

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

(4) "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.

(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 R.S. 8:454.1(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 crematory and columbarium, or scattering garden, for cinerary interments; or a combination of one or more of these.

(8) "Cemetery association" or "cemetery corporation" means any corporation now or hereafter organized which is or may be authorized by its articles to conduct any one or more of the businesses of a cemetery.

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

(10) "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.

(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) "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.

(13.1) "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.

(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 association.

(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.

(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 cremation and inurnment, cremation and 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, 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.

CHAPTER 2. LOUISIANA CEMETERY BOARD

§ 61. Cemetery board created; appointments; terms

A. The Louisiana Cemetery Board is hereby created. 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 effect 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 initial members shall be appointed within sixty days after July 31, 1974. 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, and beginning in 1984 every appointment confirmed by the Senate shall again be submitted by the governor to the Senate for confirmation

every two years after the initial confirmation.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1. Amended by Acts 1991, No. 430, § 1.

§ 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.

§ 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.

§ 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 of one hundred fifty dollars. Applications for renewal of a valid, subsisting, and unsuspending 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.

§ 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,

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

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 Procedures 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 twenty-five dollars for

each cemetery. Upon payment of said 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 seven dollars and fifty cents 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.

§ 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, the board may 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 under this Chapter, it may, in lieu of such 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. The board may grant not more than thirty days from the date of the order for the payment of any fine.

D. 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.

§ 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 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.

§ 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

The provisions of this Chapter 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.

Acts 1974, No. 417, § 1. Amended by Acts 1997, No. 921, § 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, curbs, 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 3-A. ST. MARY
PARISH CEMETERY DISTRICT**

§121. St. Mary Parish Cemetery District; creation; location

The St. Mary Parish Police Jury is hereby authorized to create a Public Cemetery District composed of that part of Police Jury District 3 lying outside of the incorporated municipality of Patterson, that

part of Police Jury District 5 lying outside of 1980 Census Enumeration Districts 150T, 150U, and 151, and Police Jury District 4 of St. Mary Parish. The objective and purpose of the St. Mary Parish Cemetery District created under the provisions of this Chapter shall be the acquisition, establishment, operation, and maintenance of one or more public cemeteries within the district.

Acts 1982, No. 296, § 1.

§122. Board, qualification of members; appointment; vacancies; removal of members; officers

A. The St. Mary Parish Cemetery District shall be governed by a board of five commissioners, hereinafter referred to as the board, who shall be qualified voters and residents of the district and who shall serve without compensation. The board shall be appointed by the parish governing authority, one member to be from each of the following: the unincorporated area of Police Jury District 3, that part of Police Jury District 5 lying outside of 1980 Census Enumeration Districts 150T, 150U, and 151, the municipalities of Berwick and Morgan City, and the area of Bayou Vista. Three of the initial commissioners so appointed shall serve for two years, two for four years, and one for five years.

B. At the expiration of their respective terms of office, the successors to such initial appointees shall be appointed within thirty days for five-year terms. Vacancies shall be filled in accordance with the provisions of Subsection A of this Section. Any member of the board may be removed for cause and his appointment rescinded by two-thirds vote of the elected membership of the parish governing authority.

C. At its first meeting the board shall elect one of its members chairman and may, in its discretion, elect other officers from the membership. Special meetings shall be held at such time and place as shall be specified by call of the chairman.

Acts 1982, No. 296, § 1.

§ 123. Corporate status; purpose; powers and duties

A. The St. Mary Parish Cemetery District shall constitute a body corporate in law, with all the powers of a corporation. Said district, through its board of commissioners, shall have the power and right to sue and be sued, and to do and perform any and all acts in its corporate capacity and in its corporate name which are necessary and proper for carrying out the purposes and object for which it is created.

B. The district, through its board of commissioners, is hereby granted and shall have and may exercise all powers necessary or convenient for carrying out its purposes, including, but not limited to the following:

(1) The board may acquire, establish, operate, and maintain one or more public cemeteries within the district.

(2) The board may incur debt and contract obligations.

(3) The board shall 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.

(4) The board shall construct and maintain the necessary roads and streets and shall provide for proper drainage in all publicly owned cemeteries in the district.

(5) The board may contract with respect to any land acquired by it for cemetery purposes with any person on such terms and conditions and for such period of time as will, in the discretion of the board, assure the proper care, maintenance, and control of the cemeteries located in the district.

(6) The board 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 board, to be used and maintained exclusively for such purposes and subject to the laws of this state and ordinances of the parish.

Acts 1982, No. 296, § 1.

