

## Chapter 1. General Provisions

### §101. Authority

A. These rules are adopted and promulgated by authority of, and in accordance with, the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Revised Statutes, Title 8, less and except the Louisiana Unmarked Human Burial Sites Preservation Act, as those laws may from time-to-time be amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:519 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2739 (October 2013).

### §103. Definitions

A. There is incorporated herein by reference all of the definitions set forth and contained in R.S. 49:950 et seq., and in Title 8, Louisiana Revised Statutes. The following words and terms, when used in these rules, shall have the following meanings.

*Administrative Procedure Act*—R.S. 49:950 et seq., as the same may from time-to-time be amended.

*Board*—the Louisiana Cemetery Board.

*Derivative and Hedge Transactions or Investments*—an agreement, option or instrument, or any series or combination thereof, to make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or instead to make a cash settlement, or that has a price, yield, level, performance, value, or cash flow which is based primarily on that of one or more underlying interest. The term includes, but is not limited to, options (calls and puts), not otherwise permitted to be held by a trust under the provisions of Title 8 or these rules, and any other substantially similar instruments. The term does not include a collateralized mortgage obligation, another asset-backed security, a principal-protected structured security, a floating rate security, an instrument that a trust is otherwise permitted to invest in or receive by a trust under the provisions of Title 8 and these rules.

*Fair Market Value*—the undiscounted price of a comparable cemetery space, right of interment, merchandise, service, or product in the same cemetery.

*Gross Sales Price Received*—the price of a cemetery space, a right of interment, merchandise, service, or product before the application of any discount, rebate, or promotional offer.

*Interment Space*—cemetery space as that term is defined in R.S. 8:1.

*Located in Louisiana*—registered with the Louisiana Secretary of State to do business in Louisiana.

*Non-willful Violation*—an unintentional or negligent error resulting in a violation of Title 8 or the rules of the board. A *non-willful violation* is one that represents a failure to exercise the degree of care that someone of ordinary prudence would have exercised in the same circumstances.

*Other Property Used or Intended to be Used for the Interment of Human Remains*—shall include, but not be limited to:

- a. cremation benches;
- b. cremation boulders;
- c. memorial niches;
- d. copings; or
- e. other property that encloses or contains human remains.

*Presiding Officer*—the chair of the Louisiana Cemetery Board or a member of the Louisiana Cemetery Board appointed to preside over a proceeding to be conducted by the board.

*Title 8 or Louisiana Cemetery Act*—the Louisiana Revised Statutes, *Title 8*, less and except the Louisiana Unmarked Human Burial Sites Preservation Act, as that law may from time-to-time be amended.

*Trust Account*—for purposes of R.S. 8:412(B)(1) only and for no other purpose, an escrow account, established by an abandoned cemetery sales and management licensee. The funds contained therein, shall not be the property of the abandoned cemetery sales and management licensee and must be used solely in accordance with R.S. 8:412(B)(1) and for no other purposes.

*Wholesale Cost*—the price, exclusive of any discounts or rebates, paid to a supplier, vendor, or manufacturer for merchandise or personal property.

*Willful Violation*—a knowing, voluntary, or intentional violation of Title 8 or the rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 8:67.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Cemetery Board, LR 1:519 (December 1975), amended by the Office of the Governor, Cemetery Board, LR 39:2739 (October 2013), LR 43:2149 (November 2017).