

2022 Regular Session

HOUSE BILL NO. 783

BY REPRESENTATIVE DAVIS

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) through (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(B), 465(A)(1)(introductory paragraph), (b), and (c), (2),
10 (4)(h), and (5)(d), (B), and (C), 501(A), 502(A)(1)(a) and (D), 502.2(introductory
11 paragraph) and (5), 503, 504, 505, 505.2(introductory paragraph) and (3), 506(B) and
12 (C)(1), 506.1(A), 507, 508, 601, 604, 605, 606(B), 653(B), 663(B), (C), (D)(2) and
13 (4), (E)(introductory paragraph) and (1), (F)(3), and (G)(4), 673(introductory
14 paragraph), 676(A)(6), (B), and (C), 680(A) and (C), 701 through 705, 706(C), 801,
15 802(B), (E), and (F), 803, 805 through 809, 813, 901, 902, 903(A) and (B), 903.1,
16 904, and 905(C) and to enact R.S. 8:1(41) through (44), relative to providing
17 technical corrections for Title 8 of the Louisiana Revised Statutes of 1950; to provide
18 for technical corrections; to provide for standardization of language; and to provide
19 for related matters.

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. R.S. 8:1(introductory paragraph), (5), (8), (9), (11), and (13) through (40),
22 67, 70, 76(A) and (B), 78(D), 103, 105, 107, 122(A), 123(B)(introductory paragraph),
23 131(A), 131.1(A), 132.1(A), 133.1(A), 133.2(B)(introductory paragraph), 135.1(A),
24 135.2(B)(introductory paragraph), 141, 141.1(C), 141.3(B), (C), (E), and (F), 204, 302(A)

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

6 (a) ~~individual~~ Individual salesmen or sales managers employed by and
7 contracting directly with cemetery authorities operating ~~under~~ in accordance with
8 this law;

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

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

17 * * *

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

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

24 ~~(14.1)~~ (15) "Corporation" means any corporation or limited liability
25 company ~~now or hereafter organized,~~ which is ~~or may be~~ authorized by its articles
26 or an operating agreement to conduct any one or more of the businesses of a
27 cemetery.

28 ~~(15)~~ (16) "Cremated remains" means human remains after cremation in a
29 crematory.

1 ~~(16)~~ (17) "Cremation" means the reduction of the body of a deceased person
 2 to cremated remains in a crematory.

3 ~~(17)~~ (18) "Crematory" means a building or structure containing one or more
 4 retorts for the reduction of bodies of deceased persons to cremated remains.

5 ~~(18)~~ (19) "Crematory and columbarium" means a building or structure
 6 containing both a crematory and columbarium.

7 ~~(19)~~ (20) "Crypt" or "vault" means a space in a mausoleum of sufficient size,
 8 used or intended to be used, to entomb human remains.

9 ~~(20)~~ (21) "Directors" means the board of directors, board of trustees, or other
 10 governing body of a cemetery authority, cemetery sales organization, or cemetery
 11 management organization.

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

18 ~~(21)~~ (23) "Entombment" means the placement of human remains in a
 19 mausoleum.

20 ~~(22)~~ (24) "Family burial ground" means a cemetery in which no lots are sold
 21 to the public and in which interments are restricted to a group of persons related to
 22 each other by blood or marriage.

23 ~~(22.1)~~ (25) "Force majeure" means any of the following circumstances:

- 24 (a) A major storm, major flood, or other similar natural disaster.
- 25 (b) A major accident beyond the cemetery authority's control and not
 26 ultimately found to be the fault of the cemetery authority.
- 27 (c) ~~The~~ A delay by the federal government or any of its agencies, or the state
 28 or any of its agencies or political subdivisions, in granting necessary permits.
- 29 (d) A valid order of any federal or state court of competent jurisdiction that
 30 prevents the timely completion of a project.

1 ~~(23)~~ (26) "Fraternal cemetery" means a cemetery owned, operated,
2 controlled, or managed by any fraternal organization or auxiliary organization
3 thereof, in which the sale of lots, graves, crypts, vaults, or niches is restricted
4 principally to its members.

5 ~~(24)~~ (27) "Grave" means a space of ground in a cemetery, used or intended
6 to be used, for burial.

