

2022 Regular Session

HOUSE BILL NO. 783

BY REPRESENTATIVE DAVIS

LEGISLATION: Provides for technical corrections and revision of provisions of Title 8 of the Louisiana Revised Statutes

1 AN ACT

2 To amend and reenact R.S. 8:1(introductory paragraph), (5), (8), (9), (11), and (13) through

3 (40), 67, 70, 76(A) and (B), 78(D), 103, 105, 107, 122(A), 123(B)(introductory

4 paragraph), 131(A), 131.1(A), 132.1(A), 133.1(A), 133.2(B)(introductory

5 paragraph), 135.1(A), 135.2(B)(introductory paragraph), 141, 141.1(C), 141.3(B),

6 (C), (E), and (F), 204, 302(A), (B), and (C), 303, 305 through 307, 308(A) and (C),

7 311, 314, 316 through 401, 402(introductory paragraph), 403, 404, 407, 408,

8 411(introductory paragraph), 412(B)(2), 451, 453, 454.1(A), 455, 457 through 459,

9 459.1(A) and (B), 460, 461(A)(introductory paragraph) and (B),

10 465(A)(1)(introductory paragraph), (b), and (c), (2), (4)(h), and (5)(d), (B), and (C),

11 501(A), 502(A)(1)(a) and (D), 502.2(introductory paragraph) and (5), 503(A), (B),

12 and (D), 504, 505, 505.2(introductory paragraph) and (3), 506.1(A), 507, 508, 601,

13 604, 605, 606(B), 653(B), 663(B), (C), (D)(2) and (4), (E)(introductory paragraph)

14 and (1), (F)(3), and (G)(4), 673(introductory paragraph), 676(A)(6), (B), and (C),

15 680(A) and (C), 701 through 705, 706(C), 801, 802(B), (E), and (F), 803, 805

16 through 809, 813, 901, 902, 903(A) and (B), and 903.1 through 905 and to enact R.S.

17 8:1(41) through (44), relative to providing technical corrections for Title 8 of the

18 Louisiana Revised Statutes of 1950; to provide for technical corrections; to provide

19 for standardization of language; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 8:1(introductory paragraph), (5), (8), (9), (11), and (13) through (40),  
2 67, 70, 76(A) and (B), 78(D), 103, 105, 107, 122(A), 123(B)(introductory paragraph),  
3 131(A), 131.1(A), 132.1(A), 133.1(A), 133.2(B)(introductory paragraph), 135.1(A),  
4 135.2(B)(introductory paragraph), 141, 141.1(C), 141.3(B), (C), (E), and (F), 204, 302(A),  
5 (B), and (C), 303, 305 through 307, 308(A) and (C), 311, 314, 316 through 401,  
6 402(introductory paragraph), 403, 404, 407, 408, 411(introductory paragraph), 412(B)(2),  
7 451, 453, 454.1(A), 455, 457 through 459, 459.1(A) and (B), 460, 461(A)(introductory  
8 paragraph) and (B), 465(A)(1)(introductory paragraph), (b), and (c), (2), (4)(h), and (5)(d),  
9 (B), and (C), 501(A), 502(A)(1)(a) and (D), 502.2(introductory paragraph) and (5), 503(A),  
10 (B), and (D), 504, 505, 505.2(introductory paragraph) and (3), 506.1(A), 507, 508, 601, 604,  
11 605, 606(B), 653(B), 663(B), (C), (D)(2) and (4), (E)(introductory paragraph) and (1),  
12 (F)(3), and (G)(4), 673(introductory paragraph), 676(A)(6), (B), and (C), 680(A) and (C),  
13 701 through 705, 706(C), 801, 802(B), (E), and (F), 803, 805 through 809, 813, 901, 902,  
14 903(A) and (B), and 903.1 through 905 are hereby amended and reenacted and R.S. 8:1(41)  
15 through (44) are hereby enacted to read as follows:

16 §1. Definitions

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

20 \* \* \*

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

25 \* \* \*

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

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

5 \* \* \*

6 (11) "Cemetery sales organization" means any legal entity contracting as an  
7 independent contractor with a cemetery authority to conduct sales of one or more  
8 cemetery spaces, whether by deed, servitude, grant of right to use or otherwise,  
9 ~~and/or~~ or cemetery products. ~~It~~ "Cemetery sales organization" does not mean any  
10 of the following:

11 (a) ~~individual~~ Individual salesmen or sales managers employed by and  
12 contracting directly with cemetery authorities operating under this law;

13 (b) ~~nor does it mean funeral~~ Funeral establishments or funeral directors  
14 operating under licenses authorized by R.S. 37:831 et seq., when dealing directly  
15 with a cemetery authority, with members of the family of a deceased person or other  
16 persons authorized by law to arrange for the funeral ~~and/or~~ or interment of such  
17 deceased human being;

18 (c) ~~or with an~~ An individual negotiating the sale of cemetery property as a  
19 part of his ~~or her~~ pre-need arrangements under Chapter 6 ~~hereof~~ of this Title.

20 \* \* \*

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

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

27 ~~(14.1)~~ (15) "Corporation" means any corporation or limited liability  
28 company ~~now or hereafter organized,~~ which is ~~or may be~~ authorized by its articles

1 or an operating agreement to conduct any one or more of the businesses of a  
2 cemetery.

