

1 HB47
2 214702-1
3 By Representative Brown (K)
4 RFD: Boards, Agencies and Commissions
5 First Read: 11-JAN-22
6 PFD: 12/07/2021

8 SYNOPSIS: Under existing law, the Alabama Board of
9 Funeral Service licenses and regulates funeral
10 establishments, funeral directors, and embalmers.

11 This bill would provide further for
12 definitions, the membership of the board, and the
13 imposition and collection of disposition fees.

14 This bill would also establish the Alabama
15 Preneed Funeral and Cemetery Act of 2022, and would
16 transfer the regulation of preneed contracts
17 pursuant to the Preneed Funeral and Cemetery Act
18 from the Commissioner and the Department of
19 Insurance to the board.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, prohibits a general
24 law whose purpose or effect would be to require a
25 new or increased expenditure of local funds from
26 becoming effective with regard to a local
27 governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of the amendment. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in the amendment.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT
17

18 Relating to the Alabama Board of Funeral Service; to
19 amend Sections 34-13-1, 34-13-20, and 34-13-111, Code of
20 Alabama 1975, to provide further for definitions, the
21 membership of the board, and the imposition and collection of
22 disposition fees; to add Article 5 to Chapter 13, Title 34,
23 Code of Alabama 1975, by amending and renumbering Sections
24 27-17A-1, 27-17A-3, 27-17A-4, 27-17A-10 to 27-17A-25,
25 inclusive, 27-17A-30 to 27-17A-34, inclusive, and 27-17A-40 to
26 27-17A-57, inclusive, as Sections 34-13-170 to 34-13-172,
27 inclusive, 34-13-190 to 34-13-206, inclusive, 34-13-230 to

1 34-13-234, inclusive, and 34-13-260 to 34-13-277, inclusive,
2 Code of Alabama 1975; to establish the Alabama Preneed Funeral
3 and Cemetery Act of 2022; to transfer the existing Preneed
4 Funeral and Cemetery Act, and the regulation of preneed
5 contracts, from the Commissioner and Department of Insurance
6 to the Alabama Board of Funeral Service; to make corresponding
7 technical changes; and to repeal Section 27-17A-2, Code of
8 Alabama 1975, relating to definitions; and in connection
9 therewith would have as its purpose or effect the requirement
10 of a new or increased expenditure of local funds within the
11 meaning of Amendment 621 of the Constitution of Alabama of
12 1901, now appearing as Section 111.05 of the Official
13 Recompilation of the Constitution of Alabama of 1901, as
14 amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 34-13-1, 34-13-20, and
17 34-13-111, of the Code of Alabama 1975, are amended to read as
18 follows:

19 "§34-13-1.

20 "(a) For purposes of this chapter, the following
21 terms shall have the following meanings:

22 "(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY
23 SCIENCE. A school or college approved by the ~~Alabama~~ American
24 Board of Funeral Service ~~and~~ Education, or a successor
25 organization, which maintains a course of instruction of not
26 less than 48 calendar weeks or four academic quarters or
27 college terms and which gives a course of instruction in the

1 fundamental subjects ~~including, but not limited to, the~~
2 following:

3 ~~"a. Mortuary management and administration.~~

4 ~~"b. Legal medicine and toxicology as it pertains to~~
5 ~~funeral directing.~~

6 ~~"c. Public health, hygiene, and sanitary science.~~

7 ~~"d. Mortuary science, to include embalming~~
8 ~~technique, in all its aspects; chemistry of embalming, color~~
9 ~~harmony; discoloration, its causes, effects, and treatment;~~
10 ~~treatment of special cases; restorative art; funeral~~
11 ~~management; and professional ethics.~~

12 ~~"e. Anatomy and physiology.~~

13 ~~"f. Chemistry, organic and inorganic.~~

14 ~~"g. Pathology.~~

15 ~~"h. Bacteriology.~~

16 ~~"i. Sanitation and hygiene.~~

17 ~~"j. Public health regulations.~~

18 ~~"k. Other related to funeral service and mortuary~~
19 ~~science education as approved by the American Board of Funeral~~
20 ~~Service Education, or a successor organization, and other~~
21 ~~courses of instruction in fundamental subjects as may be~~
22 ~~prescribed by the Alabama Board of Funeral Service.~~

23 "(2) ALKALINE HYDROLYSIS. The technical process that
24 reduces human remains to bone fragments using heat, water, and
25 chemical agents.

26 "(3) ALTERNATIVE CONTAINER. A nonmetal receptacle or
27 enclosure, without ornamentation or a fixed interior lining,

1 which is designed for the encasement of human remains and
2 which is made of cardboard, pressed-wood, composition
3 materials, with or without an outside covering, pouches of
4 canvas, or other materials.

5 ~~"(3)~~ (4) AMERICAN BOARD OF FUNERAL SERVICE EDUCATION.

6 ~~That funeral service educational organization which is an~~
7 ~~agency granted official recognition by the United States~~
8 ~~Secretary of Education and which is composed of members~~
9 ~~representing the American Association of College of Mortuary~~
10 ~~Science, the Conference of Funeral Service Examining Board of~~
11 ~~the United States, Inc., the National Association of Colleges~~
12 ~~of Mortuary Science, and the University Mortuary Science~~
13 ~~Education Association and which has as its object the~~
14 ~~furtherance of education in the field of funeral service and~~
15 ~~in fields necessary to, or allied with, the field of funeral~~
16 ~~service, and further to formulate standards of funeral service~~
17 ~~education and to grant accreditation to qualified schools and~~
18 ~~colleges of mortuary science and to do all things incidental~~
19 ~~to the foregoing~~ The national academic accreditation agency
20 for college and university programs in funeral service and
21 mortuary science education. The accrediting function of the
22 American Board of Funeral Service Education is recognized by
23 the United States Department of Education and the Council on
24 Higher Education Accreditation.

25 ~~"(4)~~ (5) APPRENTICE EMBALMER or EMBALMER'S
26 APPRENTICE. Any person engaged in the study of the art of

1 embalming under the instructions and supervision of a licensed
2 embalmer practicing in this state.

3 "~~(5)~~ (6) APPRENTICE FUNERAL DIRECTOR or FUNERAL
4 DIRECTOR'S APPRENTICE. Any person operating under or in
5 association with a funeral director for the purpose of
6 learning the business or profession of funeral director, to
7 the end that he or she may become licensed under this chapter.

8 "(7) AT NEED. At the time of death or immediately
9 following death.

10 "~~(6)~~ (8) AUTHORIZING AGENT. A person at least 18
11 years of age, except in the case of a surviving spouse or
12 parent, who is legally entitled to order the cremation or
13 final disposition of particular human remains.

14 "(9) BASIC SERVICES FEE. The fee for the
15 professional services of the funeral director and staff that
16 is added to the total cost of the funeral arrangements. The
17 term includes a charge for services performed in conducting
18 the arrangements conference, planning the funeral, securing
19 the necessary permits, preparing the notices, and coordinating
20 the cemetery or crematory arrangements.