7 ~~(25)~~ (28) "Human remains" means the body of a deceased person and
8 includes the body in any stage of decomposition, as well as cremated remains.

9 ~~(26)~~ (29) "Interment" means the disposition of human remains by inurnment,
10 scattering, entombment, or burial in a place used or intended to be used, and
11 dedicated, for cemetery purposes.

12 ~~(27)~~ (30) "Inurnment" means placing cremated remains in an urn or other
13 suitable container and placing it in a niche, crypt, or vault in a place used or intended
14 to be used, and dedicated, for cemetery purposes.

15 ~~(28)~~ (31) "Lawn crypts" means space for interment in preplaced chambers;
16 or burial vaults, either side by side or multiple depth, covered by earth ~~and/or~~ or sod
17 and known also as below-ground crypts, ~~westministers~~ Westminster crypts, or turf
18 top crypts.

19 ~~(29)~~ (32) "Lot" or "plot" means land in a cemetery used or intended to be
20 used for the interment of human remains within a grave, mausoleum, lawn crypt, ~~or~~
21 ~~lawn crypt~~ or columbarium.

22 ~~(30)~~ (33) "Mausoleum" or "tomb" means a structure or building for the
23 entombment of human remains in crypts or vaults in a place used or intended to be
24 used, and dedicated, for cemetery purposes.

25 ~~(31)~~ (34) "Municipal cemetery" means a cemetery owned, operated,
26 controlled, or managed by a municipality or other political subdivision of the state,
27 or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

28 ~~(32)~~ (35) "Niche" means a space in a columbarium used or intended to be
29 used for inurnment of cremated human remains.

1 statements and reports provided for ~~herein in this Title~~, but such rules and
2 regulations shall not be in conflict with or contrary to any of the provisions of this
3 ~~title~~ Title or of R.S. 49:951, et seq.

4 * * *

5 §70. Application for certificate of authority

6 The initial application for a certificate of authority, including without
7 limitation an application for a new certificate required by R.S. 8:76, shall be made
8 in writing by a cemetery authority to the board on a form prescribed by the board,
9 accompanied by an application fee set by the board not to exceed one thousand
10 dollars. Applications for renewal of a valid, subsisting, and unsuspended certificate
11 of authority shall be made in similar fashion, accompanied by the regulatory charge
12 provided for in this Title. All initial applications ~~must~~ shall show that the cemetery
13 authority owns or is actively operating a cemetery which is subject to the provisions
14 of this Title.

15 * * *

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

18 A. Within thirty days after the sale or transfer of ownership or control of a
19 cemetery or cemetery authority, the transferor ~~must~~ shall return its certificate of
20 authority to the board. The transferee ~~must~~ shall file an application, within thirty
21 days, after the sale or transfer of ownership or control of a cemetery authority, and
22 meet all the requirements of this Chapter. The application for a certificate of
23 authority shall be accompanied by the prescribed regulatory charge.

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

28 * * *

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

2 * * *

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

13 * * *

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

15 In order to provide a site or grounds and additions thereto and to provide and
16 maintain streets, curbing, aisles, walkways, outside fences, drainage, and any
17 building that may be needed for the use of a sexton or caretaker, as well as any
18 electrical illumination needed, and to provide for the employment of a sexton or
19 caretaker and the cutting of grass and the acquisition of and planting and care of
20 trees, shrubbery, and flowers, the governing authority of the municipality may either
21 anticipate the revenues of the municipality or issue bonds or certificates ~~based~~
22 ~~thereon~~ as provided by law, or submit to the taxpayers at a special election to be
23 called and held in the municipality by the governing authority, pursuant to the law,
24 to vote negotiable bonds, within the limitations authorized by law, for any of the
25 above purposes, and thereafter levy and collect taxes and pay and retire the bonds
26 authorized at the election.