3 ~~(15)~~ (16) "Cremated remains" means human remains after cremation in a  
4 crematory.

5 ~~(16)~~ (17) "Cremation" means the reduction of the body of a deceased person  
6 to cremated remains in a crematory.

7 ~~(17)~~ (18) "Crematory" means a building or structure containing one or more  
8 retorts for the reduction of bodies of deceased persons to cremated remains.

9 ~~(18)~~ (19) "Crematory and columbarium" means a building or structure  
10 containing both a crematory and columbarium.

11 ~~(19)~~ (20) "Crypt" or "vault" means a space in a mausoleum of sufficient size,  
12 used or intended to be used, to entomb human remains.

13 ~~(20)~~ (21) "Directors" means the board of directors, board of trustees, or other  
14 governing body of a cemetery authority, cemetery sales organization, or cemetery  
15 management organization.

16 ~~(20.1)~~ (22) "Disposition" means the interment, burial, cremation, or  
17 anatomical donation of the body of a deceased person or parts of the body of a  
18 deceased person. Disposition shall not include any prohibited act under Part I of  
19 Chapter 12 of Title 17 of the Louisiana Revised Statutes of 1950, the Louisiana  
20 Anatomical Gift Act, the Louisiana Unmarked Human Burial Sites Preservation Act,  
21 or the Louisiana Historic Cemetery Preservation Act.

22 ~~(21)~~ (23) "Entombment" means the placement of human remains in a  
23 mausoleum.

24 ~~(22)~~ (24) "Family burial ground" means a cemetery in which no lots are sold  
25 to the public and in which interments are restricted to a group of persons related to  
26 each other by blood or marriage.

27 ~~(22.1)~~ (25) "Force majeure" means any of the following circumstances:

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

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

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

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

7 ~~(23)~~ (26) "Fraternal cemetery" means a cemetery owned, operated, controlled  
8 or managed by any fraternal organization or auxiliary organization thereof, in which  
9 the sale of lots, graves, crypts, vaults or niches is restricted principally to its  
10 members.

11 ~~(24)~~ (27) "Grave" means a space of ground in a cemetery, used or intended  
12 to be used, for burial.

13 ~~(25)~~ (28) "Human remains" means the body of a deceased person and  
14 includes the body in any stage of decomposition, as well as cremated remains.

15 ~~(26)~~ (29) "Interment" means the disposition of human remains by inurnment,  
16 scattering, entombment, or burial in a place used or intended to be used, and  
17 dedicated, for cemetery purposes.

18 ~~(27)~~ (30) "Inurnment" means placing cremated remains in an urn or other  
19 suitable container and placing it in a niche, crypt or vault in a place used or intended  
20 to be used, and dedicated, for cemetery purposes.

21 ~~(28)~~ (31) "Lawn crypts" means space for interment in preplaced chambers,  
22 or burial vaults, either side by side or multiple depth, covered by earth ~~and/or~~ or sod  
23 and known also as below-ground crypts, westministers or turf top crypts.

24 ~~(29)~~ (32) "Lot" or "plot" means land in a cemetery used or intended to be  
25 used for the interment of human remains within a grave, mausoleum or lawn crypt  
26 or columbarium.

27 ~~(30)~~ (33) "Mausoleum" or "tomb" means a structure or building for the  
28 entombment of human remains in crypts or vaults in a place used or intended to be  
29 used, and dedicated, for cemetery purposes.

1           ~~(31)~~ (34) "Municipal cemetery" means a cemetery owned, operated,  
2 controlled or managed by a municipality or other political subdivision of the state,  
3 or instrumentality thereof authorized by law to own, operate or manage a cemetery.

4           ~~(32)~~ (35) "Niche" means a space in a columbarium used or intended to be  
5 used for inurnment of cremated human remains.

6           ~~(33)~~ (36) "Owner" means a person to whom the cemetery authority has  
7 transferred full title to or the right of use of ~~and/or~~ or interment in any cemetery  
8 space and who appears as the title holder in the official records of the cemetery  
9 authority.

10           ~~(34)~~ (37) "Perpetual care cemetery" or "endowed care cemetery" means a  
11 cemetery wherein lots and other interment spaces are sold or transferred under the  
12 representation that the cemetery will receive perpetual or endowed care.

13           ~~(35)~~ (38) "Person" means an individual, corporation, limited liability  
14 company, partnership, joint venture, association, trust or any other legal entity.

15           ~~(36)~~ (39) "Privately owned cemetery" means any cemetery except a fraternal,  
16 municipal, or religious cemetery or a family burial ground.

17           ~~(36.1)~~ (40) "Rearrangement" or "reuse" means the act of removing and  
18 disposing of a previously interred casket and the gathering and placing of human  
19 remains in an alternative container within the same cemetery space in order to  
20 accommodate additional interments.

21           ~~(37)~~ (41) "Religious cemetery" means a cemetery that is owned, operated,  
22 controlled or managed by a recognized church, religious society, association or  
23 denomination, or by a cemetery authority or a corporation administering or through  
24 which is administered the temporalities of any recognized church, religious society,  
25 association or denomination.

26           ~~(38)~~ (42) "Sale" means the sale of the full title to any cemetery space or the  
27 sale of the right of use of ~~and/or~~ or interment in any cemetery space.

28           ~~(39)~~ (43) "Temporary receiving vault" means a cemetery space used or  
29 intended to be used for the temporary placement of human remains.