21 "(10) BELOW-GROUND CRYPT. A preplaced enclosed
22 chamber, usually constructed of reinforced concrete, poured in
23 place or a precast unit installed in quantity, either
24 side-by-side or multiple depth, and covered by earth or sod
25 and known also as a lawn crypt or turf-top crypt.

1 "(11) BENEFICIARY. One who benefits from an act,
2 such as one for whom a preneed contract is entered into or the
3 successor-in-interest of a life insurance policy.

4 "~~(7)~~(12) BOARD. The Alabama Board of Funeral
5 Service.

6 "(13) BRANCH. Any person or entity that is part of a
7 common business enterprise that has a certificate of authority
8 issued pursuant to Article 5 and elects to operate under a
9 name other than that of the common business enterprise.

10 "(14) BURIAL. The placement of human remains in a
11 grave space or lawn crypt.

12 "~~(8)~~(15) CASH ADVANCE ITEMS. Any item of service or
13 merchandise described to a purchaser using the term cash
14 advance, accommodation, cash disbursement, or similar term. A
15 cash advance item is also any item obtained from a third party
16 and paid for by a funeral provider or a seller on behalf of a
17 purchaser. Cash advance items include, but are not limited to,
18 all of the following:

19 "a. Cemetery or crematory services.

20 "b. Pallbearers.

21 "c. Public, or other, transportation.

22 "d. Clergy honoraria.

23 "e. Flowers.

24 "f. Musicians or singers.

25 "g. Nurses.

26 "h. Obituary notices.

27 "i. Funeral programs.

1 "j. Gratuities.

2 "k. Death certificates.

3 "l. Outer burial containers.

4 "m. Cemetery plots.

5 "n. Escorts.

6 "~~(9)~~(16) CASKET. A rigid container that is designed
7 for the encasement of human remains, usually constructed of
8 wood, metal, or similar material, and ornamented and lined
9 with fabric.

10 "~~(10)~~(17) CEMETERY. A place established, maintained,
11 managed, operated, or improved and which is dedicated to and
12 used or intended to be used for the permanent interment of
13 human remains and their memorialization. It may be either land
14 or earth interment; a columbarium; a mausoleum for vault or
15 crypt entombment; a structure or place used or intended to be
16 used for the interment of cremated remains; cryogenic storage;
17 or any combination of one or more thereof.

18 "~~(11)~~(18) CEMETERY AUTHORITY. Any individual,
19 person, firm, profit or nonprofit corporation, trustee,
20 partnership, society, religious society, church association or
21 denomination, municipality, or other group or entity, however
22 organized, insofar as they or any of them may now or hereafter
23 establish, own, operate, lease, control, or manage one or more
24 cemeteries, burial parks, mausoleums, columbariums, or any
25 combination or variation thereof, or hold lands or structures
26 for burial grounds or burial purposes in this state and engage
27 in the operation of a cemetery, including any one or more of

1 the following: The care and maintenance of a cemetery; the
2 interment, entombment, and memorialization of the human dead
3 in a cemetery; the sale, installation, care, maintenance, or
4 any combination thereof, with respect of monuments, markers,
5 foundations, memorials, burial vaults, urns, crypts,
6 mausoleums, columbariums, flower vases, floral arrangements,
7 and other cemetery accessories, for installation or use within
8 a cemetery; and the supervision and conduct of funeral and
9 burial services within the bounds of the cemetery.

10 "(19) CEMETERY MERCHANDISE. Any personal property
11 offered for sale, contracted for sale, or sold for use in
12 connection with the burial, final disposition,
13 memorialization, interment, entombment, or inurnment of human
14 remains by a cemetery authority. The term specifically
15 includes, but is not limited to, the casket, the alternative
16 container, the outer burial container, and the memorial.

17 "(20) CEMETERY SERVICES. At need or preneed services
18 provided by a cemetery authority for interment, entombment,
19 inurnment, and installation of cemetery merchandise.

20 "(21) CERTIFICATE HOLDER. A funeral establishment,
21 cemetery authority, third-party seller, or any other person to
22 whom a valid certificate of authority to sell preneed
23 contracts has been granted by the board.

24 "(22) COLUMBARIUM. A structure or room or space in a
25 building or structure used or intended to be used for the
26 inurnment of cremated remains.

1 "~~(12)~~(23) CONVICTION. The entry of a plea of guilty
2 or a guilty verdict rendered by any court of competent
3 jurisdiction, excluding traffic violations.

4 "~~(13)~~(24) CREMATED REMAINS. Human remains recovered
5 after the completion of the cremation process, including
6 pulverization, which leaves only bone fragments reduced to
7 unidentifiable dimensions, and the residue of any foreign
8 materials that were cremated with the human remains.

9 "(25) CREMATED REMAINS CONTAINER. A receptacle in
10 which cremated remains are placed.

11 "~~(14)~~(26) CREMATION. The technical irreversible
12 process, using heat, flames, or chemical agents, that reduces
13 human remains to bone fragments. The reduction takes place
14 through heat and evaporation. Cremation shall include the
15 processing, and may include the pulverization, of the bone
16 fragments. Cremation is a process and is a method of final
17 disposition.

18 "~~(15)~~(279) CREMATIONIST. A person licensed by the
19 board to perform the procedure of cremation.

20 "~~(16)~~(28) CREMATION CHAMBER. The retort or vessel
21 used to reduce human remains to bone fragments.

22 "~~(17)~~(29) CREMATION CONTAINER. The container in
23 which human remains are transported to a crematory, in which
24 human remains are placed in upon arrival at a crematory, or
25 for storage and placement in a cremation chamber for
26 cremation.

1 "~~(18)~~(30) CREMATORY. A building or portion of a
2 building that houses a cremation chamber and that may house a
3 holding facility for purposes of cremation and as part of a
4 funeral establishment.

5 "(31) CREMATORY AUTHORITY. Any person who owns or
6 controls a crematory.

7 "(32) DEATH CERTIFICATE. A legal document containing
8 vital statistics pertaining to the life and death of the
9 deceased.

10 "(33) DECEASED or DECEDENT. One who is no longer
11 living.

12 "(34) DISPOSITION FEE. A fee charged for each final
13 disposition arranged or performed in the state.

14 "~~(19)~~(35) EMBALMER. Any person engaged or holding
15 himself or herself out as engaged in the business, practice,
16 science, or profession of embalming, whether on his or her own
17 behalf or in the employ of a registered and licensed funeral
18 director.

19 "~~(20)~~(36) EMBALMING. The practice, science, or
20 profession, as commonly practiced, of preserving,
21 disinfecting, and preparing by application of chemicals or
22 other effectual methods, human dead for burial, cremation, or
23 transportation.

24 "(37) ENCASEMENT. The placement of human remains in
25 a rigid container including, but not limited to, a casket or
26 urn.