27 * * *

28 §105. Maximum tax; use of proceeds

29 The special election called in accordance with the provisions of R.S. 8:103
30 and 104 may be for a sum not in excess of one mill on the dollar assessment on all

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

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

8 * * *

9 §131.1. Board of commissioners; membership; appointment; vacancies; removal of
10 members; officers

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

17 * * *

18 §132.1. Board, qualification of members; appointment; vacancies; removal of
19 members; officers

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

26 * * *

27 §133.1. Board, qualification of members; appointment; vacancies; removal of
28 members; officers

29 A. The LaSalle Parish Cemetery District shall be governed by a board of five
30 commissioners, ~~hereinafter~~ referred to in this Chapter as the "board", who shall be

1 registered voters and residents of LaSalle Parish and who shall serve without
2 compensation. The board shall be appointed by the governing authority of LaSalle
3 Parish. Two of the initial commissioners ~~so~~ appointed shall serve for two years, two
4 for four years, and one for five years.

5 * * *

6 §133.2. Corporate status; powers and duties

7 * * *

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

11 * * *

12 §135.1. Board, qualification of members; appointment; vacancies; removal of
13 members; officers

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

20 * * *

21 §135.2. Corporate status; powers and duties

22 * * *

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

26 * * *

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

28 The governing authority of St. Landry Parish is hereby authorized to create
29 the St. Landry Parish Cemetery District, ~~hereinafter~~ referred to in this Chapter as the
30 "district", the boundaries of which shall be coterminous with the boundaries of St.

1 Landry Parish. The objective and purpose of the district created ~~under~~ in accordance
2 with the provisions of this Chapter shall be the acquisition, establishment, operation,
3 and maintenance of one or more public cemeteries within the district.

4 §141.1. Board; qualification of members; appointment; vacancies; officers

5 * * *

6 C. The commission shall be governed by a board of commissioners and shall
7 be known as the Board of Commissioners of _____ District Cemetery
8 Commission of St. Landry Parish, ~~hereinafter~~ referred to in this Chapter as the
9 "board".

10 * * *

11 §141.3. District as a political subdivision; election imposing taxes, maximum tax;
12 authority

13 * * *

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

18 C. The imposition, collection, and enforcement of the tax and any procedural
19 details necessary to be established to supplement the provisions of this Section and
20 to make provisions applicable to the tax imposed ~~hereunder~~ in Subsection B of this
21 Section shall be fixed by the resolution of the commission. The commission shall
22 have the authority to contract with the sheriff, the Department of Revenue, or any
23 other agency or political subdivision for the collection of the tax.

24 * * *

25 E. The tax shall be adopted by a commission only after the question of the
26 imposition of such tax and the funding thereof into bonds ~~under~~ pursuant to the
27 provisions of this Section shall have been submitted to the qualified electors within
28 the boundaries of such district at an election to be called, conducted, canvassed, and
29 promulgated by the governing authority of such district in accordance with the
30 general laws of the state governing the authorization of general obligation bonds and

1 the majority of the qualified electors voting in such election shall have voted in favor
2 of such additional tax and the funding thereof into bonds.

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

10 * * *

11 §204. Specific powers; rule making and enforcement

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

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

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

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

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

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

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

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

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

3 * * *

4 §302. Surveys and maps

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

13 B. The preparation and use of any survey, map, or plat ~~hereinabove~~
14 ~~contemplated~~ required by Subsection A of this Section shall not constitute the
15 dedication of the property depicted thereon solely for cemetery purposes, ~~until and~~
16 unless such property is actually used for ~~said~~ those purposes. Accordingly, each
17 such survey, map, or plat may include undeveloped areas which may be marked
18 "reserved for future development" and, when so marked, ~~said~~ those areas, when
19 subsequently developed and used for cemetery purposes shall be considered
20 dedicated for such purposes, but if such areas are not to be used for cemetery
21 purposes, the cemetery authority shall have the right to use such areas for any other
22 lawful purposes.

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

25 * * *

26 §303. Maps and plats; amendment

27 Any part or subdivision of the property as shown in the survey, map, or plat
28 referred to in R.S. 8:301 may, by order of the directors of the cemetery authority, be
29 resurveyed and altered in shape and size and an amended survey, map, or plat may
30 be prepared so long as such change does not disturb the interred remains of any

1 C. When a petition is filed in court pursuant to Subsection B of this Section,
2 a copy of the petition shall be served upon the ~~Louisiana Division of Archaeology~~
3 Department of Culture, Recreation and Tourism, division of archaeology and the
4 attorney general.