§ 124. District as political subdivision; election imposing taxes, maximum tax; authority

The St. Mary Parish Cemetery District is hereby declared to be a political subdivision of the state. For carrying out the purposes of the district as provided in this Chapter, under the provisions of the Louisiana Constitution the board, as the governing authority of the district, shall have the power to call an election which will be held at the next regularly scheduled election, subject to approval by the parish governing authority, for the purpose of imposing ad valorem millage taxes for direct use by the district. At any election for the purpose of imposing such a tax, the proposition shall authorize a tax not in excess of three mills on the dollar assessment of all real property subject to taxation, and the election shall be held in accordance with the procedures enumerated in R.S. 39:781 et seq. relative to voting for special taxes. No such tax may be imposed unless a majority of the electors voting on the proposition approve said proposition. The proceeds of any such tax shall be used exclusively for those public cemeteries within the district as created by this Chapter.

Acts 1982, No. 296, § 1.

CHAPTER 3-B. RAPIDES PARISH CEMETERY DISTRICT

§ 131. Rapides Parish Cemetery District; creation; location

A. The Rapides Parish Police Jury is hereby authorized to create the Rapides Parish Cemetery District, hereinafter referred to as the "district", to be composed of that part of Rapides Parish located outside the incorporated municipalities of

the parish. The objective and purpose of the district shall be the preservation and restoration of ancestral resting places, and abandoned or historic cemeteries, thereby preserving heritage and encouraging tourism.

B. The Rapides Parish Cemetery District shall not have any jurisdiction with respect to privately maintained cemeteries, or association cemeteries which have perpetual care and are regulated by the Louisiana Cemetery Board.

Added by Acts 1989, No. 11, § 1.

§131.1. Board of commissioners; membership; appointment; vacancies; removal of members; officers

A. The Rapides Parish Cemetery District shall be governed by a board of nine commissioners, hereinafter referred to as the board, who shall be qualified voters and residents of the district and who shall serve without compensation. The police jury shall appoint one commissioner from each of the police jury districts. Three of the initial commissioners so appointed shall serve for two years, three for three years, and three for four years.

B. At the expiration of their respective terms of office, the successors to the initial terms shall be appointed, within sixty days thereof, for four-year terms. Vacancies shall be filled in accordance with the provisions of Subsection A of this Section. Any member of the board may be removed for cause and his appointment rescinded by two-thirds vote of the elected membership of the police jury.

C. At its first meeting, the board shall elect one of its members chairman, and may, in its discretion, elect other officers from the membership. Meetings shall be held at such time and place as shall be specified by call of the chairman.

Added by Acts 1989, No. 11, § 1.

§ 131.2. Powers and duties of the board; grants; donations

The Rapides Parish Cemetery District, through its board of directors, shall have and may exercise all powers and duties necessary or convenient for carrying out its purposes, excepting the power of taxation. These powers of the district shall include, but not be limited to, the power to secure federal, state, local, or private donations, or grants for the restoration of cemeteries, including the fencing of same.

Added by Acts 1989, No. 11, § 1.

CHAPTER 3-C. GRANT PARISH CEMETERY DISTRICT

§ 132. Grant Parish Cemetery District; creation; boundaries; purpose

The governing authority of Grant Parish is hereby authorized to create a public cemetery district to be designated as the Grant Parish Cemetery District, the boundaries of which shall be coterminous with the boundaries of Grant Parish. The objective and purpose of the Grant Parish Cemetery District created under the provisions of this Chapter shall be the acquisition, establishment, operation, and maintenance of one or more public cemeteries within the district.

Added by Acts 1989, No. 147, § 1.

§132.1. Board, qualification of members; appointment; vacancies; removal of members; officers

A. The Grant Parish Cemetery District shall be governed by a board of five commissioners, hereinafter referred to as the "board", who shall be registered voters and residents of Grant Parish and who shall serve without compensation. The board shall be appointed by the governing authority of Grant Parish. Two of the initial commissioners so appointed shall serve for two years, two for four years, and one for five years.

B. At the expiration of their respective initial terms of office, the successors to such initial appointees shall be appointed within thirty days for five-year terms. Vacancies shall be filled in accordance with the provisions of Subsection A of this Section. Any member of the board may be removed for cause and his appointment rescinded by two-thirds vote of the elected membership of the parish governing authority.

C. At its first meeting the board shall elect one of its members as chairman and may, in its discretion, elect other officers from the membership. Special meetings shall be held at such time and place as shall be specified by call of the chairman.

Added by Acts 1989, No. 147, § 1.

§ 132.2. Corporate status; powers and duties

A. The Grant Parish Cemetery District shall constitute a body corporate in law, with all the powers of a corporation. The district, through its board of commissioners, shall have the power and right to sue and be sued, and to do and perform any and all acts in its corporate capacity and in its corporate name which are necessary and proper for carrying out the purposes and object for which it is created.

B. The district, through its board of commissioners, is hereby granted and shall have and may exercise all powers necessary or convenient for carrying out its purposes, including but not limited to the following:

(1) The board may acquire, establish, operate, and maintain one or more public cemeteries within the district. However, the board shall have no authority to expropriate property.