1 "(38) ENDOWMENT CARE. The maintenance and repair of
2 all places in a cemetery, subject to the rules of the cemetery
3 authority. The term may also be referred to as endowed care,
4 perpetual care, improvement care, or permanent care.

5 "(39) ENDOWMENT CARE TRUST FUND. An irrevocable
6 trust fund set aside by law with a trustee, along with the
7 income therefrom, to provide for the endowment care of a
8 cemetery.

9 "(40) ENTOMBMENT. The act of placing human remains
10 in a mausoleum crypt.

11 "(41) FINAL DISPOSITION. The lawful disposal of
12 human remains whether by interment, cremation, or other
13 method.

14 ~~"(21)~~ (42) FUNERAL. A ceremony for celebrating,
15 sanctifying, or remembering the life of a person who has died.
16 A funeral may be divided into the following two parts:

17 "a. The funeral service, which may take place at a
18 funeral home, church, or other place.

19 "b. The committal service or disposition, which may
20 take place by the grave, tomb, mausoleum, or crematory where
21 the body of the decedent is to be buried or cremated.

22 ~~"(22)~~ (43) FUNERAL ARRANGEMENTS. The completing of
23 funeral service arrangements, cremation arrangements, and the
24 financial details of a funeral at the time of death. The term
25 includes the collection of vital statistic information, death
26 certificate information, obituary and funeral notice
27 completion, the completion of a statement of funeral goods and

1 services selected, organizing of funeral and memorial services
2 for families, and the ordering of cash advance items.

3 "(44) FUNERAL BENEFICIARY. The person or persons who
4 will receive the benefit of the funeral and cemetery goods and
5 services to be delivered under a preneed contract at the time
6 of his, her, or their death.

7 "~~(23)~~(45) FUNERAL DIRECTING. The practice of
8 directing or supervising funerals, the practice of preparing
9 dead human bodies for burial by means other than embalming, or
10 the preparation for the disposition of dead human bodies; the
11 making of funeral arrangements or providing for funeral
12 services or the making of financial arrangements for the
13 rendering of these services; the provision or maintenance of a
14 place for the preparation for disposition of dead human
15 bodies; or the use of the terms funeral director, undertaker,
16 mortician, funeral parlor, or any other term from which can be
17 implied the practice of funeral directing; or the holding out
18 to the public that one is a funeral director or engaged in a
19 practice described in this subdivision.

20 "~~(24)~~(46) FUNERAL DIRECTOR. A person required to be
21 licensed to practice the profession of funeral directing under
22 the laws of this state, who consults with the public, who
23 plans details of funeral services with members of the family
24 and minister or any other person responsible for such
25 planning, or who directs, is in charge, or apparent charge of,
26 and supervises funeral service in a funeral home, church, or
27 other place; who enters into the making, negotiation, or

1 completion of financial arrangements for funeral services, or
2 who uses in connection with the profession of funeral
3 directing the terms funeral director, undertaker, funeral
4 counselor, mortician, or any other term or picture or
5 combination thereof when considered in context in which used,
6 from which can be implied the practicing of the profession of
7 funeral directing or that the person using such term or
8 picture can be implied to be holding himself or herself out to
9 the public as being engaged in the profession of funeral
10 directing; and for all purposes under Alabama law, a funeral
11 director is considered a professional. For the purposes of
12 this chapter, the term does not include any cemetery
13 authority.

14 ~~"(25)~~ (47) FUNERAL ESTABLISHMENTS. The term includes
15 any funeral home or mortuary service located at a specific
16 street address where the profession of funeral directing,
17 embalming, or cremation is practiced in the care, planning,
18 and preparation for burial, cremation, or transportation of
19 human dead. A funeral establishment shall consist of and
20 maintain all of the following facilities:

21 "a. A preparation room equipped with sanitary
22 nonporous floor and walls, necessary drainage and ventilation,
23 and containing operating embalming equipment, necessary
24 approved tables, instruments, hot and cold running water,
25 containers or receptacles for soiled linen or clothing, and
26 supplies for the preparation and embalming of dead human
27 bodies for burial, cremation, and transportation.

1 "b. A display room containing a stock of adult
2 caskets and funeral supplies displayed in full size, cuts,
3 photographs, or electronic images. At no time shall less than
4 eight different adult size caskets be on the premises.

5 "c. At least one operating funeral coach or hearse
6 properly licensed and equipped for transporting human remains
7 in a casket or urn.

8 "d. If engaged in the practice of cremation, the
9 establishment shall satisfy all crematory requirements
10 provided in this chapter and have on site an adequate supply
11 of urns for display and sale.

12 "e. A room suitable for public viewing or other
13 funeral services that is ~~able to accommodate~~ a minimum of ~~100~~
14 ~~people~~ 1,000 square feet.

15 "f. An office for holding arrangement conferences
16 with relatives or authorizing agents.

17 "(48) FUNERAL SERVICE. At need or preneed services
18 provided by a funeral establishment in connection with funeral
19 directing, disposition of human remains, or installation of
20 memorials.

21 "~~(26)~~ (49) FUNERAL SUPPLIES or FUNERAL MERCHANDISE.
22 ~~Caskets made of any material for use in the burial or~~
23 ~~transportation of human dead; outer receptacles, Any item~~
24 offered for sale, contracted for sale, or sold for use in
25 connection with funeral directing when sold by a funeral
26 director, including, but not limited to, caskets, alternative
27 containers, outer burial vaults and containers, urns, for

1 ~~cremated human remains,~~ memorials, clothing used to dress
2 human dead when sold by a funeral director~~7,~~ and all equipment
3 and accouterments normally required for the preparation for
4 burial or funeral and other disposition of human dead.

5 "(50) GRAVE SPACE. A space of ground in a cemetery
6 that is used or intended to be used for in-ground burial.

7 "~~(27)~~ (51) GROSS IMMORALITY. Willful, flagrant, or
8 shameful immorality or showing a moral indifference to the
9 opinions of the good and respectable members of the community
10 and to the just obligations of the position held by the
11 offender.

12 "~~(28)~~ (52) HOLDING ROOM. Either of the following:

13 "a. A room within a funeral establishment that
14 satisfies the requirements of a branch location as provided in
15 this chapter or board rule, for the retention of human remains
16 before disposition.

17 "b. A room within a crematory facility, designated
18 for the retention of human remains before and after cremation,
19 that is not accessible to the public.

20 "(53) HUMAN REMAINS. The body of a decedent in any
21 stage of decomposition, including cremated remains.

22 "(54) INTERMENT. The final disposition of human
23 remains by burial, burial at sea, entombment, or inurnment.

24 "(55) INTERMENT RIGHT. The right to inter human
25 remains in a particular interment space in a cemetery.

26 "(56) INTERMENT SPACE. A space intended for the
27 final disposition of human remains including, but not limited

1 to, a grave space, mausoleum crypt, niche, and below-ground
2 crypt.