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

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

11 §307. Notice of hearing

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

17 (1) ~~describe~~ Describe the portion of the cemetery property sought to be
18 removed from dedication;

19 (2) ~~state~~ State that all remains have been removed or that no interments have
20 been made in the portion of the cemetery property sought to be removed from
21 dedication; ~~and~~

22 (3) ~~specify~~ Specify the time and place of hearing.

23 §308. Sale of cemetery spaces; abandoned spaces; defined; sale of abandoned
24 spaces

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

30 * * *

1 C.(1) Interment space shall be deemed to have been abandoned when one of
 2 the following occurs:

3 ~~(1) after a~~ (a) A cemetery authority shall have been unable ~~after diligent~~
 4 ~~efforts for twenty-five years~~ to locate any of the owners or their successors or heirs
 5 after diligent efforts for twenty-five years.; ~~or,~~

6 ~~(2) in~~ (b) In the event such interment space is no longer fit for human burial,
 7 there has been no interment in the preceding twenty-five years and the cemetery
 8 authority shall have been unable, ~~after diligent efforts for one year,~~ to locate any of
 9 the owners or their successors or heirs to provide care, maintenance, or repairs for
 10 an interment space after diligent efforts for one year.

11 (2) A cemetery authority shall be deemed to have made diligent efforts to
 12 locate the owners or their successors or heirs of an interment space ~~for a specified~~
 13 ~~period of time~~ if such authority:

14 ~~(1) has~~ (a) Has advertised a notice stating that such authority proposes to
 15 acquire such interment space pursuant to this Section, which notice shall be
 16 advertised;

17 ~~(a) in~~ (i) In the case of the ~~twenty-five year~~ twenty-five-year period;
 18 ~~provided herein~~

19 ~~(i) once~~ (aa) Once a year in each of the first twenty-four years of such
 20 period; ~~and~~

21 ~~(ii) once~~ (bb) Once a month during the last year of such ~~twenty-five year~~
 22 twenty-five-year period; ~~and~~

23 ~~(b) in~~ (ii) In the case of the ~~one year~~ one-year period, ~~provided herein,~~ once
 24 a month during such ~~one year~~ one-year period;;

25 ~~(2) has~~ (b) Has posted a notice on the space to the same effect as that
 26 specified in ~~clause (1) of this sentence;~~ Subparagraph (a) of this Paragraph, once a
 27 month during the last year of either of such periods of time; and ~~(3) has~~ mailed a
 28 ~~registered/certified~~ registered or certified letter to the last known owners of ~~said~~ the
 29 interment space; which letter shall contain a notice to the same effect as that
 30 specified in ~~clause (1) of this statement~~ Subparagraph (a) of this Paragraph;

1 the consent of not less than two-thirds of the owners of interment spaces shall be
2 required.

3 §317. Certain cemetery lands exempt from taxes

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

7 §401. License to engage in business

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

11 §402. Application for license

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

18 * * *

19 §403. Application fee; annual fee

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

26 §404. Investigation by board

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

- 30 (1) The legal entity that is to conduct the business of applicant and if ~~said~~ the

1 §451. Corporate operation

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

9 * * *

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

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

17 * * *

18 §454.1. Administration of trust funds; maintenance; exemption from seizure

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

30 * * *

1 §455. Annual report by cemeteries

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

6 * * *

7 §457. Application of Chapter

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

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

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

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

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

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

1 provisions of this ~~section~~ Section have been complied with and shall place ~~said~~ the
2 cemetery authority within the excepted cemeteries.

3 §458. Prohibited acts; injunctions

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

11 §459. Cemeteries exempt

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

14 §459.1. Trust fund transfers

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

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

25 * * *

26 §460. Penalties

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

1 §461. Examination of endowment funds; expenses

2 * * *

3 B. The expense of the examination as provided ~~herein~~ in Subsection A of
4 this Section shall not exceed two hundred fifty dollars per day for each examiner
5 engaged in the examination, but when the examination requires more than two days,
6 the cost shall be paid by the cemetery authority in an amount not to exceed a total of
7 five hundred dollars, unless irregularities are found, in which case the cemetery
8 authority shall pay the full cost of the examination. The examination shall be
9 privately conducted in the principal office of the cemetery authority or trustee.