(2) The board may incur debt and contract obligations.

(3) The board may establish all rules and regulations it deems necessary for any public cemetery acquired, established, operated, or maintained by the district.

(4) The board may employ a sexton and other employees and fix and pay their compensation.

(5) The board may contract with respect to any land acquired by it for cemetery purposes with any person on such terms and conditions and for such period of time as will, in the discretion of the board, assure the proper care, maintenance, and control of the public cemeteries located in the district.

(6) The board may establish lots, plots, or any 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 board, to be used and maintained exclusively for such purposes and subject to the laws of this state and ordinances of the parish.

C. The board shall construct and maintain the necessary roads and streets and shall provide for proper drainage in all public cemeteries in the district. The board shall provide upkeep and maintenance for public cemeteries in the district.

D. For purposes of this Chapter, a public cemetery shall include any cemetery owned by a municipality, by the parish, or by the district.

Added by Acts 1989, No. 147, § 1.

§132.3. District as a political subdivision; election imposing taxes, maximum tax; authority

The Grant Parish Cemetery District shall be a political subdivision of the state. For carrying out the purposes of the district as provided in this Chapter, under the provisions of the Constitution of Louisiana, the board, as the governing authority of the district, shall have the power to levy an ad valorem tax of not in excess of three mills on the dollar of assessed valuation on all immovable property in the district subject to taxation. However, no such tax may be imposed unless a majority of the electors

voting on a proposition to levy the tax approve the proposition. The board shall have the authority to call an election, subject to approval by the parish governing authority, for the purpose of imposing such ad valorem taxes. Any election for the purpose of imposing such a tax shall be held in accordance with Chapter 6-A of the Louisiana Election Code. The tax, if authorized, shall be collected in the same manner and at the same time as ad valorem taxes on property subject to parish taxation are collected. The proceeds of any such tax shall be used exclusively for those public cemeteries within the district.

Added by Acts 1989, No. 147, § 1.

CHAPTER 3-D. LASALLE PARISH CEMETERY DISTRICT

§133. LaSalle Parish Cemetery District; creation; boundaries; purpose

The governing authority of LaSalle Parish is hereby authorized to create a public cemetery district to be designated as the LaSalle Parish Cemetery District, the boundaries of which shall be coterminous with the boundaries of LaSalle Parish. The objective and purpose of the LaSalle Parish Cemetery District created under the provisions of this Chapter shall be the acquisition, establishment, operation, and maintenance of one or more public cemeteries within the district.

Added by Acts 1989, No. 160, § 1.

§133.1. Board, qualification of members; appointment; vacancies; removal of members; officers

A. The LaSalle Parish Cemetery District shall be governed by a board of five commissioners, hereinafter referred to as the "board", who shall be registered voters and residents of LaSalle Parish and who shall serve without compensation. The board shall be appointed by the governing authority of LaSalle Parish. Two of the initial commissioners so appointed shall

serve for two years, two for four years, and one for five years.

B. At the expiration of their respective initial terms of office, the successors to such initial appointees shall be appointed within thirty days for five-year terms. Vacancies shall be filled in accordance with the provisions of Subsection A of this Section. Any member of the board may be removed for cause and his appointment rescinded by two-thirds vote of the elected membership of the parish governing authority.

C. At its first meeting the board shall elect one of its members as chairman and may, in its discretion, elect other officers from the membership. Special meetings shall be held at such time and place as shall be specified by call of the chairman.

Added by Acts 1989, No. 160, § 1.

§ 133.2. Corporate status; powers and duties

A. The LaSalle Parish Cemetery District shall constitute a body corporate in law, with all the powers of a corporation. The district, through its board of commissioners, shall have the power and right to sue and be sued, and to do and perform any and all acts in its corporate capacity and in its corporate name which are necessary and proper for carrying out the purposes and object for which it is created.

B. The district, through its board of commissioners, is hereby granted and shall have and may exercise all powers necessary or convenient for carrying out its purposes including but not limited to the following:

(1) The board may acquire, establish, operate, and maintain one or more public cemeteries within the district. However, the board shall have no authority to expropriate property.

(2) The board may incur debt and contract obligations.

(3) The board may establish all rules

and regulations it deems necessary for any public cemetery acquired, established, operated, or maintained by the district.

(4) The board may employ a sexton and other employees and fix and pay their compensation.

(5) The board may contract with respect to any land acquired by it for cemetery purposes with any person on such terms and conditions and for such period of time as will, in the discretion of the board, assure the proper care, maintenance, and control of the public cemeteries located in the district.

(6) The board may establish lots, plots, or any 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 board, to be used and maintained exclusively for such purposes and subject to the laws of this state and ordinances of the parish.

