1.

§ 652. Unlawful disposal of remains

A. Except in the case of cremated remains or as otherwise provided by law, it shall be unlawful for any person to dispose of any human remains, except fetal remains, without first obtaining certification of the cause of death by the treating physician, parish coroner, or the authorized representative of the parish coroner. Disposal of such remains shall not be in any place other than a cemetery or a building dedicated exclusively for such purposes, and the remains shall be decently interred within a reasonable time after death.

B. Whoever violates this Section shall be punished by imprisonment for not more than three years, with or without hard labor, or by a fine of not more than one thousand dollars, or both.

Acts 1974, No. 417, § 1. Amended by Acts 1991, No. 195, § 1.

§ 653. Opening graves; stealing body; receiving same

A. Every person who removes the dead body of a human being or any part thereof from a cemetery space where the same has been

interred or is awaiting interment or cremation, without authority of law, with intent to sell the same, or for the purposes of securing a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment for not more than five years, or by a fine of not more than one thousand dollars, or by both.

B. Whoever purchases or receives, except for interment or cremation, any such dead body or any part thereof, knowing that the same has been removed in violation of this section, shall be punished by imprisonment for not more than three years or by a fine of not more than one thousand dollars, or both.

C. Whoever opens a cemetery space, temporary or otherwise, or a building where a dead body is deposited while awaiting interment or cremation, with intent to remove said body or any part thereof, for the purpose of selling or demanding money or any other thing of value for the same, for dissection, from malice or wantonness, or with intent to sell or remove the coffin or of any part thereof, or anything attached thereto, or any vestment or other article interred or intended to be interred with the body, shall be punishable by imprisonment for not more than three years or by a fine of not more than one thousand dollars, or both.

Acts 1974, No. 417, § 1.

§ 654. Mutilating, disinterring human remains; penalty

Whoever mutilates any human remains without authority of law shall be punished by imprisonment for not more than three years or by a fine of not more than one thousand dollars, or both.

Acts 1974, No. 417, § 1.

§ 655. Right of disposing of remains; military personnel; limitation of liability

A. Unless other specific directions have been given or the designation of a specific person to control disposition has been made by the decedent in the form of a notarial testament or a written and notarized declaration, the following persons, in the priority listed, have the right to control and authorize the interment of a deceased person, as defined in R.S. 8:1(26):

(1) The person designated to control disposition by the decedent in the form of a notarial testament or a written and notarized declaration.

(2) The surviving spouse, if there is no pending petition for divorce filed by either spouse prior to the death of the decedent spouse.

(3) A majority of the surviving adult children of the decedent.

(4) A majority of the surviving adult grandchildren of the decedent.

(5) The surviving parents of the decedent.

(6) A majority of the surviving adult siblings of the decedent.

(7) A majority of the surviving adult persons respectively in the next degrees of kindred as established in Civil Code Article 880 et seq.

B. (1) Notwithstanding the provisions of Subsection A of this Section, if the decedent died in a manner described by 10 U.S.C. §1481 (a)(1) through (8) while serving in any branch of the United States Armed Forces, the United States Reserve Forces, or National Guard, and the decedent executed a United States Department of Defense Record of Emergency Data, known

as DD Form 93, or its successor form, the right to control interment for the decedent shall devolve upon the Person Authorized to Direct Disposition, also referred to as the PADD, as indicated on the DD Form 93 or its successor form.

(2) There shall be no liability for a cemetery authority, funeral establishment, funeral director, crematory authority, or the employees or agents of any of them to whom a copy of a DD Form 93 is presented, purportedly executed by the decedent for conduction of the interment or other disposition of the decedent's remains, pursuant to the instructions of the PADD as indicated on the DD Form 93, or for relying on the representation of the PADD that the decedent died in a manner described in Paragraph (1) of this Subsection.

C. (1) In the event that the decedent has made multiple notarial testaments or notarized declarations pursuant to Subsection A of this Section, the testament or declaration, whichever is dated last, shall control.

(2) In the event that the decedent has made one or more notarial testaments or notarized declarations pursuant to Subsection A of this Section, and the decedent executed a DD Form 93 and died in a manner described in Subsection B of this Section, the testament, declaration, or the DD Form 93, whichever is dated last, shall control interment of the decedent's remains.