1 meet all the requirements of this Chapter. The application for a certificate of  
2 authority shall be accompanied by the prescribed regulatory charge.

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

7 \* \* \*

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

9 \* \* \*

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

20 \* \* \*

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

22 In order to provide a site or grounds and additions thereto and to provide and  
23 maintain streets, curbing, aisles, walkways, outside fences, drainage, and any  
24 building that may be needed for the use of a sexton or caretaker, as well as any  
25 electrical illumination needed, and to provide for the employment of a sexton or  
26 caretaker and the cutting of grass and the acquisition of and planting and care of  
27 trees, shrubbery and flowers, the governing authority of the municipality may either  
28 anticipate the revenues of the municipality or issue bonds or certificates ~~based~~  
29 ~~thereon~~ as provided by law, or submit to the taxpayers at a special election to be



1 called and held in the municipality by the governing authority, pursuant to the law,  
2 to vote negotiable bonds, within the limitations authorized by law, for any of the  
3 above purposes, and thereafter levy and collect taxes and pay and retire the bonds  
4 authorized at the election.

5 \* \* \*

6 §105. Maximum tax; use of proceeds

7 The special election called in accordance with the provisions of R.S. 8:103  
8 and 104 may be for a sum not in excess of one mill on the dollar assessment on all  
9 real property subject to taxation, and may be held under the election laws relative to  
10 voting special taxes. It shall not be necessary to fund the revenues into bonds, but  
11 revenues may be spent as received for the purposes ~~herein~~ set forth in this Chapter.

12 \* \* \*

13 §107. Gifts, donations and contributions

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

17 \* \* \*

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

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

29 \* \* \*

1 §123. Corporate status; purpose; powers and duties

2 \* \* \*

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

6 \* \* \*

7 §131. Rapides Parish Cemetery District; creation; location

8 A. The Rapides Parish Police Jury is hereby authorized to create the Rapides  
9 Parish Cemetery District, ~~hereinafter~~ referred to in this Chapter as the "district", to  
10 be composed of that part of Rapides Parish located outside the incorporated  
11 municipalities of the parish. The objective and purpose of the district shall be the  
12 preservation and restoration of ancestral resting places, and abandoned or historic  
13 cemeteries, thereby preserving heritage and encouraging tourism.

14 \* \* \*

15 §131.1. Board of commissioners; membership; appointment; vacancies; removal of  
16 members; officers

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

23 \* \* \*

24 §132.1. Board, qualification of members; appointment; vacancies; removal of  
25 members; officers

26 A. The Grant Parish Cemetery District shall be governed by a board of five  
27 commissioners, ~~hereinafter~~ referred to in this Chapter as the "board", who shall be  
28 registered voters and residents of Grant Parish and who shall serve without  
29 compensation. The board shall be appointed by the governing authority of Grant

1 Parish. Two of the initial commissioners so appointed shall serve for two years, two  
2 for four years, and one for five years.

3 \* \* \*

4 §133.1. Board, qualification of members; appointment; vacancies; removal of  
5 members; officers

6 A. The LaSalle Parish Cemetery District shall be governed by a board of five  
7 commissioners, ~~hereinafter~~ referred to in this Chapter as the "board", who shall be  
8 registered voters and residents of LaSalle Parish and who shall serve without  
9 compensation. The board shall be appointed by the governing authority of LaSalle  
10 Parish. Two of the initial commissioners so appointed shall serve for two years, two  
11 for four years, and one for five years.

12 \* \* \*

13 §133.2. Corporate status; powers and duties

14 \* \* \*

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

18 \* \* \*

19 §135.1. Board, qualification of members; appointment; vacancies; removal of  
20 members; officers

21 A. The Sweet Lake - Grand Lake Community Cemetery District shall be  
22 governed by a board of five commissioners, ~~hereinafter~~ referred to in this Chapter  
23 as the "board", who shall be qualified voters and residents of the district and who  
24 shall serve without compensation. The board shall be appointed by the governing  
25 authority of Cameron Parish. Two of the initial commissioners so appointed shall  
26 serve for two years, two for four years, and one for five years.

27 \* \* \*

28 §135.2. Corporate status; powers and duties

29 \* \* \*

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

4                                   \*       \*       \*

5           §141. St. Landry Parish Cemetery District; creation; boundaries; purpose

6           The governing authority of St. Landry Parish is hereby authorized to create  
7 the St. Landry Parish Cemetery District, ~~hereinafter~~ referred to in this Chapter as the  
8 "district", the boundaries of which shall be coterminous with the boundaries of St.  
9 Landry Parish. The objective and purpose of the district created under the provisions  
10 of this Chapter shall be the acquisition, establishment, operation, and maintenance  
11 of one or more public cemeteries within the district.

12           §141.1. Board; qualification of members; appointment; vacancies; officers

13                                   \*       \*       \*

14           C. The commission shall be governed by a board of commissioners and shall  
15 be known as the Board of Commissioners of \_\_\_\_\_ District Cemetery  
16 Commission of St. Landry Parish, ~~hereinafter~~ referred to in this Chapter as the  
17 "board".

18                                   \*       \*       \*

19           §141.3. District as a political subdivision; election imposing taxes, maximum tax;  
20 authority

21                                   \*       \*       \*

22           B. The board shall have the power to levy and collect, within ~~said~~ the  
23 boundaries of a district, an ad valorem tax not exceeding one mill on the dollar of  
24 assessed valuation on all immovable property in the district, for a period not to  
25 exceed ten years, as authorized by R.S. 33:2740.1.

