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SECTION 1. Subchapter F, Chapter 154, Finance Code, is amended by adding Section 154.265 to read as follows:

Sec. 154.265. DEFAULT UNDER CERTAIN CONTRACTS. (a) Notwithstanding any other law, the purchaser of a trust-funded prepaid funeral benefits contract may not be considered in default under the contract if:

(1) the purchaser has paid at least 85 percent of the contract price; and

(2) the purchaser was unable to pay due to extenuating financial circumstances.

(b) A funeral provider is not required to provide funeral merchandise or services under a trust-funded prepaid funeral benefits contract unless any remaining balance, including any applicable finance charge, owed under the contract is paid before the funeral service or the funeral provider agrees in writing to another payment arrangement.

(c) This section does not affect a purchaser's right to cancel a trust-funded prepaid funeral benefits contract.

No equivalent provision.

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Same as House version.

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SECTION __. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 695 to read as follows:

CHAPTER 695. IN-CASKET IDENTIFICATION

Sec. 695.001. DEFINITIONS. In this chapter:

(1) "Casket" means a container used to hold the remains

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of a deceased person.

(2) "Commission" means the Texas Funeral Service Commission.

Sec. 695.002. IDENTIFICATION OF DECEASED PERSON. The commission shall ensure a casket contains identification of the deceased person, including the person's name, date of birth, and date of death.

Sec. 695.003. RULES. The commission may adopt rules to enforce this chapter.

SECTION 2. Section 711.008(b), Health and Safety Code, is amended to read as follows:

(b) Subsection (a) does not apply to:

- (1) a cemetery heretofore established and operating;
- (2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;
- (3) the establishment and use of a columbarium:
 - (A) in a municipality with a population of at least 1.8 million; and
 - (B) by an organized religious society or sect, that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:
 - (i) is owned by the society or sect; and

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(ii) is part of the campus on which an existing principal church building is located; [øø]

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus; or

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect.

SECTION 3. Section 711.012(b), Health and Safety Code, is amended to read as follows:

(b) The Texas Funeral Service Commission may **enforce**

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SECTION 3. Section 711.012(b), Health and Safety Code, is amended to read as follows:

(b) The Texas Funeral Service Commission may adopt

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Section 711.052 and may adopt rules, establish procedures, and prescribe forms to enforce and administer Sections 711.003, 711.008, 711.010, 711.011, 711.021-711.035, 711.038, 711.0395, 711.041, 711.042, 711.061, and 711.062 relating to cemeteries that are not perpetual care cemeteries.

SECTION 4. Section 711.038, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) A cemetery organization may not resell the exclusive right of sepulture in a plot unless the exclusive right of sepulture has been reacquired by the cemetery organization. A sanction or other penalty may not be imposed on a cemetery organization that violates this subsection unless:

(1) the state agency authorized to enforce this section provides the cemetery organization written notice of the violation; and

(2) the cemetery organization does not correct the violation before the 91st day after the date on which the cemetery organization received the notice.

SECTION 5. Subchapter C, Chapter 711, Health and Safety Code, is amended by adding Section 711.0395 to read as follows:

Sec. 711.0395. MULTIPLE INTERMENTS IN SAME PLOT. A cemetery organization may not make more

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rules, establish procedures, and prescribe forms to enforce and administer Sections 711.003, 711.008, 711.010, 711.011, 711.021-711.035, 711.038, 711.0395, 711.041, 711.042, 711.052, 711.061, and 711.062 relating to cemeteries that are not perpetual care cemeteries.

Same as House version.

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than one interment in a plot unless each owner of the plot consents to the interment.

SECTION 6. Section 711.041, Health and Safety Code, is amended to read as follows:

Sec. 711.041. ACCESS TO CEMETERY. (a) Any person who wishes to visit a cemetery or private burial grounds for which no public ingress or egress is available shall have the right to reasonable ingress and egress for the purpose of visiting the cemetery or private burial grounds. This right of access extends only to visitation during the [reasonable] hours determined by the owner or owners of the lands under Subsection (b) or at a reasonable time as provided by Subsection (c) and only for purposes usually associated with cemetery visits.