C. The board shall construct and maintain the necessary roads and streets and shall provide for proper drainage in all public cemeteries in the district. The board shall provide upkeep and maintenance for public cemeteries in the district.

D. For purposes of this Chapter, a public cemetery shall include any cemetery owned by a municipality, by the parish, or by the district.

Added by Acts 1989, No. 160, § 1.

§ 133.3. District as a political subdivision; election imposing taxes, maximum tax; authority

The LaSalle Parish Cemetery District shall be a political subdivision of the state. For carrying out the purposes of the district as provided in this Chapter, under the provisions of the Constitution of Louisiana, the board, as the governing authority of the district, shall have the power to levy an ad valorem tax of not in excess of three mills on the dollar of assessed valuation on all

immovable property in the district subject to taxation. However, no such tax may be imposed unless a majority of the electors voting on a proposition to levy the tax approve the proposition. The board shall have the authority to call an election, subject to approval by the parish governing authority, for the purpose of imposing such ad valorem taxes. Any election for the purpose of imposing such a tax shall be held in accordance with Chapter 6-A of the Louisiana Election Code. The tax, if authorized, shall be collected in the same manner and at the same time as ad valorem taxes on property subject to parish taxation are collected. The proceeds of any such tax shall be used exclusively for those public cemeteries within the district.

Added by Acts 1989, No. 160, § 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. Such corporation shall only engage in the cemetery business in this state if it has received a certificate of authority from the board pursuant to the provisions of Chapter 2 of this title.

Acts 1974, No. 417, § 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. 8:202 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 said time by a corporation, partnership, firm, trust, association or individual.

Acts 1974, No. 417, § 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.

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

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.

Acts 1974, No. 417, § 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

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.

Acts 1974, No. 417, § 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 any parish the population of which is five hundred thousand or greater has been abandoned as defined in Paragraph C hereof 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 parish or municipality wherein such cemetery is located 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 Paragraph A.

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.

§ 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 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, then 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.

§ 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 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 one of the following:

(1) Any financial institution the deposits of which are insured by the Federal Deposit Insurance Corporation and which is located within this state.

(2) Any banking institution authorized to do business in this state, but limited by its charter to fiduciary and trust-related activities, which is under the supervision of the office of financial institutions.

Amended by Acts 2001, No. 468, § 1.

§ 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.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 1. Amended by Acts 1992, No. 86, § 1. Amended 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 account by trustee; final accounting by trustee required

A. 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 account showing in detail all receipts

and disbursements of cash and all receipts and deliveries of other trust property during the regular business year of said cemetery, and shall set forth a detailed list of all items of trust property in the trust at the end of each said year.

B. Within sixty days of the resignation of a 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.

§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 any financial institution the deposits of which are insured by the Federal Deposit Insurance Corporation which is located in this state or any financial institution authorized to do business in this state, but limited by its charter to fiduciary and trust-related activities, which is under the supervision of the office of financial institutions.

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.

§ 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 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.

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

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

Acts 1974, No. 417, § 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 or director 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 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.

(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) Investments permitted by R.S. 9:2127 in the case of trustees who are

financial institutions.

(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.

§ 466. Annual report of authority; contents, verification, certification

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 in form prescribed by the board setting forth:

(1) The amount collected for and deposited in the endowment or perpetual care fund from the inception of the board to the thirty-first day of December of the preceding year; and,

(2) A statement showing the total amount of the endowment and/or perpetual care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall show the actual financial condition of the funds.

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.

Acts 1974, No. 417, § 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 at an uncertain future date, such as at death, or more than one hundred and twenty days after receipt of final payment under such contract of sale except as provided in R.S. 8:502(A), R.S. 8:502.1 and R.S. 8:502.2.

B. The provisions of this Section shall apply to, but not be limited to, the sale for future delivery at an uncertain date or more than one hundred twenty days after receipt of final payment 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 Section 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.

§ 502. Payments to trust; amounts required

A. Any cemetery authority or other entity entering into a contract for the sale of such personal property or services as described in R.S. 8:501 of this chapter, where the delivery of the property or services is to be made at an uncertain future date or more than one hundred and twenty days after receipt of final payment under such contract shall deposit into a trust fund established for that purpose fifty percent of the gross receipts, less sales taxes, from the sales of such personal property or services.

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

C. 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.

D. Each deposit into any such trust fund shall be identified by the cemetery authority or other entity by furnishing the trustee and the purchaser 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 to each separate account its share of the total income earned in each calendar year, based upon the proportion that the principal balance in each

said account bears to the total principal balances in all such accounts. For this purpose each deposit made before June thirtieth of each year shall be considered as having been made on the first day of the year, but deposits made after June thirtieth shall not participate in the distribution of income earned during that calendar year. The trustee may commingle the deposits in such trust fund for purposes of the management thereof and the investment of funds therein. Annually, the trustee shall advise the cemetery authority or other entity of the amount of income received by the whole fund for that calendar year. The cemetery

authority or other entity shall keep detailed records of the amount of money deposited from time to time.

