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

AN ACT

To amend and reenact R.S. 8:1(introductory paragraph), (5), (8), (9), (11), and (13) through (40), 67, 70, 76(A) and (B), 78(D), 103, 105, 107, 122(A), 123(B)(introductory paragraph), 131(A), 131.1(A), 132.1(A), 133.1(A), 133.2(B)(introductory paragraph), 135.1(A), 135.2(B)(introductory paragraph), 141, 141.1(C), 141.3(B), (C), (E), and (F), 204, 302(A) through (C), 303, 305 through 307, 308(A) and (C), 311, 314, 316 through 401, 402(introductory paragraph), 403, 404, 407, 408, 411(introductory paragraph), 412(B)(2), 451, 453, 454.1(A), 455, 457 through 459, 459.1(A) and (B), 460, 461(B), 465(A)(1)(introductory paragraph), (b), and (c), (2), (4)(h), and (5)(d), (B), and (C), 501(A), 502(A)(1)(a) and (D), 502.2(introductory paragraph) and (5), 503, 504, 505, 505.2(introductory paragraph) and (3), 506(B) and (C)(1), 506.1(A), 507, 508, 601, 604, 605, 606(B), 653(B), 663(B), (C), (D)(2) and (4), (E)(introductory paragraph) and (1), (F)(3), and (G)(4), 673(introductory paragraph), 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), 903.1, 904, and 905(C) and to enact R.S. 8:1(41) through (44), relative to providing technical corrections for Title 8 of the Louisiana Revised Statutes of 1950; to provide for technical corrections; to provide for standardization of language; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 8:1(introductory paragraph), (5), (8), (9), (11), and (13) through (40), 67, 70, 76(A) and (B), 78(D), 103, 105, 107, 122(A), 123(B)(introductory paragraph), deliver to the Governor.

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131(A), 131.1(A), 132.1(A), 133.1(A), 133.2(B)(introductory paragraph), 135.1(A), 135.2(B)(introductory paragraph), 141, 141.1(C), 141.3(B), (C), (E), and (F), 204, 302(A) through (C), 303, 305 through 307, 308(A) and (C), 311, 314, 316 through 401, 402(introductory paragraph), 403, 404, 407, 408, 411(introductory paragraph), 412(B)(2), 451, 453, 454.1(A), 455, 457 through 459, 459.1(A) and (B), 460, 461(B), 465(A)(1)(introductory paragraph), (b), and (c), (2), (4)(h), and (5)(d), (B), and (C), 501(A), 502(A)(1)(a) and (D), 502.2(introductory paragraph) and (5), 503, 504, 505, 505.2(introductory paragraph) and (3), 506(B) and (C)(1), 506.1(A), 507, 508, 601, 604, 605, 606(B), 653(B), 663(B), (C), (D)(2) and (4), (E)(introductory paragraph) and (1), (F)(3), and (G)(4), 673(introductory paragraph), 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), 903.1, 904, and 905(C) are hereby amended and reenacted and R.S. 8:1(41) through (44) are hereby enacted to read as follows:

§1. Definitions

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

* * *

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

* * *

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

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

* * *

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

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

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

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

* * *

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

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

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

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are additions.
or an operating agreement to conduct any one or more of the businesses of a
cemetery.

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

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

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

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

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

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

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

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

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

(24) "Force majeure" means any of the following circumstances:
(a) A major storm, major flood, or other similar natural disaster.
(b) A major accident beyond the cemetery authority's control and not ultimately found to be the fault of the cemetery authority.

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

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

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

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

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

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

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

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

(32) "Lot" or "plot" means land in a cemetery used or intended to be used for the interment of human remains within a grave, mausoleum, lawn crypt, or lawn crypt or columbarium.
"Mausoleum" or "tomb" means a structure or building for the entombment of human remains in crypts or vaults in a place used or intended to be used, and dedicated, for cemetery purposes.

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

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

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

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

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

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

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

"Religious cemetery" means a cemetery that is owned, operated, controlled, or managed by a recognized church, religious society, association, or denomination, or by a cemetery authority or a corporation administering or through which is administered the temporalities of any recognized church, religious society, association, or denomination.
"Sale" means the sale of the full title to any cemetery space or the
sale of the right of use of and/or interment in any cemetery space.