26           C. The imposition, collection, and enforcement of the tax and any procedural  
27 details necessary to be established to supplement the provisions of this Section and  
28 to make provisions applicable to the tax imposed ~~hereunder~~ in Subsection B of this  
29 Section shall be fixed by the resolution of the commission. The commission shall

1 have the authority to contract with the sheriff, the Department of Revenue, or any  
2 other agency or political subdivision for the collection of the tax.

3 \* \* \*

4 E. The tax shall be adopted by a commission only after the question of the  
5 imposition of such tax and the funding thereof into bonds ~~under~~ pursuant to the  
6 provisions of this Section shall have been submitted to the qualified electors within  
7 the boundaries of such district at an election to be called, conducted, canvassed, and  
8 promulgated by the governing authority of such district in accordance with the  
9 general laws of the state governing the authorization of general obligation bonds and  
10 the majority of the qualified electors voting in such election shall have voted in favor  
11 of such additional tax and the funding thereof into bonds.

12 F. The resolution imposing any tax ~~hereunder~~ in Subsection B of this  
13 Section, or amendments hereto, shall specify that the avails of proceeds of the tax  
14 after payment of collection costs shall be used solely by such commission for the  
15 maintenance of all areas that fall under the heading of Public Cemetery. The  
16 proposition approved at said election shall constitute a full and complete dedication  
17 of the avails or proceeds of said tax and its provisions shall control the allocation and  
18 expenditure thereof.

19 \* \* \*

20 §204. Specific powers; rule making and enforcement

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

- 25 (1) It may restrict and limit the use of all property within its cemetery;
- 26 (2) It may regulate the uniformity, class and kind of all markers, monuments  
27 and other structures within the cemetery and its subdivisions;
- 28 (3) It may regulate or prohibit the erection ~~and/or~~ or installation of  
29 monuments, markers, effigies, structures and foundations within the cemetery;

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

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

6 (6) It may regulate the conduct of persons and prevent improper assemblages  
7 in the cemetery; ~~and.~~

8 (7) It may make and enforce rules and regulations for all other purposes  
9 deemed necessary by the cemetery authority for the proper conduct of the business  
10 of the cemetery, for the transfer of any interment space or the right of interment, and  
11 the protection and safeguarding of the premises, and the principles, plans, and ideals  
12 on which the cemetery is conducted.

13 \* \* \*

14 §302. Surveys and maps

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

23 B. The preparation and use of any survey, map, or plat ~~hereinabove~~  
24 ~~contemplated~~ required by Subsection A of this Section shall not constitute the  
25 dedication of the property depicted thereon solely for cemetery purposes, ~~until and~~  
26 unless such property is actually used for ~~said~~ those purposes. Accordingly, each  
27 such survey, map, or plat may include undeveloped areas which may be marked  
28 "reserved for future development" and, when so marked, ~~said~~ those areas, when  
29 subsequently developed and used for cemetery purposes shall be considered

1 dedicated for such purposes, but if such areas are not to be used for cemetery  
2 purposes, the cemetery authority shall have the right to use such areas for any other  
3 lawful purposes.

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

6 \* \* \*

7 §303. Maps and plats; amendment

8 Any part or subdivision of the property as shown in the survey, map or plat  
9 referred to in R.S. 8:301 may, by order of the directors of the cemetery authority, be  
10 resurveyed and altered in shape and size and an amended survey, map or plat may  
11 be prepared so long as such change does not disturb the interred remains of any  
12 deceased person. Said amended survey, map or plat shall be available for inspection  
13 as ~~hereinabove~~ provided in R.S. 8:302(C).

14 \* \* \*

15 §305. Rule against perpetuities, etc., inapplicable

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

21 §306. Removal of dedication; procedure

22 A. Legislative intent. The following is the intent of the legislature:

23 (1) That the protection of unmarked human burial sites has been entrusted  
24 to the ~~Louisiana Division of Archaeology~~ Department of Culture, Recreation and  
25 Tourism, division of archaeology and the attorney general.

26 (2) Notice of a judicial proceeding shall be given to the ~~Louisiana Division~~  
27 of Archaeology Department of Culture, Recreation and Tourism, division of  
28 archaeology and the attorney general in an action to cause the cemetery's dedication  
29 protection to be removed.

1           B. Property dedicated to cemetery purposes shall be held and used  
2 exclusively for cemetery purposes ~~unless and~~ until the dedication is removed from  
3 all or any part of it by judgment of the district court of the parish in which the  
4 property is situated in a proceeding brought by the cemetery authority for that  
5 purpose and upon notice of hearing to the board, and by publication as ~~hereinafter~~  
6 provided in R.S. 8:307, and proof satisfactory to the court:

7           (1) That no interments were made in or that all interments have been removed  
8 from that portion of the property from which dedication is sought to be removed;  
9 ~~and.~~

10           (2) That the portion of the property from which dedication is sought to be  
11 removed is not being used for interment of human remains.

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

15           D.(1) The board or ~~Louisiana Division of Archaeology~~ Department of  
16 Culture, Recreation and Tourism, division of archaeology shall have the right to  
17 intervene in any action filed pursuant to Subsection B of this Section.