D. Notwithstanding the provisions of Subsection A of this Section, in the event that the coroner releases the remains of the decedent to an interested person pursuant to R.S. 9:1551(A)(1), such person has the right to control the disposition of the remains of the decedent.

E. In the absence of specific directions given by the decedent, if the authorization of the

person or persons with the right to control disposition cannot be obtained, a final judgment of a district court shall be required.

Acts 1974, No. 417, § 1. Amended by Acts 1990, No. 939, § 1; Acts 1991, No. 912, § 1. Amended by Acts 2001, No. 557, § 1. Amended by Acts 2014, No. 819, § 1. Amended by Acts 2015, No. 270, § 1. Amended by Acts 2016, No. 143, § 1.

§ 656. Effect of authorization

Any person signing any authorization for the interment of any remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose remains are sought to be interred, and his authority to order the interment; and such person shall be personally liable for all damage occasioned by or resulting from breach of such warranty.

Acts 1974, No. 417, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 657. Right to rely on such authorization

The cemetery authority may inter any remains upon the receipt of a written authorization of a person representing himself to be the person who has the prior right to control the disposition of the remains in accordance with R.S. 8:655. A cemetery authority shall not be liable for interring pursuant to such authorization, unless it has actual notice that such representation is untrue.

Acts 1974, No. 417, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 658. Liability for damages; limitation

No action shall lie against any cemetery authority relating to the remains of any person which have been left in its possession for a period of sixty days, unless a written contract has

been entered into with the cemetery authority for the care of such remains.

Acts 1974, No. 417, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 659. Permission to move remains

A. The remains of a deceased person may be moved from a cemetery space to another cemetery space in the same cemetery or to another cemetery with the consent of the cemetery authority and the written consent of one of the following, in the order named, unless other directions in writing have been given by the decedent:

(1) The surviving spouse, if no petition for divorce has been filed by either spouse prior to the death of the decedent spouse.

(2) The surviving adult children of the decedent, not including grandchildren or other more remote descendants.

(3) The surviving parents of the decedent.

(4) The surviving adult brothers and sisters of the decedent.

B. If the required consent cannot be obtained, a final judgment of the district court of the parish where the cemetery is situated shall be required.

Acts 1974, No. 417, § 1. Amended by Acts 1990, No. 939, § 1. Amended by Acts 1999, No. 1199, § 1. Amended by Acts 2006, No. 609, § 1.

§ 660. Exceptions

The foregoing Sections shall not apply to or prohibit the following:

(1) The rearrangement of remains within the

same cemetery space by or with the consent of the cemetery authority for the purpose of rearrangement or reuse in cemeteries which allow for rearrangement or reuse as defined in R.S. 8:1(36.1).

(2) The removal of remains by a cemetery authority from a cemetery space for which the purchase price or any other legitimate indebtedness to the cemetery authority is past due and unpaid, to some other suitable place.

(3) The disinterment of remains pursuant to an order of a court of competent jurisdiction or of a coroner of the parish in which the cemetery is located.

(4) The removal and transfer of remains to correct an error as provided in R.S. 8:813 provided that written notice shall be sent to the immediate family prior to the removal and transfer.

Acts 1974, No. 417, § 1. Amended by Acts 1990, No. 939, § 1. Amended by Acts 1999, No. 1199, § 1. Pursuant to the statutory revision authority of the Louisiana State Law Institute, in this section as amended in 1999, "R.S. 8:1(36.1)" was substituted for "R.S. 8:1(42)" in par. (1).

§661. Undisposed remains; rules and regulations

Whenever any human remains have been in the lawful possession of any cemetery authority for a period of sixty days or more, and the relatives of or persons interested in the deceased person fail, neglect, or refuse for such periods of time, respectively, to direct the disposition to be made of the body, the body may be disposed of by the cemetery authority having lawful possession thereof, under and in accordance with such rules and regulations, if any, as may be made and promulgated by the governmental authority or authorities having jurisdiction over the matter.

Acts 1974, No. 417, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 662. Record of remains to be kept

The cemetery authority in charge of any premises on which interments are made shall keep a record of all remains interred on the premises under its charge, in each case stating the name of each deceased person, date of interment, location of interment, and name of the funeral director or funeral home.