E. The trust shall be operated in conformity with R.S. 8:454B(1) and R.S. 8:465 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.

§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.

(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.

§ 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 depository and/or bailee for hire.

Added by Acts 1997, No. 921, § 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 said 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 a certified copy of a death certificate, 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.

§ 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, 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.

§505.1. Annual report by cemeteries or other entities

Each cemetery authority or other entity subject to the provisions of this Chapter shall file with the board and trustee, no later than six months after the close of the business year, a report setting forth the volume and the gross sales of personal property or services for future delivery, and gross receipts from sales of personal property or services for future delivery upon which a deposit with the trustee is required by this Chapter.

Added by Acts 1997, No. 921, § 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 8 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 to be delivered at an uncertain

future date or more than one hundred twenty days after receipt of final payment, alleging that the merchandise trust 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 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.

§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

In the administration of the merchandise trust fund the trustee shall administer the fund 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.

Acts 1974, No. 417, § 1. Amended by Acts 1980, No. 428, § 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 any financial institution the deposits of which are insured by the Federal Deposit

Insurance Corporation or by the Federal Savings and Loan Insurance Corporation and which is located within this state.

(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.

§ 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

A. A cemetery authority shall be required to commence construction 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 for completion, not to exceed one year, may be granted by the board for reasonable cause, but in no event shall any such extension exceed two years.

B. Failure to commence and/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.

Acts 1974, No. 417, § 1. Amended by Acts 1999, No. 1199, § 1.

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

A. The right to control interment, as defined in R.S. 8:1(26), of the remains of a deceased person, unless other specific directions have been given by the decedent in the form of a written and notarized declaration, vests in and devolves upon the following in the order named:

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

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

(3) The surviving parents of the decedent.

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

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

B. In the event that the decedent has made multiple declarations of interment, the last declaration shall control.

Acts 1974, No. 417, § 1. Amended by Acts 1990, No. 939, § 1; Acts 1991, No. 912, § 1. Amended by Acts 2001, No. 557, § 1.

§ 656. Effect of authorization

Any person signing any authorization for the interment or cremation 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 or cremated, and his authority to order the interment or cremation; and such person shall be personally liable for all damage occasioned by or resulting from breach of such warranty.

Acts 1974, No. 417, § 1.

§ 657. Right to rely on such authorization

The cemetery authority may inter or cremate 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 or cremating pursuant to such authorization, unless it has actual notice that such representation is untrue.

Acts 1974, No. 417, § 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 one year, unless a written contract has been entered into with the cemetery authority for the care of such remains.

Acts 1974, No. 417, § 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 2001, No. 557, § 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 dead human body has been in the lawful possession of any person, firm, corporation or association for a period of one year or more, or whenever the cremated remains of any dead human body have been in the lawful possession of any person, firm, corporation or association for a period of one year 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 or remains, the body or remains may be disposed of by the person, firm, corporation or association 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.

§ 662. Record of remains to be kept

The cemetery authority in charge of any premises on which interments or cremations are made shall keep a record of all remains interred or cremated on the premises under its charge, in each case stating the name of each deceased person, date of cremation or 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.

CHAPTER 10-A. LOUISIANA UNMARKED HUMAN BURIAL SITES PRESERVATION ACT

§ 671. Short title

This Chapter shall be known as the

"Louisiana Unmarked Human Burial Sites Preservation Act".

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 672. Legislative declaration of intent

The legislature finds that existing state laws do not provide for the adequate protection of unmarked burial sites and of human skeletal remains and burial artifacts in such sites. As a result, there is a real and growing threat to the safety and sanctity of unmarked burial sites, both from economic development of the land and from persons engaged for personal or financial gain in the mining of prehistoric and historic Indian, pioneer, and Civil War and other soldiers' burial sites. Therefore, there is an immediate need for legislation to protect the burial sites of these earlier residents of Louisiana from desecration and to enable the proper archaeological investigation and study when disturbance of a burial site is necessary or desirable. The legislature intends that this Chapter shall assure that all human burial sites shall be accorded equal treatment, protection, and respect for human dignity without reference to ethnic origins, cultural backgrounds, or religious affiliations.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 673. Definitions

As used in this Chapter, unless the context clearly indicates otherwise, the following terms shall have the meanings indicated:

(1) "Board" means the Unmarked Burial Sites Board.

(2) "Burial artifact" means any item of human manufacture or use that is in an unmarked burial site.

(3) "Disturb" includes excavating, removing, exposing, defacing, mutilating, destroying, molesting, or desecrating in any way any unmarked burial sites or any human skeletal remains, burial artifacts, or burial

markers on or in an unmarked burial site without a permit.