18           (2) The attorney general may represent the board or the ~~Louisiana Division~~  
19 ~~of Archaeology~~ Department of Culture, Recreation and Tourism, division of  
20 archaeology in any action filed pursuant to Subsection B of this Section.

21 §307. Notice of hearing

22           The notice of hearing by publication provided in R.S. 8:306 shall be given  
23 by publication once a week for at least three consecutive weeks in a newspaper of  
24 general circulation in the parish where the cemetery is located and the posting of  
25 copies of the notice in three conspicuous places on that portion of the property from  
26 which the dedication is to be removed. ~~Said~~ The notice shall:

27           (1) ~~describe~~ Describe the portion of the cemetery property sought to be  
28 removed from dedication.;







1 \* \* \*

2 §314. Record of ownership and transfers

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

8 \* \* \*

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

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

17 §317. Certain cemetery lands exempt from taxes

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

21 \* \* \*

22 §401. License to engage in business

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

26 §402. Application for license

27 Any person wishing to establish and operate the business of a cemetery sales  
28 organization or a cemetery management organization ~~must~~ shall operate as a  
29 corporation as required by R.S. 8:201 and shall file with the board a written

1 application for a license to operate. The application shall be on a form issued by the  
2 board which shall require, ~~as~~ at a minimum, that the documents and information  
3 submitted to the board shall include:

4 \* \* \*

5 §403. Application fee; annual fee

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

12 §404. Investigation by board

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

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

19 (2) The identity of the principal owners, principal stockholders, and of all  
20 directors and officers, and the ability, experience, financial stability and integrity of  
21 each of ~~said~~ the parties to conduct the business stated in the application.

22 \* \* \*

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

25 Within ten days after the sale or transfer of ownership or control of a  
26 cemetery sales or management organization, the transferor organization ~~must~~ shall  
27 return its license to the board. The transferee, within ten days, ~~must~~ shall apply for  
28 a new license and meet all the requirements of this Chapter. Upon the filing of a

1 completed application, the transferee may operate the business until its application  
2 is acted upon by the board.

3 §408. Penalties

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

9 §411. Definitions

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

12 \* \* \*

13 §412. Application for license; qualifications; fees

14 \* \* \*

15 B.

16 \* \* \*

17 (2) Nothing ~~herein~~ in this Section shall restrict a licensee from paying  
18 necessary expenses and maintenance costs to contractors.

19 \* \* \*

20 §451. Corporate operation

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

28 \* \* \*

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

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

7   \*       \*       \*

8           §454.1. Administration of trust funds; maintenance; exemption from seizure

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

20   \*       \*       \*

21           §455. Annual report by cemeteries

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

26   \*       \*       \*

27           §457. Application of Chapter

28           A. Any cemetery in existence on August 1, 1962, which, prior to such date,  
29 sold or contracted to sell interment spaces with a provision for perpetual or endowed

1 care, qualifies for the exceptions set forth in this Chapter if the owner of ~~said~~ the  
2 cemetery filed in the office of the recorder of mortgages for the parish in which ~~said~~  
3 the cemetery is located, a sworn affidavit executed by ~~said~~ the owner, or its principal  
4 officer, setting forth all of the following:

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

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

10 (3) The name of the financial institution or trustees or other entity which had  
11 custody and control of such fund.

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

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

24 §458. Prohibited acts; injunctions

25 No person or cemetery authority shall offer for sale or sell any interment  
26 space in any cemetery with a provision for perpetual or endowed care, or in any  
27 manner represent, advertise, or hold out to the public that ~~said~~ the cemetery, or any  
28 portion thereof, is entitled to perpetual or endowed care unless ~~and until~~ such person  
29 or authority has complied with the provisions of this Chapter. The board may

1 institute legal proceedings to enjoin any person or cemetery authority from violating  
2 the provisions of this Section.

3 §459. Cemeteries exempt

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

6 §459.1. Trust fund transfers

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

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

17 \* \* \*

18 §460. Penalties

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

22 §461. Examination of endowment funds; expenses

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

26 \* \* \*

27 B. The expense of the examination as provided ~~herein~~ in Subsection A of  
28 this Section shall not exceed two hundred fifty dollars per day for each examiner  
29 engaged in the examination, but when the examination requires more than two days,



1 the cost shall be paid by the cemetery authority in an amount not to exceed a total of  
2 five hundred dollars, unless irregularities are found, in which case the cemetery  
3 authority shall pay the full cost of the examination. The examination shall be  
4 privately conducted in the principal office of the cemetery authority or trustee.

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

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

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

15 \* \* \*

16 (b) Any trustee of ~~said~~ the funds.

17 (c) Anyone related by blood, adoption, or marriage to any individuals  
18 included in Subparagraphs (a) and (b) above of this Paragraph.

19 \* \* \*

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

23 \* \* \*

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

25 \* \* \*

26 (h) Loans secured by a mortgage or mortgages on improved immovable  
27 property situated exclusively in ~~the~~ this state ~~of Louisiana~~ for not more than an  
28 aggregate of seventy-five percent of the appraised value of the property and for a  
29 term amortized over a period not exceeding thirty years; and unless otherwise

1 provided by regulation of the Louisiana Cemetery Board ~~must~~ shall bear interest at  
2 not less than the maximum rate permitted at the time of investment by the Federal  
3 Housing Administration for loans to be insured.