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

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

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

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

§76. Sale or transfer of cemetery authority; application for new certificate of
authority; compliance required; late charge
A. Within thirty days after the sale or transfer of ownership or control of a
cemetery or cemetery authority, the transferor shall return its certificate of

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authority to the board. The transferee **must** shall file an application, within thirty
days, after the sale or transfer of ownership or control of a cemetery authority, and
meet all the requirements of this Chapter. The application for a certificate of
authority shall be accompanied by the prescribed regulatory charge.

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

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

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

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

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

§105. Maximum tax; use of proceeds

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

§107. Gifts, donations and contributions

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

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

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

§123. Corporate status; purpose; powers and duties

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

§131. Rapides Parish Cemetery District; creation; location

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

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

A. The Rapides Parish Cemetery District shall be governed by a board of nine commissioners, hereinafter referred to in this Chapter as the board, who shall be qualified voters and residents of the district and who shall serve without compensation. The police jury shall appoint one commissioner from each of the police jury districts. Three of the initial commissioners appointed shall serve for two years, three for three years, and three for four years.
§132.1. Board, qualification of members; appointment; vacancies; removal of members; officers

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

* * *

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

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

* * *

§133.2. Corporate status; powers and duties

* * *

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

* * *

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

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

§135.2. Corporate status; powers and duties

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

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

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

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

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

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

authority

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

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

* * *

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

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

* * *

§204. Specific powers; rule making and enforcement

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

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

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

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

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

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

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

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

* * *

§302. Surveys and maps

A. Every cemetery authority from time to time as its property is developed for cemetery purposes shall, in the case of land, survey and subdivide it into sections, blocks, plots, avenues, walks, or other subdivisions, and make a good and substantial map or plat showing the sections, plots, avenues, walks or other subdivisions, with descriptive names or numbers. In the case of a mausoleum or a columbarium, it shall make a good and substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevations and other divisions, with descriptive names or numbers.
B. The preparation and use of any survey, map, or plat contemplated required by Subsection A of this Section shall not constitute the deduction of the property depicted thereon solely for cemetery purposes, unless such property is actually used for those purposes. Accordingly, each such survey, map, or plat may include undeveloped areas which may be marked "reserved for future development" and, when so marked, those areas, when subsequently developed and used for cemetery purposes shall be considered dedicated for such purposes, but if such areas are not to be used for cemetery purposes, the cemetery authority shall have the right to use such areas for any other lawful purposes.

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

§303. Maps and plats; amendment

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

§305. Rule against perpetuities, etc., inapplicable

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

§306. Removal of dedication; procedure

A. Legislative intent. The following is the intent of the legislature:
(1) That the protection of unmarked human burial sites has been entrusted to the Louisiana Division of Archaeology Department of Culture, Recreation and Tourism, division of archaeology and the attorney general.

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

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

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

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

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

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

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

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

1. Describe the portion of the cemetery property sought to be removed from dedication;
2. State that all remains have been removed or that no interments have been made in the portion of the cemetery property sought to be removed from dedication;
3. Specify the time and place of hearing.

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

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

* * *

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

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

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

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

(i) has (a) Has advertised a notice stating that such authority proposes to
acquire such interment space pursuant to this Section, which notice shall be
advertised:

(a) in (i) In the case of the twenty-five year twenty-five-year period, provided herein

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

(ii) once (bb) Once a month during the last year of such twenty-five year
twenty-five-year period, and

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

(2) has (b) Has posted a notice on the space to the same effect as that
specified in clause (1) of this sentence; Subparagraph (a) of this Paragraph, once a
month during the last year of either of such periods of time; and (3) has mailed a
registered, certified letter to the last known owners of said the
interment space; which letter shall contain a notice to the same effect as that
specified in clause (1) of this statement Subparagraph (a) of this Paragraph; provided, however, that the requirements of clause (3) of this sentence
this Subparagraph shall not be applicable to the extent that the records of the
cemetery authority acting pursuant to this Section do not contain the name and
address of any owner of said the interment space, or

(4) be (c) If the cemetery authority is determined by a court of competent
jurisdiction to have exercised diligent efforts to locate the owners; provided,
however, that prior to the initiation of any such legal action the cemetery authority
has conformed with the requirements of the one-year period of monthly
advertisements, postings, and mailings as provided hereinafore in Subparagraph (a)
of this Paragraph and evidence of such notices has been exhibited to the court.

§311. Commission on sales prohibited

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

§314. Record of ownership and transfers

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

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

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

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

§401. License to engage in business

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

§402. Application for license

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

* * *

§403. Application fee; annual fee

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

§404. Investigation by board

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

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(1) The legal entity that is to conduct the business of applicant and if the entity is a foreign corporation, whether or not it is qualified to do business in Louisiana and.