3 "(57) INURNMENT. The act of placing cremated remains
4 in a receptacle including, but not limited to, an urn and
5 depositing it in a niche.

6 "(58) LICENSEE. Any individual, firm, corporation,
7 partnership, joint venture, or limited liability company which
8 obtains a license in accordance with this chapter.

9 "~~(29)~~(59) MANAGING CREMATIONIST. A licensed funeral
10 director and cremationist who has full charge, control, and
11 supervision of all activities involving cremation at a funeral
12 establishment or crematory.

13 "~~(30)~~(60) MANAGING EMBALMER. A licensed embalmer who
14 has full charge, control, and supervision of all activities
15 involving the preparation room and embalming.

16 "~~(31)~~(61) MANAGING FUNERAL DIRECTOR. A licensed
17 funeral director who has full charge, control, and supervision
18 of all activities involving funeral directing for a funeral
19 establishment.

20 "(62) MAUSOLEUM. A chamber or structure used or
21 intended to be used for entombment.

22 "(63) MAUSOLEUM CRYPT. A chamber of a mausoleum of
23 sufficient size for entombment of human remains.

24 "(64) MEMORIAL. Any product, other than a mausoleum
25 or columbarium, used for identifying an interment space or for
26 commemoration of the life, deeds, or career of some decedent
27 including, but not limited to, a monument, marker, niche

1 plate, urn garden plaque, crypt plate, cenotaph, marker bench,
2 and vase.

3 "(65) MEMORIAL RETAILER. Any person offering or
4 selling memorials at retail to the public.

5 "(66) MEMORIALIZATION. Any permanent system designed
6 to mark or record the names and other data pertaining to a
7 decedent.

8 "~~(32)~~ (67) MORAL TURPITUDE. Any unlawful sexual or
9 violent act, or any act involving theft, theft of services,
10 theft by deception, extortion, receiving stolen property,
11 identity theft, forgery, fraud, tampering with records,
12 bribery, perjury, or any similar act in any jurisdiction.

13 "~~(33)~~ (68) MORTUARY SCIENCE. The scientific,
14 professional, and practical aspects, with due consideration
15 given to accepted practices, covering the care, preparation
16 for burial, or transportation of dead human bodies, which
17 shall include the preservation and sanitation of the bodies
18 and restorative art and those aspects related to public
19 health, jurisprudence, and good business administration.

20 "~~(34)~~ (69) MORTUARY SERVICE. A location with a
21 specific street address where embalming or cremation, or both,
22 is practiced for a licensed funeral establishment and where no
23 services or merchandise are sold directly or at retail to the
24 public. A mortuary service shall consist of and maintain all
25 of the following facilities:

26 "a. A preparation room equipped with sanitary
27 nonporous floor and walls, operating embalming equipment, and

1 necessary drainage and ventilation and containing necessary
2 approved tables, instruments, hot and cold running water,
3 containers or receptacles for soiled linen or clothing, and
4 supplies for the preparation and embalming of dead human
5 bodies for burial, cremation, and transportation.

6 "b. At least one operating motor vehicle properly
7 licensed and equipped for transporting human remains in a
8 casket or urn.

9 "c. If engaged in the practice of cremation, the
10 establishment shall satisfy all requirements for a crematory
11 provided in this chapter.

12 "(70) NICHE. A space usually within a columbarium
13 used or intended to be used for inurnment of cremated remains.

14 "~~(35)~~(71) OPERATOR. A person, corporation, firm,
15 legal representative, managing funeral director, general
16 manager, or other organization owning or operating a funeral
17 establishment or cemetery.

18 "(72) OUTER BURIAL CONTAINER. A container that is
19 designed for placement in the grave space around the casket or
20 the urn including, but not limited to, containers commonly
21 known as burial vaults, grave boxes, and grave liners.

22 "(73) PERSON. Any individual, firm, corporation,
23 partnership, joint venture, limited liability company,
24 association, trustee, government or governmental subdivision,
25 agency, or other entity, or any combination thereof.

26 "~~(36)~~(74) PRACTICAL EMBALMER. Any person who has
27 been actively and continuously engaged or employed in the

1 practice of embalming under the supervision of a licensed
2 embalmer for four consecutive years immediately preceding May
3 1, 1975, and has been issued a license as a practical embalmer
4 under the grandfather provisions of this chapter.

5 "(75) PREARRANGEMENT. The term applied to completing
6 the details for selection of merchandise or services on a
7 preneed basis, which may or may not include prefunding or
8 prepayment.

9 "(76) PREDEVELOPED. Designated areas or buildings
10 within a cemetery that have been mapped and planned for future
11 construction but are not yet completed.

12 "(77) PREDEVELOPED INTERMENT SPACE. An interment
13 space that is planned for future construction but is not yet
14 completed.

15 "(78) PREFUND. The term applied to completing the
16 financial details of a prearrangement, which include
17 prefunding or prepayment.

18 "(79) PRENEED. Any time prior to death.

19 "(80) PRENEED CONTRACT. A written contract to
20 purchase funeral merchandise, funeral services, cemetery
21 merchandise, or cemetery services from the seller on a preneed
22 basis.

23 "(81) PRENEED CONTRACT TRUST FUND. The funds
24 received pursuant to a preneed contract which are required by
25 law to be held in trust until the merchandise or services
26 purchased pursuant to the contract are delivered or provided
27 or until otherwise lawfully withdrawn.

1 "(82) PRENEED SALES AGENT. A person who is in the
2 business of selling preneed contracts.

3 ~~"(37)~~(83) PROCESSING or PULVERIZATION. The reduction
4 of identifiable bone fragments after the completion of the
5 cremation process to unidentifiable bone fragments or
6 granulated particles by manual or mechanical means.

7 "(84) PROVIDER. The person, who may or may not be
8 the seller, who actually provides merchandise and services
9 under the terms of a preneed contract.

10 "(85) PURCHASE PRICE. The amount paid by the
11 purchaser for merchandise and services purchased under a
12 preneed contract, exclusive of finance charges, sales tax,
13 charges relating to interment rights, arrangement conference
14 fees, or charges for credit life insurance.

15 "(86) PURCHASER. The person who purchases a preneed
16 contract either on his or her behalf or on behalf of a
17 third-party beneficiary.

18 "(87) RELIGIOUS INSTITUTION. An organization formed
19 primarily for religious purposes which has applied and
20 qualified for exemption from federal income tax as an exempt
21 organization under Section 501(c)(3) of the Internal Revenue
22 Code of 1986, as amended.

23 "(88) SCATTERING. The lawful dispersion of cremated
24 remains.

25 "(89) SELLER. Any person offering or selling
26 merchandise or services on a preneed basis including, but not

1 limited to, funeral establishments, cemetery authorities,
2 crematory authorities, and memorial retailers.