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

8 \* \* \*

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

12 \* \* \*

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

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

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



1 more than one hundred twenty days after entering into such contract, shall deposit  
2 seventy percent of the price charged, less sales taxes, for each item of personal  
3 property contracted for, contracted for at a discount, or contracted for without charge  
4 into a trust fund established for that purpose.

5 \* \* \*

6 D. Each deposit ~~herein~~ required in Subsection A of this Section shall be paid  
7 into the trust fund so established within twenty days after the close of the month of  
8 receipt from the purchaser by the cemetery authority or other entity, except that the  
9 entire amount required to be deposited based upon the sales price, less sales taxes,  
10 shall be so deposited in trust within seven years from the date of the original sale,  
11 regardless of whether or not all amounts due therefor shall have actually been paid.

12 \* \* \*

13 §502.2. Suppliers

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

16 \* \* \*

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

21 §503. Withdrawals from trust

22 A. The funds shall be held in trust both as to principal and income earned  
23 ~~thereon~~, and shall remain intact, except that the costs of operation of the trust may  
24 be deducted from the income earned ~~thereon~~, until delivery of the personal property  
25 is made or the services are performed by the cemetery authority or other entity or  
26 until the death of the person for whose benefit the contract was made. Upon delivery  
27 of the personal property or performance of the services, the cemetery authority or  
28 other entity shall certify such delivery or performance to the trustee and the amount  
29 of money plus income on deposit with trustee to the credit of that particular contract.

1           Upon such certification, or in case of death prior to such certification, and upon  
2           submission of documentation as required by rules and regulations promulgated by  
3           the board, the amount of money on deposit to the credit of each particular contract,  
4           including principal and income earned ~~thereon~~, shall be forthwith paid to the  
5           cemetery authority or other entity. The trustee may rely upon all such certifications  
6           herein required to be made and shall not be liable to anyone for such reliance.

7                     B. If for any reason a cemetery authority or other entity that has entered into  
8           a contract for the sale of personal property or services and has made the deposit into  
9           the trust fund as ~~herein~~ required in this Section to be made cannot or does not  
10          provide the personal property or perform the services called for by the contract  
11          within a reasonable time after request in writing to do so, the purchaser or his heirs  
12          or assigns or duly authorized representative shall have the right to provide such  
13          personal property or services, and, having done so, shall be entitled to receive the  
14          deposit to the credit of that particular contract. Written instructions to the trustee by  
15          the cemetery authority or other entity directing the trustee to refund the amount of  
16          money on deposit, or an affidavit by either the purchaser or one of his heirs or  
17          assigns or duly authorized representative, stating that the personal property or  
18          services were not provided, shall be sufficient authority for the trustee to make  
19          refund of the funds on deposit to the person submitting the affidavit. The trustee  
20          shall not be held responsible for any such refunds made on account of the cemetery  
21          authority's or other entity's written direction or an affidavit submitted in accord with  
22          this section. However, nothing herein contained shall relieve the cemetery authority  
23          or other entity from any liability for nonperformance of the contract terms.

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

28                    D. If the purchaser defaults in making payments, the cemetery authority or  
29          other entity shall have the right to cancel the contract and to withdraw from the trust

1 fund the entire balance to the credit of the defaulting purchaser's account as  
2 liquidating damages. In such event, the trustee shall deliver said balance to the  
3 cemetery authority or other entity upon its certification, and upon receiving said  
4 certification the trustee may rely ~~thereon~~ the certification and shall not be liable to  
5 anyone for such reliance.

6 §504. Payments to purchaser; change of domicile

7 If after final payment a purchaser moves his domicile to a point that makes  
8 delivery of the personal property or services impossible or impractical, the trustee  
9 shall refund to the purchaser the principal amount of money on deposit to the credit  
10 of that particular contract, less the income earned ~~thereon~~, which shall be paid to the  
11 seller.

12 §505. Annual reports by trustee; final accounting by trustee required

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

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

25 \* \* \*

26 §505.2. Resignation of trustee; orderly transfer of trust fund

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

1 \* \* \*

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

4 \* \* \*

5 §506. Examination by board; expenses

6 \* \* \*

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

13 C. In making such examination, the board shall:

14 (1) (a) Have free access to the books and records relating to the merchandise  
15 trust funds; their collection and investment, and individual contracts for the sale of  
16 personal property or services as described in this Chapter; ~~said~~ .

17 (b) The books and records shall be made available for examination in the  
18 principal office of the cemetery authority, other entity or trustee located within the  
19 state of Louisiana.

20 \* \* \*

21 §506.1. Failure to make required deposits; action

22 A. If any report filed with, or any examination made by, the board ~~show~~  
23 shows that the minimum amounts required have not been collected and deposited in  
24 the merchandise trust fund, the board shall require the cemetery authority, or other  
25 legal entity required to establish a merchandise trust fund, to immediately comply  
26 with the requirements of this Title.

27 \* \* \*

28 §507. Nonwaiver of provisions of chapter

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

4 §508. Penalties

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

11 \* \* \*

12 §601. Application of chapter

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

18 \* \* \*

19 §604. Improper construction a nuisance; penalty

20 Every owner or builder of a structure erected or converted in violation of this  
21 ~~title~~ Title shall be guilty of maintaining a public nuisance and, upon conviction, shall  
22 be punishable by a fine of not less than five hundred dollars nor more than five  
23 thousand dollars or by imprisonment for not less than one month nor more than six  
24 months, or both.