Acts 1974, No. 417, § 1. Amended by Acts 2001, No. 468, § 1. Amended by Acts 2003, No. 1243, § 1.

§ 663. Collection, analysis, and reburial of exposed human skeletal remain

A. The legislature hereby finds that exposed human skeletal remains in cemeteries, while harmless from a public health perspective, are nonetheless disrespectful to those interred in the cemetery and are susceptible to being looted. Accordingly, the legislature finds that the collection and reburial of these remains, in a controlled, scientific, and respectful manner, is in the best interest of the public.

B. This Section shall apply only to municipal cemeteries as defined in R.S. 8:1, and to cemeteries that do not currently hold a certificate of authority under this Title.

C. The words and phrases in this Section shall have the meanings given to them in Chapter 10-A of this Title unless the context clearly indicates otherwise.

D. (1) Upon the identification of human skeletal remains and burial items exposed to the surface in a cemetery subject to this Section, the Louisiana Cemetery Board or the attorney general shall make a reasonable attempt to contact the cemetery and demand that such

human skeletal remains and burial items be secured and re-interred.

(2) Upon a failure or refusal of the cemetery authority to comply with a demand made under Paragraph (1) of this Subsection and with the express written permission of the cemetery authority, the attorney general or students and instructors of institutions of higher education from the disciplines of anthropology, archaeology, biology, and mortuary science may undertake the systematic collection of human skeletal remains and burial items that are exposed to the surface and are at risk of being looted from cemeteries within the state.

(3) If written permission of the relevant cemetery authority cannot be reasonably obtained and the exposed human skeletal remains are at risk of being looted, the attorney general may apply to the district court in which the cemetery is located for an order to safeguard the human skeletal remains. Upon the filing of such a petition, the district court shall set the matter for hearing in the manner provided in C.C.P. Art. 3601, et. seq.

(4) The attorney general may collect the exposed human skeletal remains or may delegate that authority to a qualified part under this Subsection.

E. The following procedures and protocols shall be followed in undertaking any collection program under this section:

(1) Prior to any collection activity notification, proof of compliance with this Section shall be provided to the Louisiana Cemetery Board, the Louisiana Division of Archaeology, and the attorney general, in writing.

(2) Any collection activities shall be conducted under the direction of the attorney

general or a full-time faculty member from an accredited college or university in the state of Louisiana.

(3) Any collection activities undertaken pursuant to this Section shall be supervised by a person with a minimum education level of a master's degree in one of the enumerated fields of study in Paragraph (D)(2) of this Section.

(4) All human skeletal remains and burial items collected from the surface of a cemetery pursuant to this Section shall be collected in the following manner:

(a) A minimum of two digital photographs of the collected items shall be taken prior to its collection that will allow for visual demonstration of its original location.

(b) A handheld global positioning system (GPS) device shall be used to document, with as much specificity as the technology permits, the geographic location of the item prior to its collection.

(c) Each item collected shall be separately bagged.

(d) Each collection bag shall be labeled and shall contain a label noting at a minimum, the date of collection, the name of the cemetery, the GPS coordinates of the item, and the name of the collector.

(5) The following identification procedures shall be undertaken following collection of any human skeletal remains or burial items pursuant to this Section:

(a) There shall be affixed to the item a label sufficient to correlate the item to the documentation collected pursuant to Paragraph (4) of this Subsection.

(b) To the extent possible, all standard metric and non-metric measurements and observation of the human skeletal remains shall be documented pursuant to the Standards for Data Collection from Human Skeletal Remains or other comparable subsequent set of data collection standards.

(c) All human skeletal remains collected pursuant to this Section shall be stored in a secure location at the collecting institution until such time as the cemetery authority undertakes reburials pursuant to this Section.

(d) Copies of any and all documents and photographs generated from the collection activities permitted by this Section shall be lodged with the cemetery authority and the office of the attorney general at the time of re-interment of the human skeletal remains and burial item. These documents and photographs shall constitute public records, subject to the limitations set forth in R.S. 41:1609 and R.S. 44:4(44).

F. The following protocols shall be the responsibility of the cemetery authority:

(1) The cemetery authority shall re-inter, at its own cost, the human skeletal remains and burial items collected pursuant to this Section.