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

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

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

§408. Penalties

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

§411. Definitions

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

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
$412. Application for license; qualifications; fees

B.

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

$451. Corporate operation

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

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

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

$454. Administration of trust funds; maintenance; exemption from seizure

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

§455. Annual report by cemeteries

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

§457. Application of Chapter

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

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

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

(3) The name of the financial institution or trustees or other entity which had
custody and control of such fund.
B. A like affidavit shall be filed with the board at the end of each fiscal year thereafter for the operation of such cemetery.

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

§458. Prohibited acts; injunctions

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

§459. Cemeteries exempt

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

§459.1. Trust fund transfers

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

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

§460. Penalties

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

§461. Examination of endowment funds; expenses

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

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

A. All funds held in trust for perpetual care purposes shall be administered by the trustee with such skill and care as a man of ordinary prudence, discretion, and intelligence would exercise in the management of his own affairs, not in regard to speculation but in regard to the permanent disposition of his funds, considering the probable income as well as the probable safety of his capital, subject to the following restrictions:
(1) No such funds shall hereafter, directly or indirectly, be loaned to or invested with any of the following:

*  *  *

(b) Any trustee of the funds.

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

*  *  *

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

*  *  *

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

*  *  *

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

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

*  *  *

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

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

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

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

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

   (3) Invested endowment or perpetual care funds in violation of this Title;

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

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

   (6) Become in danger of insolvency or has gone into bankruptcy or receivership.
(7) taken any action in violation of this Title or failed to take action required by this Title or has failed to comply with lawful rules, regulations, and orders of the board.

§501. Application

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

§502. Payments to trust; amounts required

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

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

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

* * *

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

* * *

§503. Withdrawals from trust

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

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

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

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

§504. Payments to purchaser; change of domicile

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

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

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

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

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

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

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

§506. Examination by board; expenses

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

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be paid by the cemetery authority or other entity in an amount not to exceed a total
of five hundred dollars, unless irregularities are found, in which case the cemetery
authority or other entity shall pay the full cost of the examination.

C. In making such examination, the board shall:

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

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

§506.1. Failure to make required deposits; action

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

§507. Nonwaiver of provisions of chapter Chapter

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

§508. Penalties

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

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are additions.
§601. Application of chapter

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

* * *

§604. Improper construction a nuisance; penalty

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

§605. Construction in compliance with existing laws

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

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

* * *

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

* * *

§653. Opening graves; stealing body; receiving same

* * *

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

* * *

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

* * *

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

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

D.

* * *

(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:

*          *          *

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

*          *          *

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
§673. Definitions

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

* * *

§676. Powers and duties of the secretary

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

* * *

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

* * *

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

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

* * *

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

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

* * *

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

* * *

§701. Application

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

§702. Standards of construction

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

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

§704. Improper use a nuisance; penalty

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

§705. Construction in compliance with existing laws

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

§706. Commencement and completion requirements

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

§801. Recognized owner of title

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

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

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

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

§803. Descent of title to cemetery space

Except as herein otherwise provided in this Chapter, every right of interment and cemetery space shall be subject to the laws of Louisiana this state pertaining to community property, inheritance, including but not limited to the laws of intestacy, donations inter vivos and mortis causa, and successions.
§805. When right of interment or cemetery space is inalienable

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

§806. Rights of co-owners

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

§807. Co-owners; identification

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

§808. Co-owners may designate representative

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

§809. Waiver of right of interment

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

* * *

§813. Correction of errors

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

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

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

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

§902. Underground burials; depth

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§904. Speculative sales and purchases prohibited; penalties

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

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

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

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

**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)]

HB 783 Reengrossed 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)-(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)-(C), 303, 305-307, 308(A) and (C), 311, 314, 316-401, 402(intro. para.), 403, 404, 407, 408, 411(intro. para.), 412(B)(2), 451, 453, 454.1(A), 455, 457-459, 459.1(A) and (B), 460, 461(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, 504, 505, 505.2(intro. para.) and (3), 506(B) and (C)(1), 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), 701-705, 706(C), 801, 802(B), (E), and (F), 803, 805-809, 813, 901, 902, 903(A) and (B), and 903.1, 904, and 905(C); and Adds R.S. 8:1(41)-(44))

**Summary of Amendments Adopted by House**

The Committee Amendments Proposed by House Committee on Commerce to the **original bill**:

1. Make technical changes.