(b) The owner or owners of the lands surrounding the cemetery or private burial grounds may designate the routes of reasonable ingress and egress and reasonable hours of availability.

(c) At a time other than the time provided by Subsection (b), the owner or owners of the lands surrounding a cemetery or private burial grounds must allow a person to enter and exit the owner's land for the purpose of visiting the cemetery or private burial grounds if:

(1) the person provides written notice to the owner or owners of the lands surrounding the cemetery or private burial grounds of the person's visit;

(2) the person provides the notice required by

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Subdivision (1) not later than the 14th day before the date the person wishes to visit the cemetery; and
(3) the time of the visit is reasonable.

SECTION 7. Subchapter D, Chapter 711, Health and Safety Code, is amended by adding Section 711.0515 to read as follows:

Sec. 711.0515. INJUNCTIVE RELIEF. In addition to bringing an action under Section 711.051, the attorney general at the request of the Texas Funeral Service Commission may bring an action for injunctive relief to enforce this chapter or a rule or order adopted by the commission under this chapter.

Same as House version.

SECTION 8. Subchapter D, Chapter 711, Health and Safety Code, is amended by adding Section 711.0521 to read as follows:

Sec. 711.0521. ACCESS TO CEMETERIES; CRIMINAL PENALTIES. (a) A person who is an individual, firm, association, corporation, or municipality, or an officer, agent, or employee of an individual, firm, association, corporation, or municipality, commits an offense if the person interferes with a person's reasonable right to ingress and egress under Section 711.041.

(b) An offense under this section is a Class C misdemeanor.

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SECTION 9. Subchapter A, Chapter 716, Health and Safety Code, is amended by adding Section 716.0035 to read as follows:

Sec. 716.0035. ACCEPTANCE OF REMAINS. A crematory establishment may accept deceased human remains for refrigeration before it receives authorization to cremate the remains under Subchapter B.

Same as House version.

SECTION 10. Subchapter B, Chapter 716, Health and Safety Code, is amended by adding Section 716.054 to read as follows:

Sec. 716.054. EXCEPTION; WRITTEN DIRECTIONS.

(a) This section applies and a cremation authorization form is not required under this chapter if:

(1) the deceased person has left written directions for the disposition by cremation of the deceased person's human remains as provided by Section 711.002(g); and

(2) the authorizing agent refuses for any reason to sign a cremation authorization form.

(b) The crematory establishment may cremate the deceased person's human remains without receipt of a cremation authorization form signed by the authorizing agent if:

(1) cremation costs are paid; and

(2) the authorizing agent provides positive written identification that the human remains to be cremated are

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the human remains of the deceased person.

SECTION 11. Section 716.103, Health and Safety Code, is amended to read as follows:

Sec. 716.103. IDENTIFICATION RESPONSIBILITY OF CREMATORY. (a) A crematory establishment shall place on the exterior of a cremation container a label with the deceased person's name as provided by the authorizing agent unless the crematory establishment knows the name is incorrect.

(b) A crematory establishment shall place, with the cremated remains, in the temporary container, urn, or other permanent container, a permanent metal identification disc, bracelet, or other item that can be used to identify the deceased person.

Same as House version.

SECTION 12. Section 716.104(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Section 716.054, a [A] funeral director or funeral establishment shall provide a signed written statement to a crematory establishment that the human remains delivered to the crematory establishment were positively identified as the deceased person listed on the cremation authorization form by the authorizing agent or a representative of the authorizing agent delegated as provided by Section 716.053.

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SECTION 13. Section 716.152(d), Health and Safety Code, is amended to read as follows:

(d) To the extent practicable, the crematory establishment shall remove all recoverable cremation residue from the cremation chamber following cremation and pulverize any bone fragments to a particle size of one-eighth inch or less as necessary. The crematory establishment shall remove and dispose of any other material included with the residue.

Same as House version.