(2) If analysis leads to the positive identification of any human skeletal remains, such remains shall be re-interred by the cemetery authority, at its own cost, in the grave space associated with the identified individual.

(3) In the event that no cemetery authority is identifiable, such human skeletal remains shall be curated by the collecting entity in a manner that conforms to the Louisiana Division of Archaeology curation guidelines. Such human skeletal remains may be re-interred in an unused

portion of the subject cemetery pursuant to an order of a court of competent jurisdiction.

G. There shall be no liability on the part of, and no action for damages against, any of the following:

(1) Any institution, or its agents, employees, or students, for any action undertaken or performed by such person pursuant to this Section when such person is acting without malice and in the reasonable belief that the action taken by him is warranted.

(2) Any cemetery owner, cemetery authority, or its agents or employees, for any action undertaken or performed by such person pursuant to this Section when such person is acting without malice and in the reasonable belief that the action taken by him is warranted.

(3) Any person, committee, association, organization, firm or corporation providing information to an institution, cemetery owner, or cemetery authority conducting or permitting collection activities pursuant to this Section, its agents, employees, or students when such a person, committee, association, organization, firm, or corporation providing such information without malice and in the reasonable belief that such information is accurate shall not be held, by reason of having provided such information, to be liable in damages under any law of the state or any political subdivision thereof.

(4) The Louisiana Cemetery Board, the Louisiana Division of Archaeology, and the attorney general, and their agents or employees, shall not be liable in damages under any law of the state or any political subdivision for their role in administering portions of this Section.

Amended by Acts 2012, No. 631, § 1.

CHAPTER 11. UNDEVELOPED LAND

§ 701. Application

This chapter applies to all undeveloped land of a cemetery authority that is used, intended to be used or converted into use for the interment of human remains.

Acts 1974, No. 417, § 1.

§ 702. Standards of construction

No undeveloped land shall be sold or otherwise disposed of for use for the interment of human remains unless the person, cemetery authority or other entity that intends to sell or otherwise dispose of such land for such use has made reasonable and adequate provisions for the installation of the necessary roadways, walkways, drainage, embellishments, features, landscaping and other facilities that will insure the completion of said undeveloped land into the kind of cemetery that is being or will be represented for sale to the buying public.

Acts 1974, No. 417, § 1.

§703. Compliance with ordinances and specifications

The development of said undeveloped land shall comply with the laws, ordinances, building codes and any and all other lawful requirements of the state, parish and municipality in which the said land is located.

Acts 1974, No. 417, § 1.

§ 704. Improper use a nuisance; penalty

Every landowner who sells or otherwise disposes of or causes or permits the sale or

other disposition of undeveloped land for use for the interment of human remains in violation of this section shall be guilty of maintaining a public nuisance and, upon conviction, shall be punishable by fine of not less than five hundred dollars nor more than five thousand dollars or by imprisonment for not less than one month nor more than six months, or both.

Acts 1974, No. 417, § 1.

§ 705. Construction in compliance with existing laws

The penalties of this title shall not apply as to any land that is being used for the interment of human remains if the continued use of such land is not in violation of the laws for the protection of public health.

Acts 1974, No. 417, § 1.

§705.1. Commencement requirements; application form; application fee

A. Prior to the first sale of a cemetery space or the right of use or interment in any cemetery space in a garden which has not yet been developed, the cemetery authority shall submit to the board all of the following:

(1) A copy of the preliminary plans.

(2) A map or plat delineating the sections, blocks, plots, or other subdivisions, with descriptive names or numbers.

(3) A copy of all sales promotion material.

(4) A copy of the pre-construction sales contract.

(B) The cemetery authority shall submit the information required in this Subsection on an application form prescribed by the board,

accompanied by an application fee of two hundred fifty dollars to cover the board's reasonable and ordinary expenses associated with determining compliance with applicable provisions of this Title.

Acts 2015, No. 222, § 1.

§706. Commencement and completion requirements

A. A cemetery authority shall commence the installation of the necessary improvements to the undeveloped land in which sales, contracts for sales, or reservations for sales are being made, within twenty-four months after the date of the first such sale. The completion of all such necessary improvements shall be no later than forty-eight months after the date of the first sale. However, extensions for completion, not to exceed six months, may be granted by the board for reasonable cause, but in no event shall any such extension exceed one year, with the exception of extensions provided pursuant to Subsection B of this Section.