(4) "Human skeletal remains" means any part of the body of a deceased human being in any stage of decomposition.

(5) "Unmarked burial site" means the immediate area where one or more human skeletal remains are found in the ground that is not in a recognized and maintained municipal, fraternal, religious, or family cemetery, or a cemetery authorized by the Louisiana Cemetery Board.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 674. Exclusions

This Chapter shall not apply to the following:

(1) A cemetery operated under the authority and regulation of the Louisiana Cemetery Board, or any recognized and maintained municipal, fraternal, religious, or family cemetery.

(2) The use of land for purposes of farming, cattle raising, timber growing, and other similar surface uses that will not result in the disturbance of human skeletal remains through excavation or other activities.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 675. The Louisiana Unmarked Burial Sites Board

A. The Louisiana Unmarked Burial Sites Board is hereby created within the Department of Culture, Recreation and Tourism, office of cultural development, division of archaeology. The board shall be domiciled in Baton Rouge. All budgeting, purchasing, and related management functions shall be administered under the direction of the director of the division of archaeology and in accordance with the Executive Reorganization Act.

B. The board shall consist of seven

members, including members appointed by the governor in accordance with the following schedule:

(1) One member appointed from a list of three persons nominated by the Louisiana Archaeological Survey and Antiquities Commission. The person appointed must be a physical anthropologist who holds at least a master's degree representing specialized training in skeletal biology or forensic osteology. The individual must also have demonstrated an ability to design and execute a human skeletal analysis and to present the written results and interpretation of the analysis in a thorough, scientific, and timely manner.

(2) One member appointed from a list of three persons nominated by the Louisiana Archaeological Survey and Antiquities Commission. The person appointed must be either a professional archaeologist or a professional cultural anthropologist.

(3) One member appointed from a list of three persons nominated by the Louisiana Intertribal Council. The person appointed must belong to a tribe recognized by Louisiana but not by the federal government.

(4) One member appointed from a list of three persons nominated by the Louisiana Intertribal Council. The person appointed must belong to a federally recognized tribe of Louisiana.

(5) One member who is a non-Indian minority appointed from a list of three persons nominated by the Louisiana Legislative Black Caucus.

C. The director of the division of archaeology and the director of the Governor's Commission on Indian Affairs shall serve on the board as ex officio members with the same rights, powers, duties, responsibilities, and privileges as members appointed by the governor.

D. The terms of the appointed members shall end at the same time as the term of the governor making the appointment.

Members shall serve until their successors in office are appointed and have taken office. Each member shall take and subscribe to the oath of office prescribed for state officers.

E. Initial members shall be appointed no later than the sixtieth day after January 1, 1992, or the sixtieth day after the nominations are received by the governor, whichever is later. Thereafter, members shall be appointed no later than the sixtieth day after the governor takes office, or the sixtieth day after a vacancy occurs, or the sixtieth day after the nominations are received by the governor, whichever is later.

F. Each appointment by the governor shall be submitted to the Senate for confirmation. Beginning in 1994, every appointment confirmed by the Senate shall again be submitted by the governor to the Senate for confirmation every two years after the initial confirmation.

G. Vacancies in the office of the members shall be filled in the same manner as the original appointments for the unexpired portion of the term of the office vacated.

H. A majority of the members of the board shall constitute a quorum for the transaction of business. All official actions of the board shall require the affirmative vote of a majority of the members of the board who are present unless otherwise provided by law.

I. Members may designate representatives to attend meetings of the board. Members who appoint representatives shall provide notice to the board of such action. Representatives shall present written authorization, signed by a member, to the board prior to attending a meeting. Representatives shall not have voting rights.

J. The board, by vote of two-thirds of the members, may remove from office any member who has accumulated three consecutive absences from board meetings.

K. A member of the board may receive a per diem of fifty dollars for each meeting he attends, but he shall not be paid for more than twelve meetings in each year. Such per diem shall be paid out of the funds of the board.

L. Members may receive a mileage allowance for mileage traveled in attending meetings. The mileage allowance shall be fixed by the board in an amount not to exceed the mileage rate for state employees.

M. The board shall meet quarterly. It also may meet on the call of the chairman or upon the request of any three members. The board shall not meet more than twelve times in any calendar year unless the meeting is called pursuant to an emergency situation involving an immediate threat of desecration or disturbance of an unmarked human burial site, human skeletal remains, or burial artifacts.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 676. Powers and duties of the board

A. The Louisiana Unmarked Burial Sites Board shall have the following powers and duties:

(1) To implement and to enforce this Chapter and the powers and duties assigned to the board by law.

(2) To adopt such rules and regulations as are necessary to implement and to enforce this Chapter and the powers and duties assigned to the board by law. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.¹

(3) To consult with all interested parties on occasions of disturbance of unmarked burial sites to determine a proper course of action.