3 "(90) SPECIAL CARE. Any care provided, or to be
4 provided, that is supplemental to, or in excess of, endowment
5 care, in accordance with the specific directions of any donor
6 of funds for those purposes.

7 "(91) SUCCESSOR-IN-INTEREST. A person who lawfully
8 follows another in ownership or control of property or rights.

9 "~~(38)~~(92) TEMPORARY CONTAINER. A receptacle for
10 cremated remains, usually composed of cardboard, plastic, or
11 similar material, that can be closed in a manner that prevents
12 the leakage or spillage of the cremated remains or the
13 entrance of foreign material, and is a single container of
14 sufficient size to hold the cremated remains until an urn is
15 acquired or the cremated remains are scattered or buried.

16 "(93) THIRD-PARTY SELLER. Any person, who is not a
17 funeral establishment or a cemetery authority, engaged in the
18 sale of preneed funeral merchandise or cemetery merchandise.

19 "(94) TRUSTEE. Any person, state or national bank,
20 trust company, or federally insured savings and loan
21 association lawfully appointed as fiduciary over funds
22 deposited by one or more purchasers of a preneed contract or
23 deposited pursuant to an endowment care trust fund. The term
24 does not refer to a board of trustees.

25 "~~(39)~~(95) URN. A receptacle designed to encase
26 cremated remains.

1 "(b) Nothing in this chapter shall require a funeral
2 director or funeral establishment to have or provide a chapel
3 or to restrict the conduct of funeral services from a church
4 or chapel.

5 "§34-13-20.

6 "(a) There is established the Alabama Board of
7 Funeral Service, consisting of nine members, each of whom
8 shall be citizens of the United States and residents of the
9 State of Alabama.

10 "(b) The appointing authorities shall coordinate
11 their appointments to assure board membership is inclusive and
12 reflects the racial, gender, geographic, urban/rural, and
13 economic diversity of the state.

14 "(c) Commencing on January 1, 2019, as the terms of
15 the members serving on the board on August 1, 2017, expire,
16 the membership of the board shall be reconstituted to consist
17 of seven professional members and two consumer members.

18 "(1) Each professional member of the board shall be
19 a citizen of the United States, a resident of Alabama, and
20 licensed and in good standing with the board as an embalmer or
21 funeral director at the time of appointment and during the
22 entire term of office. Professional members of the board shall
23 be appointed by the Governor pursuant to subsection (e). As
24 the terms of the members serving on the board on the effective
25 date of the act adding this sentence expire, the professional
26 membership of the board shall be appointed to reflect the
27 following:

1 "a. ~~Four~~ Three of the professional members of the
2 board shall hold a current license from the board to practice
3 embalming in the state, shall have been actively practicing
4 embalming in the state for the last 10 consecutive years
5 immediately preceding appointment, and shall be engaged in the
6 practice of embalming at the time of appointment to the board.

7 "b. ~~Three~~ Four of the professional members of the
8 board shall hold a current license from the board to practice
9 funeral directing in the state, shall have been actively
10 engaged in funeral directing in the state for the last 10
11 consecutive years immediately preceding appointment, and shall
12 be the operator of a funeral establishment in this state at
13 the time of appointment to the board. Two of these four
14 professional members shall also hold a current certificate of
15 authority to sell preneed services and merchandise.

16 "(2) Each consumer member of the board shall
17 represent the public in general and shall have been a citizen
18 of the United States and a resident of Alabama for the last 10
19 consecutive years immediately preceding appointment and during
20 the entire term of office. A consumer member of the board may
21 not have held, nor currently hold, a license or certification
22 issued by the board, be employed at any time by, or
23 professionally or financially associated with, the holder of a
24 license or certificate issued by the board, or be related
25 within the third degree of consanguinity or affinity to the
26 holder of a license or certificate issued by the board. One
27 consumer member of the board shall be appointed by the

1 Lieutenant Governor and one consumer member shall be appointed
2 by the Speaker of the House of Representatives pursuant to a
3 procedure adopted by rule of the board.

4 "(d) Commencing in October of 2018, and each October
5 thereafter of a year where at least one professional member
6 term on the board has expired, or is vacant for any reason,
7 all licensed funeral directors and licensed embalmers shall
8 meet in Montgomery, at a time and place fixed by the board,
9 for the purpose of nominating and submitting the names of
10 three licensed persons for each position on the board to the
11 Governor. The Governor shall promptly appoint one of the three
12 persons so nominated to serve as a professional member of the
13 board.

14 "(e) (1) Professional and consumer members of the
15 board shall serve staggered terms of four years each to
16 provide continuity of service on the board. If an appointment
17 is not made before the expiration of a term, the board member
18 then serving may continue to serve until a successor has been
19 appointed. A board member may not serve more than two full
20 consecutive terms on the board.

21 "(2) A board member who is appointed to fill a
22 vacancy which occurs before the expiration of the term of the
23 vacating member shall serve the remaining portion of the term
24 to which the former member was appointed. If a member is
25 appointed to fill an unexpired term of less than two years,
26 the time may not be counted toward the maximum eight years of
27 service.

1 "(3) Not more than one professional member of the
2 board may reside in the same district as created by Section
3 34-13-21.

4 "(4) At each meeting where nominations are made for
5 the professional members of the board, only one licensed
6 funeral director or licensed embalmer employed by the same
7 funeral establishment may vote.

8 "(f) (1) In accordance with applicable law, in
9 addition to a board member resigning from the board in
10 writing, a board member may be removed from the board for any
11 of the following grounds:

12 "a. The refusal or inability to perform board duties
13 in an efficient, responsible, or professional manner.

14 "b. The misuse of his or her position on the board
15 to obtain financial gain or seek personal advantage for
16 himself, herself, or another person.

17 "c. A final adjudication or determination of guilt
18 by any lawful authority of the board member or sanction of the
19 board member for the violation of any law the board determines
20 is substantially related to any practice governed by this
21 chapter.

22 "d. The revocation or suspension of the license of a
23 professional member of the board.

24 "(2) Any board member who fails to qualify after
25 appointment shall automatically become ineligible to serve as
26 a member of the board and a new member, properly qualified,
27 shall be appointed in the same manner as the original

1 appointment and shall serve the remainder of the term of the
2 vacating board member.

3 "(3) If a consumer board member fails to attend two
4 or more meetings within a year, without a valid excuse as
5 determined by the board, he or she shall be removed from the
6 board. A new consumer board member shall be appointed in the
7 same manner as the original appointment and shall serve the
8 remainder of the term.

9 "§34-13-111.

10 "(a) No funeral establishment or branch thereof for
11 the preparation, disposition, and care of dead human bodies
12 shall be opened or maintained unless licensed by the board. No
13 funeral establishment or branch shall be moved without
14 obtaining a new funeral establishment license from the board.

15 "(b) Every funeral service, memorial service, or
16 committal service, or part thereof, that is conducted in
17 Alabama, for hire or for profit, shall be in the actual charge
18 and shall be under the direct supervision of a funeral
19 director who is licensed by the board, unless otherwise
20 provided for in this chapter or by rule of the board.