B. The board, at its discretion, may grant an extension to the time period set forth in Subsection A of this Section based upon the occurrence of a force majeure event. Such an extension shall be granted only for reasonable cause. Each force majeure event shall be treated as a separate incident.

C. Failure to commence and/or complete development within the time herein required shall be a misdemeanor punishable by fine of not less than two hundred dollars nor more than one thousand dollars or by imprisonment of not less than thirty days nor more than one year, or both.

Acts 1974, No. 417, § 1. Amended by Acts 2010, No. 63, § 1.

CHAPTER 12. TITLE TO AND RIGHTS IN CEMETERY SPACES

§ 801. Recognized owner of title

The person or persons or entity in whose names the official title to a cemetery space appears in the official records of a cemetery authority shall be treated as the owner of said space by the cemetery authority.

Acts 1974, No. 417, § 1.

§ 802. Transfer of ownership rights

A. In order to insure that at all times the cemetery authority will have complete and accurate records, the sale or transfer of any right of interment or cemetery space, shall not be binding upon a cemetery authority until approved in writing by a duly authorized officer, agent or employee of the cemetery authority and duly recorded in the official records of the cemetery.

B. A cemetery authority may refuse to give its consent to a sale, use, or transfer of, or may refuse to issue a deed or other evidence of title to a cemetery space or the right of interment, so long as there is any indebtedness due on such right of interment or cemetery space.

C. The transfer of any right of interment or cemetery space, whether by conveyance, assignment of a purchase contract, or otherwise, shall be subject to all of the terms, provisions and conditions of the rules and regulations of the cemetery authority, as amended from time to time.

D. All transfers of rights of interment or cemetery space shall be subject to the payment of such reasonable fees and charges as may be established from time to time on a uniform basis by the cemetery authority, and such fees and

charges shall be paid before any transfer is approved by and recorded in the records of the cemetery authority.

E. Whenever a cemetery authority makes an interment on the authority of a person who presents the official title to the cemetery space in which the said interment is to be made, the right of the cemetery authority to make said interment shall be conclusively presumed, but it shall have the right to refuse to permit an interment if it receives a written protest from any person who, in the sole judgment of an officer of the cemetery authority, has a reasonable basis for objecting.

F. In dealing with an owner, a cemetery authority may rely upon, for all purposes, the last address of said owner that is on file in the office of the cemetery authority, and any notice forwarded to the owner of record at said address shall be conclusively considered as sufficient and proper legal notification for any and all purposes. If an owner wishes to change his official address, it shall be his duty to notify the cemetery authority, in writing, and when such a notice is received by the cemetery authority, the owner's address shall be promptly changed and, thereafter, said new address shall prevail for all purposes.

Acts 1974, No. 417, § 1.

§ 803. Descent of title to cemetery space

Except as herein otherwise provided, every right of interment and cemetery space shall be subject to the laws of Louisiana pertaining to community property, inheritance, including but not limited to the laws of intestacy, donations inter vivos and mortis causa, and successions.

Acts 1974, No. 417, § 1.

§ 804. Affidavit as authorization

In the absence of a formal judgment of possession in the succession of the record owner of a cemetery space or right of interment, an affidavit by a disinterested but informed person of the facts setting forth the fact of the death of the record owner and identifying the spouse and legal heirs of the decedent shall be complete and sufficient authorization for a cemetery authority to permit the use of any unoccupied portion of a cemetery space by the person or persons entitled to the use thereof.

Acts 1974, No. 417, § 1.

§ 805. When right of interment or cemetery space is inalienable

Subject to the approval of the cemetery authority, any cemetery space in any cemetery may be conveyed by the owner or owners, by proper instrument in a form approved by the cemetery authority, or such conveyance may be so provided in the last will and testament of the owner to the cemetery authority in perpetual trust for its preservation as a place of interment and shall thereafter remain forever inalienable by act of the parties. The right to use the said cemetery space as a place of interment of the dead of the family of the owner and his descendants shall descend from generation to generation, unless the act of conveyance in trust provides that interments in the said space shall be confined to the remains of specified persons, in which case the said space shall be forever preserved for the remains of the persons so specified and shall never be used for any other purpose.