(4) To institute civil proceedings

seeking injunctive or other relief to restrain and to prevent violations of this Chapter or the laws or administrative rules administered or enforced by the board.

(5) To institute civil proceedings seeking restitution, payment of costs, or other monetary relief necessary to prevent, restore, or repair damage to unmarked burial sites, human skeletal remains, or burial artifacts from unmarked burial sites, or to retrieve human skeletal remains or burial artifacts removed in violation of this Chapter.

(6) To issue permits for the disinterment and/or for the scientific study of human skeletal remains and burial artifacts found in unmarked burial sites. The board may adopt rules and regulations to provide for the issuance of emergency permits by the state archaeologist.

(7) To charge a permit fee not to exceed one hundred dollars for each such permit. The monies collected from the issuance of permits, subject to applicable provisions of law, shall be used as provided for funds from civil damages in Subsection B of this Section.

(8) To issue permits for the special exhibition of human skeletal remains from unmarked burial sites if the board determines that the remains are of exceptional scientific or cultural significance.

(9) To issue permits for the use of human skeletal remains which have been legally obtained from unmarked burial sites and are intended strictly for teaching purposes at accredited institutions of higher learning, including but not limited to nonpublic display of human skeletal remains.

B. Civil damages, except for attorney fees, recovered by the board, subject to applicable provisions of law, shall be used by the board to implement and enforce this Chapter and to fund activities of the division of archaeology in regard to restoration and

¹ R.S. 49:950 et seq.

protection of burial sites, in accordance with regulations adopted by the board and other applicable laws. Attorney fees shall be paid to the Louisiana Department of Justice.

C. Provisional permits may be used by the division of archaeology until such time as the board is appointed and has adopted rules and regulations governing permitting.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 677. Revocation or suspension of permits

A. The board may revoke or suspend any permit issued under the provisions of this Chapter upon a determination by the board that the holder of the permit has violated the provisions of this Chapter or the rules and regulations of the board, or has failed to meet the professional or occupational standards determined by the board, or has failed to insure that the personnel employed by the holder of the permit meet the professional or occupational standards determined by the board.

B. Permits may be revoked or suspended only by a ruling of the board based on an adjudicatory hearing held in accordance with the provisions of the Louisiana Administrative Procedure Act.

C. The board shall notify each person whose permit has been revoked or suspended, by certified mail, return receipt requested.

D. Each person whose permit has been revoked or suspended shall return the permit to the board within fifteen days of the date on which the notice of the revocation or suspension was received.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 678. Unlawful acts

A. It is unlawful for any person, entity, or group, to whom the board has not issued a permit, to knowingly:

(1) Disturb an unmarked burial site or any human skeletal remains or burial artifacts in an unmarked burial site.

(2) Buy, sell, barter, exchange, give, receive, possess, display, discard, or destroy human skeletal remains from an unmarked burial site or burial artifacts. However, any human skeletal remains or burial artifacts from an unmarked burial site which come into Louisiana from any foreign country or any other state or territory of the United States and are documented to have been obtained lawfully under the laws of the respective country, state, or territory may be given, received, studied, or displayed without violating this Chapter.

(a) Any human remains which were lawfully acquired prior to January 1, 1992, may remain in the possession of the current holder.

(b) Any burial artifacts which were lawfully acquired prior to January 1, 1992, may remain in the possession of and be displayed by the current holder.

(3) Allow any person, entity, or group access to an unmarked burial site, human skeletal remains, or burial artifacts for the purpose of disturbing them.

(4) Provide funds to or for any person, entity, or group for the purpose of disturbing any unmarked burial site, human skeletal remains, or burial artifacts.

B. Each violation of this Section shall be punishable upon conviction of a first offense by a fine of not more than five thousand dollars or imprisonment for not more than one year, or both. Upon conviction of a second or subsequent offense each violation shall be punishable by imprisonment for not more than two years or a fine of not more than ten thousand dollars, or both. Each disturbance of an unmarked burial site, human skeletal remains, or burial artifacts constitutes a separate offense.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 679. Civil remedies

A. The board may institute civil proceedings seeking injunctive relief to restrain and prevent violations of this Chapter or the laws or administrative rules administered or enforced by the board.

B. The board may also institute civil proceedings seeking civil damages from any person who knowingly violates any provision of R.S. 8:678. Civil damages shall include any or all of the following:

(1) Forfeiture of any and all equipment used in disturbing the unmarked burial site, human skeletal remains, or burial artifacts.

(2) Any and all costs incurred in cleaning, restoring, analyzing, accessioning, and curating the recovered human skeletal remains or burial artifacts.

(3) Any and all costs associated with protecting the unmarked burial site from further damage or in restoring the unmarked burial site to its original condition.

(4) Any and all costs associated with recovery of data, and analyzing, publishing, accessioning, and curating materials when the prohibited activity is so extensive as to preclude the restoration of the unmarked burial site.