SECTION 14. Section 716.156(a), Health and Safety Code, is amended to read as follows:

(a) A crematory establishment shall:

(1) release the cremated remains to a representative of the funeral establishment that delivered the deceased human remains to the crematory establishment;

(2) release the cremated remains to the person authorized to receive the remains on the cremation authorization form; ~~[or]~~

(3) ship the remains to the shipping address provided by the authorizing agent on the cremation authorization form not later than the 30th day following the date of cremation; or

(4) release the cremated remains according to written directions for the disposition by cremation of the deceased person's human remains as provided by Section 711.002(g).

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SECTION 15. Subchapter E, Chapter 716, Health and Safety Code, is amended by adding Section 716.204 to read as follows:

Sec. 716.204. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY; WRITTEN DIRECTIONS. (a) In this section:

(1) "Cemetery organization" has the meaning assigned by Section 711.001.

(2) "Embalmer" has the meaning assigned by Section 651.001, Occupations Code.

(b) If Section 716.054(a) applies, a cemetery organization, a business operating a crematory or columbarium, a funeral director, an embalmer, or a funeral establishment is not criminally liable or liable in a civil action for:

(1) cremating the human remains of a deceased person;
or

(2) carrying out the written directions of the deceased person.

SECTION 16. Section 716.304, Health and Safety Code, is amended to read as follows:

Sec. 716.304. SCATTERING REMAINS. A person may scatter cremated remains over uninhabited public land, over a public waterway or sea, or on the private property of a consenting owner[~~, if the remains are reduced to a particle size of one-eighth inch or less~~]. Unless the container is biodegradable, the cremated

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remains must be removed from the container before being scattered.

SECTION 17. Section 716.351(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) cremates human remains without receipt of:

(A) a cremation authorization form signed by an authorizing agent; or

(B) written directions for the disposition by cremation of the deceased person's human remains as provided in Section 711.002(g);

(2) signs a cremation authorization form with actual knowledge that the form contains false or incorrect information; or

(3) represents to the public that the person may cremate human remains without being licensed as provided by Subchapter N, Chapter 651, Occupations Code.

Same as House version.

SECTION 18. Section 651.154(a), Occupations Code, is amended to read as follows:

(a) The commission shall set the following fees in amounts reasonable and necessary to administer this chapter:

(1) the funeral director's and embalmer's application fee, license fee, duplicate license fee, and reciprocal license fee; and

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(2) the cemetery, crematory, or funeral establishment license fee, renewal fee, and late renewal penalty.

SECTION 19. Section 651.156, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) A subpoena or subpoena duces tecum issued under this section is not effective unless it is issued in compliance with:

(1) state and federal law; and

(2) commission rules adopted under Subsection (c).

Same as House version.

SECTION 20. Section 651.165(d), Occupations Code, is amended to read as follows:

(d) A person whose license has been expired for one year or more may ~~not~~ renew the license by:

(1) retaking and passing the applicable examination;

(2) paying any applicable fees, including a renewal fee that is equal to two times the normally required renewal fee; and

(3) completing any continuing education required under Section 651.266. [The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.]

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SECTION 21. Subchapter D, Chapter 651, Occupations

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Code, is amended by adding Section 651.1655 to read as follows:

Sec. 651.1655. REINSTATEMENT OF SUSPENDED LICENSE. A person whose license has been suspended may renew the license by paying to the commission a renewal fee that is equal to two times the normally required renewal fee in addition to any penalty assessed by the commission.

SECTION 22. The heading to Section 651.267, Occupations Code, is amended to read as follows:

Sec. 651.267. REISSUANCE OF REVOKED LICENSE.

Same as House version.

SECTION 23. Sections 651.267(a) and (d), Occupations Code, are amended to read as follows:

(a) On application, the commission may reissue a license issued under this subchapter to a person whose license has been [~~suspended or~~] revoked. An application to reissue a license may not be made before the third [~~first~~] anniversary of the date of the [~~suspension or~~] revocation.