Acts 1974, No. 417, § 1.

§ 806. Rights of co-owners

When the record title to a cemetery space or right of interment is in the names of two or

more persons, each shall be considered as having a vested right therein and no conveyance or other disposition of said space or right shall be recognized without the written concurrence of each said record owner, but each owner shall have the right of interment in any unoccupied portion of the cemetery space at the time of death.

Acts 1974, No. 417, § 1.

§ 807. Co-owners; identification

An affidavit by any informed but disinterested person having knowledge of the facts setting forth the fact of the death of one co-owner and establishing the identity of the surviving co-owner named in the deed to any cemetery space or right of interment, when filed with the cemetery authority, shall constitute complete and sufficient authorization to the cemetery authority to permit the use of one unoccupied portion of said space in accordance with the directions of the surviving co-owner.

Acts 1974, No. 417, § 1.

§ 808. Co-owners may designate representative

When there are two or more owners of a cemetery space or right of interment, they may designate one or more persons, firms or corporations, trustees or other entities to represent them and, upon filing written notice of designation with the cemetery authority, the cemetery authority in its discretion shall have the right to deal with such representative unless the cemetery authority receives written revocation of the designation executed by all of the co-owners or their heirs or legal representatives.

Acts 1974, No. 417, § 1.

§ 809. Waiver of right of interment

Any surviving spouse, parent, child or heir having a right of interment in an interment space may waive such right in favor of any other relative or spouse of a relative of the deceased record owner. Upon such waiver, the remains of the person in whose favor the waiver is made may be interred in the interment space.

Acts 1974, No. 417, § 1.

§ 810. Termination of vested right by waiver

A vested right of interment may be waived and is terminated upon the interment elsewhere of the remains of the person in whom vested.

Acts 1974, No. 417, § 1.

§ 811. Limitations on vested rights

No vested right of interment gives to any person the right to have his remains interred in any interment space in which the remains of any deceased person having a prior vested right of interment have been interred, nor does it give any person the right to have the remains of more than one deceased person interred in a single interment space in violation of the rules and regulations of the cemetery authority of the cemetery in which the interment space is located.

Acts 1974, No. 417, § 1.

§ 812. Conveyance of cemetery spaces; formality and recordation

Cemetery authorities that own land destined as places for the interment of human remains may convey portions thereof, or cemetery spaces located therein, for interments. The acts of conveyance shall be passed under the form prescribed by the cemetery authority, and any acts so made shall be equally authentic and

impart full proof as if passed before a notary and two witnesses. It shall not be necessary to record such instruments in any public office.

Acts 1974, No. 417, § 1

§ 813. Correction of errors

A cemetery authority shall have the right to correct any and all errors that may occur in or in connection with the operation of the cemetery, including without limitation those involving or in connection with the making of an interment, disinterment or removal, or the description, transfer, granting the right of use or conveyance of a cemetery space, and in this connection, the cemetery authority shall have the right to substitute, grant the right of use, or convey, in order to correct any such errors, other interment rights, approximately equal in value and location as far as feasible, as selected by said authority; or, in the sole discretion of said authority, the correction of an error may be accomplished by the refunding of the amount of money paid on account of the acquisition or use of a cemetery space. If an error involves an interment, the cemetery authority shall have the right to remove and transfer the remains that are involved.

Acts 1974, No. 417, § 1.

§ 814. Exemption from inheritance tax

Acts 1974, No. 417, § 1. Repealed by Acts 2010, No. 175, § 6, effective August 15, 2010.

CHAPTER 13. MISCELLANEOUS

§ 901. Unlawful to use, lease or sell for drilling, mining, or prospecting; penalty

A. It shall be unlawful to use, lease or sell any tract of land which is platted, laid out or dedicated for cemetery purposes and in which human bodies are interred, on any part of such tract, for the purpose of prospecting, drilling or mining; provided that the prohibition of leasing contained in this section shall not apply to any oil, gas, or mineral lease that contains a stipulation forbidding drilling or mining operations upon that portion of the leased premises which is included within the cemetery.