10 * * *

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

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

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

21 * * *

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

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

25 * * *

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

29 * * *

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

31 * * *

1 (h) Loans secured by a mortgage or mortgages on improved immovable
 2 property situated exclusively in ~~the~~ this state ~~of Louisiana~~ for not more than an
 3 aggregate of seventy-five percent of the appraised value of the property and for a
 4 term amortized over a period not exceeding thirty years₂; and unless otherwise
 5 provided by regulation of the Louisiana Cemetery Board ~~must~~ shall bear interest at
 6 not less than the maximum rate permitted at the time of investment by the Federal
 7 Housing Administration for loans to be insured.

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

12 * * *

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

16 * * *

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

23 C. The board may bring actions for the preservation and protection of
 24 endowment or perpetual care funds in the district court of the parish in which the
 25 cemetery is located, and the court may appoint a substitute trustee or trustees and
 26 make any other order necessary for the preservation, protection₂ and recovery of
 27 endowment or perpetual care funds whenever a cemetery authority or the trustee of
 28 such funds has done any of the following:

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

4 (2) ~~failed~~ Failed to reinvest endowment or perpetual care funds in
5 accordance with a board order issued ~~under~~ pursuant to the authority of Subsection
6 B of this Section; ~~or,~~ ,

7 (3) ~~invested~~ Invested endowment or perpetual care funds in violation of this
8 ~~title;~~ ~~or,~~ Title.

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

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

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

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

19 * * *

20 §501. Application

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

28 * * *

1 §502. Payments to trust; amounts required

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

9 * * *

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

16 * * *

17 §502.2. Suppliers

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

20 * * *

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

25 * * *

26 §503. Withdrawals from trust

27 A. The funds shall be held in trust both as to principal and income earned
28 ~~thereon~~, and shall remain intact, except that the costs of operation of the trust may
29 be deducted from the income earned ~~thereon~~, until delivery of the personal property
30 is made or the services are performed by the cemetery authority or other entity or

1 until the death of the person for whose benefit the contract was made. Upon delivery
2 of the personal property or performance of the services, the cemetery authority or
3 other entity shall certify such delivery or performance to the trustee and the amount
4 of money plus income on deposit with trustee to the credit of that particular contract.
5 Upon such certification, or in case of death prior to such certification, and upon
6 submission of documentation as required by rules and regulations promulgated by
7 the board, the amount of money on deposit to the credit of each particular contract,
8 including principal and income earned ~~thereon~~, shall be forthwith paid to the
9 cemetery authority or other entity. The trustee may rely upon all such certifications
10 ~~herein~~ required to be made pursuant to this Section and shall not be liable to anyone
11 for such reliance.

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

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

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

12 §504. Payments to purchaser; change of domicile

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

18 §505. Annual reports by trustee; ~~final~~ final accounting by trustee required

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

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

31 * * *

1 §505.2. Resignation of trustee; orderly transfer of trust fund

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

5 * * *

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

8 * * *

9 §506. Examination by board; expenses

10 * * *

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

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

18 (1)(a) Have free access to the books and records relating to the merchandise
19 trust funds; ~~2~~ their collection and investment, and individual contracts for the sale of
20 personal property or services as described in this Chapter; ~~said~~.

21 (b) ~~Make the~~ books and records ~~shall be made~~ available for examination in
22 the principal office of the cemetery authority, other entity, ~~2~~ or trustee located within
23 the state of Louisiana.

24 * * *

25 §506.1. Failure to make required deposits; action

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

31 * * *

1 §507. Nonwaiver of provisions of ~~chapter~~ Chapter

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

5 §508. Penalties

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

12 * * *

13 §601. Application of ~~chapter~~ Chapter

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

19 * * *

20 §604. Improper construction a nuisance; penalty

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

26 §605. Construction in compliance with existing laws

27 The penalties of this ~~chapter~~ Chapter shall not apply as to any structure that
28 is in existence on July 31, 1974, which at the time of construction was constructed
29 in compliance with the laws then existing, provided its continued use is not in
30 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.

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D.