21 "(c) The board shall set a fee, not exceeding one
22 hundred fifty dollars (\$150), that shall be in addition to the
23 license fee for the first inspection of any funeral
24 establishment seeking a license under Section 34-13-72 made
25 for the purpose of determining whether the funeral
26 establishment has fulfilled the requirements for licensure
27 pursuant to this chapter. The board shall set a fee, not

1 exceeding one hundred fifty dollars (\$150), for each
2 reinspection necessitated by failure of any funeral
3 establishment to pass the first inspection. The board, or a
4 representative of the board, shall annually conduct at least
5 one unannounced inspection of each funeral establishment and
6 branch, with an inspection fee of not more than one hundred
7 dollars (\$100). The inspection fee shall be submitted to the
8 board within 45 days after the inspection. Any funeral
9 establishment that does not submit the inspection fee within
10 45 days shall be charged a late penalty fee, as established by
11 the board. A funeral establishment, or branch thereof, that is
12 used for the preparation, disposition, and care of dead human
13 bodies shall meet and conform to this chapter and to such
14 other lawful standards and requirements as may be determined
15 by rule of the board in furtherance of this chapter; and, for
16 failure to do so, the board may revoke the funeral
17 establishment license in accordance with the procedure set
18 forth in this chapter.

19 "(d) Applications for transfer of a license to
20 another location in the same county shall be made upon a form
21 furnished by the board and shall be accompanied by a fee of
22 not more than seventy-five dollars (\$75).

23 "(e) Any change in ownership of a funeral
24 establishment shall be immediately reported to the board on a
25 form provided by the board. The new owner of the establishment
26 shall comply with Section 34-13-112 and Section 34-13-113 and
27 shall provide to the board a signed copy of the asset purchase

1 agreement with dollar amounts redacted. The fee for a change
2 of ownership application is two hundred fifty dollars (\$250).

3 "(f) (1) Each funeral establishment, on a date
4 prescribed by rule of the board, shall pay a disposition fee
5 not exceeding fifty dollars (\$50) for each final disposition
6 arranged or performed by the funeral establishment. The
7 disposition fee, which applies to all final dispositions and
8 may be collected directly from the consumer, shall be
9 submitted to the board quarterly and deposited into the
10 Alabama State Funeral Service Fund.

11 "(2) Failure to remit a disposition fee as required
12 by this subsection shall result in disciplinary action by the
13 board pursuant to this chapter.

14 Section 2. Sections 27-17A-1, 27-17A-3, and 27-17A-4
15 of the Code of Alabama 1975, are amended and renumbered as
16 Division 1 of Article 5 of Chapter 13 of Title 34, Code of
17 Alabama 1975, to read as follows:

18 "ARTICLE 5. Alabama Preneed Funeral and Cemetery Act
19 of 2022.

20 "Division 1. General Provisions.

21 ~~§27-17A-1.~~ §34-13-170.

22 "(a) This ~~chapter~~ article shall be known and may be
23 cited as the Alabama Preneed Funeral and Cemetery Act of 2022.

24 "(b) (1) The Alabama Board of Funeral Service
25 succeeds to and is vested with the powers, duties, and
26 functions of the Department of Insurance relating to the

1 regulation of endowment care, preneed sales contracts, and the
2 licensing of preneed sales agents.

3 "(2) All funds and records of the Department of
4 Insurance relating to the regulation of preneed sales
5 contracts, endowment care, and the licensing of preneed sales
6 agents are transferred to the board.

7 "(3) The status of any person properly licensed by
8 the Department of Insurance under the former Chapter 17A of
9 Title 27, on the effective date of the act adding this
10 subdivision, shall continue under the board.

11 "(4) The administrative rules of the Department of
12 Insurance existing on the effective date of the act adding
13 this subdivision shall remain in effect as administrative
14 rules of the board until added, amended, or repealed by the
15 board.

16 "(5) The existence and functioning of the Alabama
17 Preneed Funeral and Cemetery Act, created and functioning
18 pursuant to Sections 27-17A-1 to 27-17A-57, inclusive, is
19 continued as the Alabama Preneed Funeral and Cemetery Act of
20 2022, under this article. All rights, duties, and obligations
21 existing in the name of the Department of Insurance, relating
22 to endowment care, preneed sales contracts, and preneed sales
23 agent licenses, shall continue under the board. Any reference
24 to the Department of Insurance in any existing law, contract,
25 or other instrument relating to endowment care, preneed sales
26 contracts, and preneed sales agent licenses, shall be deemed a
27 reference to the board.

1 "(6) The transfer of the regulation of preneed
2 contracts and the licensing of preneed sales agents from the
3 Department of Insurance to the board shall not affect the
4 rights of any person held before the effective date of the act
5 adding this subdivision, as those rights relate to any preneed
6 trust funds, endowment care trust funds, or any other funds
7 held in trust pursuant to the Alabama Preneed Funeral and
8 Cemetery Act.

9 ~~"§27-17A-3. §34-13-171.~~

10 "(a) Nothing in this chapter shall be construed to
11 prohibit the funding of preneed contracts with multiple
12 insurance or annuity contracts, provided the combined face
13 amounts of the funding life insurance policies and the
14 annuity's ultimate death benefits are not less than the
15 initial purchase price of the preneed contract. This
16 subsection does not prohibit the use of life insurance and
17 annuity products which have graded or limited death benefits
18 features. Life insurance and annuity contracts used to fund
19 preneed contracts shall conform with ~~the provisions of this~~
20 ~~title~~ Title 27 as they relate to life insurance and annuities
21 ~~and shall cover not less than the initial retail price of the~~
22 ~~preneed contract.~~

23 "(b) The initial premium payment for a life
24 insurance policy or annuity contract shall be made payable to
25 the issuing insurance company and the preneed seller shall
26 remit the payment to the insurance company within 10 business
27 days after the insurance application is signed by the parties.

1 If a preneed contract provides for installment payments, each
2 premium payment shall be made payable to the insurance company
3 and, if collected by the preneed seller, shall be remitted to
4 the insurance company within 10 business days after receipt by
5 the preneed seller.

6 "(c) Nothing in this chapter shall prohibit a
7 seller, or any other person, from receiving commissions earned
8 and payable in regard to funding preneed contracts with life
9 insurance or annuity contracts, provided the seller or other
10 person holds a valid insurance producer license in this state
11 and is appointed by the insurance company paying the
12 commission.

13 "(d) A preneed seller may be identified as the
14 beneficiary or assignee of the death benefit proceeds of a
15 life insurance policy or annuity contract sold as a future
16 funding mechanism for a preneed contract, but may not be the
17 owner of the policy or annuity contract or exercise any
18 ownership rights in the policy or annuity. If the preneed
19 contract is cancelled before or after the death of the funeral
20 beneficiary, the preneed seller shall cancel and relinquish
21 any assignment of benefits or beneficiary status under the
22 policy or annuity contract, and deliver the policy or
23 contract, if in the custody of the preneed seller, to the
24 policy owner or his or her legal representative.