(d) A license that has been revoked [~~or suspended for a period of five years or more~~] may be reinstated only after the applicant:

- (1) retakes and passes the applicable examination;
- (2) pays a fee that is equal to two times the normally

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required renewal fee; and

(3) satisfies any other commission requirements, including any continuing education requirements under Section 651.266.

SECTION 24. Section 651.304(e), Occupations Code, is amended to read as follows:

(e) The commission by rule shall prescribe reporting requirements for provisional license holders. The commission shall furnish report forms to be used by a provisional license holder.

SECTION 25. Section 651.351, Occupations Code, is amended by amending Subsections (d) and (f) and adding Subsection (i) to read as follows:

- (d) A funeral establishment must:
- (1) meet the building, fire safety, and health standards and health ordinances of this state and of the municipality in which the establishment is located;
 - (2) except as provided by Subsection (i), be located at a fixed place that is not tax-exempt property or a cemetery;
 - (3) include facilities in which funeral services may be conducted;
 - (4) have access to rolling stock consisting of at least one motor hearse;
 - (5) include a preparation room containing the facilities, equipment, and supplies required by commission rule to

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SECTION 25. Section 651.351, Occupations Code, is amended by amending Subsections (d) and (f) and adding Subsection (i) to read as follows:

- (d) A funeral establishment must:
- (1) meet the building, fire safety, and health standards and health ordinances of this state and of the municipality in which the establishment is located;
 - (2) except as provided by Subsection (i), be located at a fixed place that is not tax-exempt property or a cemetery;
 - (3) include facilities in which funeral services may be conducted;
 - (4) have access to rolling stock consisting of at least one motor hearse;
 - (5) include a preparation room containing the facilities, equipment, and supplies required by commission rule to

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ensure the provision of adequate embalming services;
(6) include other facilities as necessary to comply with the sanitary codes of this state and of the municipality in which the room is located; and
(7) include a display containing sufficient merchandise to permit reasonable selection, including at least five adult caskets, two of which must be full-size and displayed in a casket showroom.
(f) The least expensive casket displayed under Subsection (d)(7) must be a full-size casket displayed in the same general manner as the other full-size caskets are displayed. The three adult caskets that are not required to be full-size under Subsection (d)(7) may be displayed:
(1) in a partial panel display; or
(2) by video or brochure, online, or in any other manner.
(i) Subsection (d)(2) does not apply to a funeral establishment located on tax-exempt property of an accredited postsecondary educational institution that is operated in connection with an accredited educational program for funeral services.

SECTION 26. Section 651.353(d), Occupations Code, is amended to read as follows:
(d) This section does not apply to:
(1) a family, fraternal, or community cemetery that is not larger than 10 acres;

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ensure the provision of adequate embalming services;
(6) include other facilities as necessary to comply with the sanitary codes of this state and of the municipality in which the room is located; and
(7) include a display containing sufficient merchandise to permit reasonable selection, including at least five adult caskets, two of which must be full-size and displayed in a casket showroom.
(f) The least expensive casket displayed under Subsection (d)(7) must be a full-size casket displayed in the same general manner as the other full-size caskets are displayed. The three adult caskets that are not required to be full-size under Subsection (d)(7) may be displayed:
(1) in a partial panel display; or
(2) by video or brochure, online, or in any other manner.
(i) Subsection (d)(2) does not apply to a funeral establishment that is:
(1) located on the real property of a public junior college; and
(2) operated in connection with an accredited educational program in funeral services offered by the public junior college.

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- (2) an unincorporated association of plot owners not operated for profit;
- (3) a church, a religious society or denomination, or an entity solely administering the temporalities of a church or religious society or denomination; ~~[or]~~
- (4) a public cemetery owned by this state, a county, or a municipality; or
- (5) a perpetual care cemetery.

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SECTION 27. Sections 651.354(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) The commission shall mail written notice to a cemetery or funeral establishment of the impending expiration of the establishment's license not later than the 30th day before the expiration date of the license. The ~~[Except as provided by Subsection (d), the]~~ notice must state that:

(1) to renew the license, the cemetery or funeral establishment must pay the renewal fee not later than the license expiration date ~~[September 30]~~; and

(2) the license is automatically renewed on receipt of the renewal fee.