25 §605. Construction in compliance with existing laws

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



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

3 \* \* \*

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

15 \* \* \*

16 §653. Opening graves; stealing body; receiving same

17 \* \* \*

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

22 \* \* \*

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

24 \* \* \*

25 B. This Section shall apply only to municipal cemeteries as defined in R.S.  
26 8:1, and to cemeteries that do not currently hold a certificate of authority ~~under~~ in  
27 accordance with this Title.

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

1 D.

2 \* \* \*

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

10 \* \* \*

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

13 E. The following procedures and protocols shall be followed in undertaking  
14 any collection program ~~under~~ as provided in this Section:

15 (1) Prior to any collection activity notification, proof of compliance with this  
16 Section shall be provided to the Louisiana Cemetery Board, the ~~Louisiana Division~~  
17 ~~of Archaeology~~ Department of Culture, Recreation and Tourism, division of  
18 archaeology, and the attorney general, in writing.

19 \* \* \*

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

22 \* \* \*

23 (3) In the event that no cemetery authority is identifiable, such human  
24 skeletal remains shall be curated by the collecting entity in a manner that conforms  
25 to the ~~Louisiana Division of Archaeology~~ Department of Culture, Recreation and  
26 Tourism, division of archaeology curation guidelines. Such human skeletal remains  
27 may be re-interred in an unused portion of the subject cemetery pursuant to an order  
28 of a court of competent jurisdiction.

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

3 \* \* \*

4 (4) The Louisiana Cemetery Board, the ~~Louisiana Division of Archaeology~~  
5 Department of Culture, Recreation and Tourism, division of archaeology, and the  
6 attorney general, and their agents or employees, shall not be liable in damages under  
7 any law of the state or any political subdivision for their role in administering  
8 portions of this Section.

9 \* \* \*

10 §673. Definitions

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

14 \* \* \*

15 §676. Powers and duties of the secretary

16 A. The secretary shall have the following powers and duties:

17 \* \* \*

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

22 \* \* \*

23 B. Civil damages, except for attorney fees, recovered by the secretary,  
24 subject to applicable provisions of law, shall be used by the secretary to implement  
25 and enforce this Chapter and to fund activities of the Department of Culture,  
26 Recreation and Tourism, division of archaeology in regard to restoration and  
27 protection of burial sites, in accordance with regulations adopted by the secretary and  
28 other applicable laws. Attorney fees shall be paid to the Louisiana Department of  
29 Justice.

1 C. Provisional permits may be used by the Department of Culture,  
2 Recreation and Tourism, division of archaeology until rules and regulations  
3 governing permitting are adopted.

4 \* \* \*

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

7 A. Any person who has reason to believe he ~~or she~~ has discovered an  
8 unmarked burial site or received human skeletal remains from an unmarked burial  
9 site shall notify the law enforcement agency of the jurisdiction where the site or  
10 remains are located within twenty-four hours of discovery. Any person who has  
11 reason to believe he ~~or she~~ has discovered or received burial artifacts shall notify the  
12 secretary through the Department of Culture, Recreation and Tourism, division of  
13 archaeology within seventy-two hours of the discovery. Failure to give notice as  
14 required is a misdemeanor punishable by a fine of not less than one hundred dollars  
15 nor more than one thousand dollars.

16 \* \* \*

17 C. Each law enforcement agency that receives notice of an unmarked burial  
18 site or human skeletal remains shall immediately notify the coroner of the parish  
19 where the site or remains are found. The law enforcement agency shall also notify  
20 the secretary through the Department of Culture, Recreation and Tourism, division  
21 of archaeology within two business days of any discovery unless circumstances  
22 indicate that the death or burial is less than fifty years old or that there is need for a  
23 criminal investigation or legal inquiry by the coroner.

24 \* \* \*

25 §701. Application

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

29 §702. Standards of construction



1 §801. Recognized owner of title

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

5 §802. Transfer of ownership rights

6 \* \* \*

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

11 \* \* \*

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

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

27 §803. Descent of title to cemetery space

28 Except as ~~herein~~ otherwise provided in this Chapter, every right of interment  
29 and cemetery space shall be subject to the laws of Louisiana pertaining to

1 community property, inheritance, including but not limited to the laws of intestacy,  
2 donations inter vivos and mortis causa, and successions.

3 \* \* \*

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

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

16 §806. Rights of co-owners

17 When the record title to a cemetery space or right of interment is in the names  
18 of two or more persons, each shall be considered as having a vested right therein and  
19 no conveyance or other disposition of ~~said~~ space or right shall be recognized without  
20 the written concurrence of each ~~said~~ record owner, but each owner shall have the  
21 right of interment in any unoccupied portion of the cemetery space at the time of  
22 death.