25 ~~§27-17A-4.~~ §34-13-172.

26 "Nothing in this chapter shall be construed to
27 prohibit cemetery authorities from selling funeral

1 merchandise, funeral establishments from selling cemetery
2 merchandise, or third-party sellers from selling either
3 funeral merchandise or cemetery merchandise, or both.
4 Provided, the required amount of the purchase price to be
5 placed into trust shall be governed by the appropriate section
6 of this chapter."

7 Section 3. Sections 27-17A-10, 27-17A-11,
8 27-17A-11.1, 27-17A-12, 27-17A-13, 27-17A-14, 27-17A-15,
9 27-17A-16, 27-17A-17, 27-17A-18, 27-17A-19, 27-17A-20,
10 27-17A-21, 27-17A-22, 27-17A-23, 27-17A-24, and 27-17A-25 of
11 the Code of Alabama 1975, are amended and renumbered as
12 Division 2 of Article 5 of Chapter 13 of Title 34, Code of
13 Alabama 1975, to read as follows:

14 "Division 2. Certificate of Authority.

15 "~~§27-17A-10.~~ §34-13-190.

16 "(a) No person may sell a preneed contract without
17 first having a valid certificate of authority.

18 "(b) (1) No person may receive any funds for payment
19 on a preneed contract who does not hold a valid certificate of
20 authority.

21 "(2) Any preneed transaction in which a buyer pays
22 to the seller before need, in whole or in part, a purchase
23 price for funeral or cemetery merchandise and services, and in
24 which the seller is not obligated to deliver the contracted
25 for merchandise or to perform the services until need, in
26 whole or in part, shall be evidenced by a written preneed
27 contract satisfying the requirements of this chapter and

1 signed by the seller and the purchaser. No person may receive
2 or accept any form of consideration in such a transaction
3 without a fully signed written preneed contract. A transaction
4 not evidenced by a signed written preneed contract shall be
5 voidable at the election of the buyer and, if such election is
6 made, the seller shall refund to the buyer the entire amount
7 paid by the buyer together with interest thereon at the legal
8 rate within 30 days after notice to the seller.

9 "(3) The provisions of subdivision (1) do not apply
10 to the purchase of a life insurance policy or annuity, the
11 benefits of which are assigned to a funeral home ~~and/or~~ or
12 cemetery authority, or the benefits of which are to be paid to
13 a funeral home ~~and/or~~ or cemetery authority named as
14 beneficiary of the policy or annuity, as long as the purchaser
15 and funeral home ~~and/or~~ or cemetery authority acknowledge in
16 writing that no preneed contract is entered as a result of the
17 purchase or assignment of the life insurance policy or annuity
18 at the time the policy or annuity is purchased. Benefits from
19 a life insurance policy or annuity issued under this
20 subdivision shall only be paid to a funeral home ~~and/or~~ or
21 cemetery authority which provides funeral or cemetery
22 merchandise and services at the death of the insured whether
23 or not such funeral home ~~and/or~~ or cemetery has been named as
24 an assignee or the beneficiary of the policy or annuity. If no
25 preneed contract was entered or executed, and in the event the
26 amount of the policy or annuity proceeds shall exceed the
27 actual funeral costs at the time of need, ~~such~~ the excess

1 amount ~~must~~ shall be paid to a designated beneficiary, other
2 than a funeral home ~~and/or~~ or cemetery authority, or to the
3 estate of the insured or annuitant.

4 "~~(4) The provisions of subdivision~~ Subdivision (1)
5 ~~do~~ does not apply to any legal reserve insurance company or to
6 any trust company or to any national or state bank or savings
7 and loan association having trust powers which company, bank,
8 or association receives any money in trust pursuant to the
9 sale of a preneed contract.

10 "(c) (1) No person may obtain a certificate of
11 authority under this ~~article~~ chapter for the preneed sale of
12 funeral services or cemetery services unless the person or its
13 agent, in the case of a corporate entity, holds a license as a
14 funeral director or a funeral establishment, or is a cemetery
15 authority. and qualifies as an applicant for a certificate of
16 authority pursuant to the following standards and
17 qualifications:

18 "a. The applicant shall be at least 18 years of age.

19 "b. The applicant shall be in good standing with the
20 board.

21 "c. The applicant may not have any felony or
22 misdemeanor convictions that relate to any activity regulated
23 by this chapter or a crime involving moral turpitude, as
24 defined by this chapter.

25 "d. The applicant shall be of good moral character
26 and submit to a criminal history background check pursuant to
27 subdivision (2).

1 "(2) An applicant for a certificate of authority
2 shall submit to the board, on a form sworn to by the
3 applicant, his or her name, date of birth, Social Security
4 number, and two complete sets of fingerprints for completion
5 of a criminal history background check. The board shall submit
6 the fingerprints to the Alabama State Law Enforcement Agency
7 for a state criminal history background check. The
8 fingerprints shall be forwarded by the agency to the Federal
9 Bureau of Investigation for a national criminal history
10 background check. Costs associated with conducting a criminal
11 history background check shall be paid by the applicant. The
12 board shall keep information received pursuant to this
13 subdivision confidential, except that information received and
14 relied upon in denying the issuance of a certificate of
15 authority may be disclosed if necessary to support the denial.
16 All character information, including the information obtained
17 through the criminal history background checks, shall be
18 considered in licensure decisions to the extent permissible by
19 all applicable laws.

20 ~~"(d) The provisions of this~~ This section ~~do~~ does not
21 apply to a cemetery authority owned or operated by a
22 governmental agency or a religious institution or to those
23 cemeteries that do not charge fees or sell plots, interment
24 rights, or any related cemetery merchandise.

25 ~~"§27-17A-11. §34-13-191.~~

26 "(a) An application to the ~~commissioner~~ board for a
27 certificate of authority shall be accompanied by the statement

1 and other matters described in this section in the form
2 prescribed by the ~~commissioner~~ board. Annually thereafter,
3 ~~within six months after the end of its fiscal period,~~ or
4 within an extension of time therefor, as the ~~commissioner~~
5 board for good cause may grant, the person authorized to
6 engage in the sale of preneed contracts shall file with the
7 ~~commissioner~~ board a full and true statement of his or her
8 financial condition, transactions, and affairs, prepared on a
9 basis as adopted by a rule of the ~~commissioner~~ board, as of
10 the preceding fiscal period or at such other time or times as
11 the ~~commissioner~~ board may provide by rule, together with
12 information and data which may be required by the ~~commissioner~~
13 board. A statement filed with the board pursuant to this
14 subsection is not considered a public record unless the
15 reports the statement covers are presented at a hearing of the
16 board.