(5) Any and all costs associated with the reinterment of the human skeletal remains.

(6) Any and all costs associated with determining and collecting the civil damages, including but not limited to filing fees, attorney fees, court costs, fees associated with discovery and the testimony of expert witnesses, and collection costs.

C. The board may bring actions for injunctive relief or civil damages in either the district court for the parish of East Baton Rouge or in the district court where the unmarked burial site, the human skeletal remains, or the burial artifacts are located.

D. The attorney general shall represent

the board in all matters pertaining to the administration or enforcement of this Chapter, or both, except in those matters in which the board has employed special counsel. The board may employ and shall fix the compensation of such special counsel with the concurrence of the attorney general and in accordance with the laws and regulations regarding employment of special counsel.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 680. Discovery of unmarked burial sites, human skeletal remains, and burial artifacts

A. Any person who has reason to believe he or she has discovered an unmarked burial site or received human skeletal remains from an unmarked burial site shall notify the law enforcement agency of the jurisdiction where the site or remains are located within twenty-four hours of discovery. Any person who has reason to believe he or she has discovered or received burial artifacts shall notify the board through the division of archaeology within seventy-two hours of the discovery. Failure to give notice as required is a misdemeanor punishable by a fine of not less than one hundred dollars nor more than one thousand dollars.

B. Any activity that may disturb the unmarked burial site, human skeletal remains, or burial artifacts associated with the site shall immediately cease on discovery. No activity which will disturb the unmarked burial site shall resume until the board has issued a permit governing the disposition of the unmarked burial site, the human skeletal remains, or the burial artifacts. In no event shall the board take longer than thirty days to decide on issuance of a permit without the written agreement of all parties.

C. Each law enforcement agency that receives notice of an unmarked burial site or human skeletal remains shall immediately notify the coroner of the parish where the site or remains are found. The law enforcement agency shall also notify the

board through the division of archaeology within two business days of any discovery unless circumstances indicate that the death or burial is less than fifty years old or that there is need for a criminal investigation or legal inquiry by the coroner.

D. If the coroner finds that the unmarked burial site is over fifty years old and that there is no need for a legal inquiry by his office or for a criminal investigation, the board shall have jurisdiction of the site, human skeletal remains, and the burial artifacts.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

§ 681. Disposition of unmarked burial sites, human skeletal remains, and burial artifacts

A. Whenever an unmarked burial site, human skeletal remains from an unmarked burial site, or burial artifacts are reported to the board, the disposition of unmarked burial sites, human skeletal remains, or burial artifacts shall proceed as follows:

(1) Every reasonable effort is to be made to restore the unmarked burial site and to avoid disturbing the human skeletal remains or burial artifacts:

(a) If the board determines that the burial site has significant scientific value, the board may issue a permit for scientific study.

(b) Any agreement by the owner of the property to leave the unmarked burial site undisturbed shall not constitute consent on the owner's part to allow relatives of the deceased or any other interested parties free access to the site without the owner's permission.

(2) The board shall make reasonable efforts to identify and locate persons who can establish direct kinship with or descent from the individual whose remains have been found.

(3) If the unmarked burial site or the

human skeletal remains can be shown to have ethnic affinity with a living Native American tribe, the board shall notify the tribe of the discovery.

(4) If the human skeletal remains must be removed, then control of the disposition of these remains shall be in the following order:

(a) If any direct relations or descendants are found, such person or persons shall have the right to control the disposition of the human skeletal remains in accordance with R.S. 8:659.

(b) If the human skeletal remains can be shown to have ethnic affinity to any living tribe of Native Americans, then the tribe shall have control of the disposition of the human skeletal remains.

(c) If no direct relation or descendant is found or if no ethnic affinity of the human skeletal remains to any living Native American tribe can be shown or if no direct relation or descendant or Native American tribe takes responsibility for the reinterment of the human remains, then the board shall determine the proper disposition of the human remains.

B. If a permit has been issued pursuant to R.S. 8:676(A)(6), the cost of disinterment, reinterment, or study of the human skeletal remains shall be paid by the persons or parties requesting the permit. In the event the board must reinter the remains, the burial shall be paid in the same manner as an indigent or pauper burial.

C. All burial artifacts found in an unmarked burial site shall become the property of the state and the board shall be the custodian thereof. The disposition of the burial artifacts shall be made by the board in accordance with its regulations. The board may donate the burial artifacts to an educational institution, a public museum, or a Native American tribe for display and study purposes. In no event, however, shall the board or any recipient sell the burial artifacts.

Added by Acts 1991, No. 704, § 1, eff. Jan. 1, 1992.

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.

§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.

B. 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.

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

Cemetery property passing to an individual by reason of the death of the owner is exempt from all inheritance taxes.

Acts 1974, No. 417, § 1.

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.