B. Whoever violates this section shall be fined not less than one hundred dollars nor more than five hundred dollars, or be imprisoned for not less than thirty days nor more than six months, or both, and each day during which drilling, mining or prospecting is conducted or prosecuted shall be considered a separate offense.

Acts 1974, No. 417, § 1.

§ 902. Underground burials; depth

Any cemetery sexton or other person digging graves for underground interments shall dig sufficiently deep to allow for at least two feet of soil to cover the entire area of the casket, unless the said interment is in a burial vault, coping or lawn crypt.

Acts 1974, No. 417, § 1.

§ 903. Maintenance of cemetery spaces more than fifty years old; sale of repaired abandoned cemetery spaces

A. Cemetery authorities may renovate and repair but not demolish, at their own cost and/or in conjunction with any private, state, or federal grant or fund, cemetery spaces within their cemeteries that are more than fifty years old and which have deteriorated, when the record owner or his spouse or heirs have neglected to do such renovation within one year after written notice mailed by registered or certified mail to the last known address of the last record owner on the records of the cemetery authority, the posting of notice on each of such cemetery spaces, and advertising in the official journal of the parish or municipality notifying the owner thereof that such renovation and repair will be made, unless the owner thereof objects by written notice to the office of the cemetery authority before the end of the one year period. Upon failing to receive any objections, after due notice has been given, the cemetery authority may proceed with the repairs or renovations with impunity.

B. Cemetery authorities may require the payment of all documented repair and/or renovation costs before any such renovated or repaired interment space may thereafter be used.

C. The repaired space shall revert to the ownership of the cemetery authority in the case of municipal, religious, and nonprofit cemeteries when the cemetery authority has been unable to locate, after diligent efforts, any of the owners or their successors or heirs for a period of three years following the repair or renovation, and such cemetery authority may take possession of such interment spaces and sell and convey same subject to rules and regulations as set forth in R.S. 8:308(A).

Acts 1974, No. 417, § 1. Amended by Acts 1978, No. 747, § 1, eff. July 17, 1978. Amended by Acts 1991, No. 289, § 4; Acts 1991, No. 430, § 1; Acts 1992, No. 82, § 1.

§ 903.1. Cemeteries; maintenance of vaults and wall vaults more than fifty years old; reclamation by authority

A. Cemetery authorities of municipal, religious, and nonprofit cemeteries may renovate, repair, and/or maintain vaults and/or wall vaults in question, at their own cost and/or in conjunction with any private, state, or federal grant or fund, vaults and/or wall vaults over fifty years old or vaults and/or wall vaults located in cemeteries more than one hundred years old, which have deteriorated or are in a ruinous state under the following conditions:

(1) In the event that the cemetery authority has no evidence of ownership or interments in the vault and/or wall vault in question, it may immediately make the repairs, renovations, and maintenance and after same have been completed, publish as part of a general notice in the official journal of the parish or municipality a notice notifying all persons that if no one comes forward to the office of the cemetery authority with written evidence of ownership of the vault and/or wall vault in question within sixty days of the date of publication then the cemetery authority shall have the right to reclaim the ownership of the vault and/or wall vault in question and resell same.

(2) In the event that there is evidence of an interment or interments in the vault and/or wall vault in question, and the cemetery authority has no evidence of ownership, the remains may be immediately removed and temporarily reinterred at another location, and the cemetery authority shall then have the power to immediately make the renovations, repairs, and maintenance necessary, and the same notice procedure set forth in Paragraph (1) shall be followed, except that all persons shall have six months to come forward to the office of the cemetery authority and present written evidence of ownership in the

vault and/or wall vault in question, and in the event that anyone fails to do so within the time prescribed, then the vault and/or wall vault may be reclaimed by the cemetery authority and resold.

(3) In the event that records of the cemetery authority indicate that there is a record owner of the vault and/or wall vault in question, the remains, if any, may be immediately removed and temporarily reinterred at another location, and the cemetery authority shall have the right and power to immediately make the necessary renovations, repairs, and maintenance, then the cemetery authority shall attempt to contact the owner by registered or certified mail at his last known address, and also publish as part of a general notice in the official journal of the parish or municipality in question a notice stating that in the event the owner or his heirs fail to come forward to the office of the cemetery authority within six months of the date of the notice and submit written proof of ownership, then the vault and/or wall vault in question may be reclaimed and resold by the cemetery authority.