23 §807. Co-owners; identification

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

1 §808. Co-owners may designate representative

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

9 §809. Waiver of right of interment

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

14 \* \* \*

15 §813. Correction of errors

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

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



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

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

13          §902. Underground burials; depth

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

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

20                 A. Cemetery authorities may renovate and repair but not demolish, at their  
 21                 own cost ~~and/or~~ or in conjunction with any private, state, or federal grant or fund,  
 22                 cemetery spaces within their cemeteries that are more than fifty years old and which  
 23                 have deteriorated, when the record owner or his spouse or heirs have neglected to do  
 24                 such renovation within one year after written notice mailed by registered or certified  
 25                 mail to the last known address of the last record owner on the records of the  
 26                 cemetery authority, the posting of notice on each of such cemetery spaces, and  
 27                 advertising in the official journal of the parish or municipality notifying the owner  
 28                 thereof that such renovation and repair will be made, unless the owner thereof  
 29                 objects by written notice to the office of the cemetery authority before the end of the

1 one year period. Upon failing to receive any objections, after due notice has been  
2 given, the cemetery authority may proceed with the repairs or renovations with  
3 impunity.

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

7 \* \* \*

8 §903.1. Cemeteries; maintenance of vaults and wall vaults more than fifty years old;  
9 reclamation by authority

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

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

25 (2) In the event that there is evidence of an interment or interments in the  
26 vault ~~and/or~~ or wall vault in question, and the cemetery authority has no evidence of  
27 ownership, the remains may be immediately removed and temporarily reinterred at  
28 another location, and the cemetery authority shall then have the power to  
29 immediately make the renovations, repairs, and maintenance necessary, and the same

1 notice procedure set forth in Paragraph (1) of this Subsection shall be followed,  
2 except that all persons shall have six months to come forward to the office of the  
3 cemetery authority and present written evidence of ownership in the vault ~~and/or~~ or  
4 wall vault in question, and in the event that anyone fails to do so within the time  
5 prescribed, then the vault ~~and/or~~ or wall vault may be reclaimed by the cemetery  
6 authority and resold.

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

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

23 (5) Under no circumstances shall the cemetery authority be prevented from  
24 doing repairs, renovations, and maintenance to vaults ~~and/or~~ or wall vaults if same  
25 are necessary for the preservation of the section of vaults ~~and/or~~ or wall vaults in  
26 question ~~and/or~~ or the beautification of the cemetery. If it becomes necessary to  
27 remove remains therefrom, the cemetery authority shall have this right and power as  
28 set forth above, but the remains must be kept separate until the herein prescribed  
29 time period has elapsed so that they can be identified.

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

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

13          (8) If a person comes forward to the cemetery authority within the time  
14          periods prescribed in Paragraphs (1) through (3) ~~hereof~~ of this Subsection with  
15          satisfactory written evidence of ownership or title to the vault ~~and/or~~ or wall vault  
16          in question, the cemetery authority may require that they pay their pro rata share, to  
17          be reasonably determined by the cemetery authority, of all actual costs and expenses  
18          of repairs, renovations, and maintenance before the said vault ~~and/or~~ or wall vault  
19          may thereafter be used by them and their title thereto confirmed. If there is some  
20          other impediment or objection to reuse of the vault ~~and/or~~ or wall vault in question,  
21          they must still pay their pro rata share of all costs as set forth ~~hereinabove~~ in this  
22          Section to confirm their title to same, otherwise ownership or title may be reclaimed  
23          by the cemetery authority and the space resold. Under no circumstances shall the  
24          owner of the vault ~~and/or~~ or wall vault in question be able to object to the repairs,  
25          renovations, and maintenance done or to be done if it is necessary for the  
26          preservation of the section of vaults, ~~and/or~~ or wall vaults in question, or the  
27          protection of the health and welfare of the general public.

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

1 §904. Speculative sales and purchases prohibited; penalties

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

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

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

12 A. Each municipality having a population of twenty-five thousand or less  
13 persons according to the latest federal decennial census and having a commission  
14 form of government shall be authorized to adopt an ordinance requiring owners or  
15 shareholders of a cemetery to insure that the owner or corporation's cemetery is kept  
16 neat and orderly.

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

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

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 783 Original

2022 Regular Session

Davis

Proposed law makes technical corrections to various cemetery laws in Title 8.

(Amends R.S. 8:1(intro. para.), (5), (8), (9), (11), and (13) through (40), 67, 70, 76(A) and (B), 78(D), 103, 105, 107, 122(A), 123(B)(intro. para.), 131(A), 131.1(A), 132.1(A), 133.1(A), 133.2(B)(intro. para.), 135.1(A), 135.2(B)(intro. para.), 141, 141.1(C), 141.3(B), (C), (E), and (F), 204, 302(A), (B), and (C), 303, 305 through 307, 308(A) and (C), 311, 314, 316 through 401, 402(intro. para.), 403, 404, 407, 408, 411(intro. para.), 412(B)(2), 451, 453, 454.1(A), 455, 457 through 459, 459.1(A) and (B), 460, 461(A)(intro. para.) and (B), 465(A)(1)(intro. para.), (b), and (c), (2), (4)(h), and (5)(d), (B), and (C), 501(A),

502(A)(1)(a) and (D), 502.2(intro. para.) and (5), 503(A), (B), and (D), 504, 505, 505.2(intro. para.) and (3), 506.1(A), 507, 508, 601, 604, 605, 606(B), 653(B), 663(B), (C), (D)(2) and (4), (E)(intro. para.) and (1), (F)(3), and (G)(4), 673(intro. para.), 676(A)(6), (B), and (C), 680(A) and (C), 701 through 705, 706(C), 801, 802(B), (E), and (F), 803, 805 through 809, 813, 901, 902, 903(A) and (B), and 903.1 through 905; and Adds R.S. 8:1(41) through (44))