* * *

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

* * *

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

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

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

* * *

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

* * *

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

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

* * *

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

6 * * *

7 §673. Definitions

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

11 * * *

12 §676. Powers and duties of the secretary

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

14 * * *

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

19 * * *

20 B. Civil damages, except for attorney fees, recovered by the secretary,
 21 subject to applicable provisions of law, shall be used by the secretary to implement
 22 and enforce this Chapter and to fund activities of the Department of Culture,
 23 Recreation and Tourism, division of archaeology₂, in regard to restoration and
 24 protection of burial sites, in accordance with regulations adopted by the secretary and
 25 other applicable laws. Attorney fees shall be paid to the Louisiana Department of
 26 Justice.

27 C. Provisional permits may be used by the Department of Culture,
 28 Recreation and Tourism, division of archaeology₂, until rules and regulations
 29 governing permitting are adopted.

30 * * *

1 will insure the completion of ~~said~~ the undeveloped land into the kind of cemetery
2 that is being or will be represented for sale to the buying public.

3 §703. Compliance with ordinances and specifications

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

7 §704. Improper use a nuisance; penalty

8 Every landowner who sells or otherwise disposes of or causes or permits the
9 sale or other disposition of undeveloped land for use for the interment of human
10 remains in violation of this ~~section~~ Section shall be guilty of maintaining a public
11 nuisance and, upon conviction, shall be punishable by fine of not less than five
12 hundred dollars nor more than five thousand dollars or by imprisonment for not less
13 than one month nor more than six months, or both.

14 §705. Construction in compliance with existing laws

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

18 * * *

19 §706. Commencement and completion requirements

20 * * *

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

25 §801. Recognized owner of title

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

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

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

13 §806. Rights of co-owners

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

20 §807. Co-owners; identification

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

27 §808. Co-owners may designate representative

28 When there are two or more owners of a cemetery space or right of interment,
29 they may designate one or more persons, firms or corporations, trustees, or other
30 entities to represent them and, upon filing written notice of designation with the

1 cemetery authority, the cemetery authority in its discretion shall have the right to
 2 deal with such representative unless the cemetery authority receives written
 3 revocation of the designation executed by all of the co-owners or their heirs or legal
 4 representatives.

5 §809. Waiver of right of interment

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

10 * * *

11 §813. Correction of errors

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

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

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

1 operations upon that portion of the leased premises which is included within the
2 cemetery.

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

8 §902. Underground burials; depth

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

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

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

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

31 * * *

1 §903.1. Cemeteries; maintenance of vaults and wall vaults more than fifty years old;
2 reclamation by authority

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

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

18 (2) In the event that there is evidence of an interment or interments in the
19 vault ~~and/or~~ or wall vault in question, and the cemetery authority has no evidence of
20 ownership, the remains may be immediately removed and temporarily reinterred at
21 another location, and the cemetery authority shall then have the power to
22 immediately make the renovations, repairs, and maintenance necessary, and the same
23 notice procedure set forth in Paragraph (1) of this Subsection shall be followed,
24 except that all persons shall have six months to come forward to the office of the
25 cemetery authority and present written evidence of ownership in the vault ~~and/or~~ or
26 wall vault in question, and in the event that anyone fails to do so within the time
27 prescribed, then the vault ~~and/or~~ or wall vault may be reclaimed by the cemetery
28 authority and resold.

29 (3) In the event that records of the cemetery authority indicate that there is
30 a record owner of the vault ~~and/or~~ or wall vault in question, the remains, if any, may

1 be immediately removed and temporarily reinterred at another location, and the
2 cemetery authority shall have the right and power to immediately make the necessary
3 renovations, repairs, and maintenance, then the cemetery authority shall attempt to
4 contact the owner by registered or certified mail at his last known address, and also
5 publish as part of a general notice in the official journal of the parish or municipality
6 in question a notice stating that in the event the owner or his heirs fail to come
7 forward to the office of the cemetery authority within six months of the date of the
8 notice and submit written proof of ownership, then the vault ~~and/or~~ or wall vault in
9 question may be reclaimed and resold by the cemetery authority.

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

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

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

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

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

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

22 §904. Speculative sales and purchases prohibited; penalties

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

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