(4) In addition to the notifications called for in Paragraphs (1), (2), and (3) hereinabove, the cemetery authority shall also post a common or general sign or notice in a conspicuous place in the cemetery informing the public of the above so that claimants may come forward in the manner prescribed herein to assert their rights.

(5) Under no circumstances shall the cemetery authority be prevented from doing repairs, renovations, and maintenance to vaults and/or wall vaults if same are necessary for the preservation of the section of vaults and/or wall vaults in question and/or the beautification of the cemetery. If it becomes necessary to remove remains therefrom, the cemetery authority shall have this right and power as set forth above, but the remains must be kept separate until the

herein prescribed time period has elapsed so that they can be identified.

(6) After the renovations, repairs, and maintenance have been completed and the prescribed time period has lapsed, and the cemetery authority has reclaimed the ownership of the vault and/or wall vault in question, then all of the remains removed in accordance with the provisions of this Paragraph, shall be interred in a common burial place, but the cemetery authority shall retain records, tablets, stones, and other information regarding which vaults and/or wall vaults same were removed from and the interments therein, and the names of the deceased persons in question, if they are available.

(7) Under no circumstances shall any of the above be construed in such a fashion as to prevent a cemetery authority from immediately making repairs, renovations, and/or maintenance of wall vaults in the event that same is necessary for the protection of the health and welfare of the general public.

(8) If a person comes forward to the cemetery authority within the time periods prescribed in Paragraphs (1) through (3) hereof with satisfactory written evidence of ownership or title to the vault and/or wall vault in question, the cemetery authority may require that they pay their pro rata share, to be reasonably determined by the cemetery authority, of all actual costs and expenses of repairs, renovations, and maintenance before the said vault and/or wall vault may thereafter be used by them and their title thereto confirmed. If there is some other impediment or objection to reuse of the vault and/or wall vault in question, they must still pay their pro rata share of all costs as set forth hereinabove to confirm their title to same, otherwise ownership or title may be reclaimed by the cemetery authority and the space resold.

Under no circumstances shall the owner of the vault and/or wall vault in question be able to object to the repairs, renovations, and maintenance done or to be done if it is necessary for the preservation of the section of vaults, and/or wall vaults in question, or the protection of the health and welfare of the general public.

B. The provisions hereof shall be inapplicable with respect to any tomb, vault, or wall vault placed in perpetual care.

Added by Acts 1982, No. 564, § 1. Amended by Acts 1991, No. 289, § 4; Acts 1992, No. 82, § 1.

§904. Speculative sales and purchases prohibited; penalties

A. It is declared to be against the public policy of this state for any person, firm, corporation, association or other legal entity to speculate in interment spaces. Accordingly, it shall be unlawful for any person, firm, corporation, association, or other legal entity, except a licensed cemetery authority, to sell or buy an interment space or spaces for the purpose of resale at a profit.

B. Whoever violates this section shall be fined no more than five hundred dollars or be imprisoned for not more than six months, or both, for each interment space so bought or sold.

Acts 1974, No. 417, § 1.

§ 905. Upkeep of cemeteries; local ordinance authorized; penalty; definition of "shareholder"

A. Each municipality having a population of twenty-five thousand or less persons according to the latest federal decennial census and having a commission form of government shall be authorized to adopt an ordinance requiring owners or shareholders of a cemetery to insure

that the owner or corporation's cemetery is kept neat and orderly.

B. Such a municipality may also adopt as a penalty a fine not to exceed five hundred dollars or imprisonment for not more than six months, or both.

C. As used in this Section, "shareholder" shall mean any person who owns a controlling share or a majority of the stock of the cemetery corporation.

Added by Acts 1984, No. 289, § 1.

§ 906. Additional ad valorem tax; Evangeline Parish

Notwithstanding the rate limitations of R.S. 8:105 and of R.S. 33:2740.1 but otherwise in accordance with R.S. 8:104 and 105, the governing authority of Evangeline Parish may levy an ad valorem tax not in excess of two mills when the proposed tax is approved by a majority of the qualified electors voting on the proposition at an election held for that purpose and conducted in accordance with the Louisiana Election Code.

Added by Acts 1996, 1st Ex.Sess., No. 27, § 1.