(c) If the license is expired for longer than 30 days, the cemetery or funeral establishment ~~[may not renew the license and]~~ may not operate as a cemetery or funeral establishment until the renewal fee and the late payment penalty are paid ~~[establishment is issued a new license in the manner provided for issuing an original license].~~

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(d) ~~This section does not apply to [To renew a license for] a perpetual care cemetery [; the cemetery must submit a renewal on a form prescribed by the commission. The license is renewed on receipt of the form by the commission].~~

SECTION 28. Subchapter H, Chapter 651, Occupations Code, is amended by adding Section 651.355 to read as follows:

Sec. 651.355. PERPETUAL CARE CEMETERY REGISTRATION. (a) The Texas Department of Banking shall provide annually to the commission a list of perpetual care cemeteries, including the address and other contact information for each cemetery. The commission shall annually register each perpetual care cemetery on that list.

(b) A perpetual care cemetery is not required to pay a registration fee or renewal fee under this chapter.

Same as House version.

SECTION 29. Subchapter J, Chapter 651, Occupations Code, is amended by adding Section 651.461 to read as follows:

Sec. 651.461. DEFENSE TO VIOLATION. A person licensed under this chapter does not violate this chapter by engaging in conduct regarding funeral arrangements under the direction of a person who:

(1) represents to the license holder that the person is

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authorized to make funeral arrangements for the deceased; and

(2) provides written directions to the license holder in the manner provided by Section 711.002, Health and Safety Code.

SECTION 30. Section 651.507(a), Occupations Code, is amended to read as follows:

(a) The commission or an administrative law judge employed by the State Office of Administrative Hearings shall review each disciplinary proceeding to determine whether the license holder has previously violated ~~committed~~ the same provision of this chapter or rule adopted under this chapter ~~[type of violation on one or more previous occasions]~~. If it is determined that the license holder has previously violated ~~committed~~ the same provision of this chapter or rule adopted under this chapter ~~[type of violation]~~, the commission or administrative law judge shall impose a disciplinary action that is more severe than that imposed on the previous occasion.

Same as House version.

SECTION 31. Section 651.658(d), Occupations Code, is amended to read as follows:

(d) If the license is expired for longer than 30 days, the crematory establishment may not operate a crematory until the renewal fee and late payment penalty are paid

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~~[A person may not renew a license that has been expired for more than 30 days. A person holding a license that has been expired for more than 30 days must apply for a new license as required by this subchapter to conduct a crematory business].~~

SECTION 32. The following are repealed:

- (1) Section 716.004(b), Health and Safety Code; and
- (2) Sections 651.304(b) and (c), 651.651(3), and 651.656(d), Occupations Code.

Same as House version.

SECTION 33. Section 154.265, Finance Code, as added by this Act, applies only to a contract that is entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

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SECTION 34. The change in law made by Section 711.0521, Health and Safety Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes

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of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 35. Sections 651.165(d), 651.354, and 651.658(d), Occupations Code, as amended by this Act, apply only to a license that expires on or after the effective date of this Act. A license that expired before the effective date of this Act is governed by the law in effect at the time the license expired, and the former law is continued in effect for that purpose.

Same as House version.

SECTION 36. Section 651.1655, Occupations Code, as added by this Act, applies only to a license suspended on or after the effective date of this Act. A license suspended before the effective date of this Act is governed by the law in effect at the time the license was suspended, and the former law is continued in effect for that purpose.

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SECTION 37. Section 651.267, Occupations Code, as amended by this Act, applies only to a license revoked on or after the effective date of this Act. A license revoked before the effective date of this Act is governed by the law in effect at the time the license was revoked, and the former law is continued in effect for that

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purpose.

SECTION 38. Not later than January 1, 2010, the Texas Department of Banking shall provide the initial list of perpetual care cemeteries to the Texas Funeral Service Commission as required by Section 651.355, Occupations Code, as added by this Act.

Same as House version.

SECTION 39. This Act takes effect September 1, 2009.

Same as House version.