17 "(b) The statement shall include all of the
18 following:

19 "(1) The types of preneed contracts proposed to be
20 written and the type of funding ~~vehicle~~ vehicles to be used.

21 "(2) The name and address of the place of business
22 of the person offering to write preneed contracts.

23 "(3)a. Evidence that the person offering the
24 statement has the following qualifications:

25 "a.1. Has the ability to discharge his or her
26 preneed liabilities as they become due in the normal course of
27 business and has sufficient funds available during the

1 calendar year to perform his or her obligations under the
2 contract.

3 ~~"b.2.~~ Has complied with the trust requirements for
4 the funds received under contracts issued by himself or
5 herself as hereinafter described.

6 ~~"c.3.~~ Has disbursed interest, dividends, or
7 accretions earned by trust funds, in accordance with this
8 ~~article chapter~~ and rules ~~promulgated~~ adopted hereunder.

9 ~~"d.4.~~ Has complied with this chapter and any rules
10 of the ~~commissioner~~ board.

11 "5. The applicant shall be of good moral character
12 and submit to a criminal history background check pursuant to
13 paragraph b.

14 "b. An applicant for a certificate of authority
15 shall submit to the board, on a form sworn to by the
16 applicant, his or her name, date of birth, Social Security
17 number, and two complete sets of fingerprints for completion
18 of a criminal history background check. The board shall submit
19 the fingerprints to the Alabama State Law Enforcement Agency
20 for a state criminal history background check. The
21 fingerprints shall be forwarded by the agency to the Federal
22 Bureau of Investigation for a national criminal history
23 background check. Costs associated with conducting a criminal
24 history background check shall be paid by the applicant. The
25 board shall keep information received pursuant to this
26 subdivision confidential, except that information received and
27 relied upon in denying the issuance of a certificate of

1 authority may be disclosed if necessary to support the denial.
2 All character information, including the information obtained
3 through the criminal history background checks, shall be
4 considered in licensure decisions to the extent permissible by
5 all applicable laws.

6 "(4) Any other information considered necessary by
7 the ~~commissioner~~ board to meet the ~~commissioner's~~ board's
8 responsibilities under this chapter.

9 "(c) If the person is an individual, the statement
10 shall be sworn by him or her; if a firm or association, by all
11 members thereof; or, if a corporation, by any officer of the
12 corporation.

13 "(d) (1) An application to the ~~commissioner~~ board for
14 an initial certificate of authority shall be accompanied by an
15 application fee, in an amount to be determined by the
16 ~~commissioner~~ board, not to exceed ~~one hundred fifty dollars~~
17 ~~(\$150)~~ one thousand dollars (\$1,000). Thereafter, each annual
18 application for renewal of a certificate of authority shall be
19 accompanied by the appropriate fee as determined by the
20 ~~commissioner~~ board not to exceed ~~seventy-five dollars (\$75)~~
21 one thousand dollars (\$1,000).

22 "(2) Any person or entity that is part of a common
23 business enterprise that has a certificate of authority issued
24 pursuant to this ~~article~~ chapter and elects to operate under a
25 name other than that of the common business enterprise shall
26 submit an application on a form ~~adopted~~ prescribed by the
27 ~~commissioner~~ board to become a branch registrant. Upon the

1 approval of the ~~commissioner~~ board that the entity qualifies
2 to sell preneed contracts under this ~~article~~ chapter except
3 for the requirements of subparagraph 1. of paragraph a. of
4 subdivision (3) of subsection (b) and if the certificate
5 holder meets the requirements of ~~paragraph a.~~ subparagraph 1.,
6 a branch registration shall be issued. Each branch registrant
7 may operate under the certificate of authority of the common
8 business enterprise upon the payment of a fee established by
9 the ~~commissioner~~ board not to exceed ~~one hundred fifty dollars~~
10 ~~(\$150)~~ one thousand dollars (\$1,000) accompanying the
11 application on ~~July~~ September 1 annually.

12 "(e) Upon the ~~commissioner~~ board being satisfied
13 that the statement and matters which may accompany ~~it~~ the
14 statement meet the requirements of this ~~article~~ chapter and of
15 its rules, the ~~commissioner~~ board shall issue or renew the
16 certificate of authority.

17 "(f) The certificate of authority shall expire
18 annually on ~~September~~ October 1, unless renewed, or at such
19 other time or times as the ~~commissioner~~ board may provide by
20 rule.

21 "(g) On or before ~~July 1~~ of a date certain adopted
22 by the board each year, the certificate holder shall file with
23 the ~~commissioner~~ board in the form prescribed by the
24 ~~commissioner~~ board a full and true statement as to the
25 activities of any trust established by it pursuant to this
26 ~~article~~ chapter for the preceding calendar year.

1 "(h) In addition to any other penalty that may be
2 provided for under this ~~article~~ chapter, the ~~commissioner~~
3 board may levy a fine not to exceed fifty dollars (\$50) per
4 day for each day the certificate holder fails to file its
5 annual statement, and the ~~commissioner~~ board may levy a fine
6 not to exceed fifty dollars (\$50) per day for each day the
7 certificate holder fails to file the statement of activities
8 of the trust. Upon notice to the certificate holder by the
9 ~~commissioner~~ board that the certificate holder has failed to
10 file the annual statement or the statement of activities of
11 the trust, the certificate holder's authority to sell preneed
12 contracts shall cease while the default continues.

13 "(i) To facilitate uniformity in financial
14 statements and to facilitate analysis, the ~~commissioner~~ board
15 may by rule adopt a form for financial statements. The holder
16 of a certificate of authority may submit a written request to
17 the ~~commissioner~~ board to exempt the holder from filing
18 financial statements at renewal. The ~~commissioner~~ board may
19 waive the requirement for filing a financial statement at
20 renewal if all of the following are satisfied:

21 "(1) No valid complaint has been filed since the
22 last ~~examination~~ audit.

23 "(2) No administrative action against the preneed
24 entity has been instituted since the last ~~examination~~ audit.

25 "(3) The certificate holder certifies that all
26 outstanding preneed contracts written by the holder since

1 April 30, 2002, are fully funded in accordance with this
2 chapter.

3 "(4) The certificate holder certifies that it will
4 fully fund all preneed contracts with life insurance, annuity,
5 or will deposit 100 percent of all funds collected on all
6 preneed contracts in trust within 30 days after the end of the
7 calendar month in which the funds are collected.

8 "(5) The preneed entity has provided to the
9 ~~department~~ board in a timely manner all required and requested
10 records.

11 "(6) The preneed entity agrees to file ~~quarterly~~
12 reports of its preneed activity on a form ~~or,~~ in a format, and
13 as often as prescribed by the ~~commissioner~~ board.

14 "(j) The ~~commissioner~~ board may authorize the
15 transfer of certificates of authority and establish fees for
16 the transfer in an amount not to exceed ~~one hundred dollars~~
17 ~~(\$100)~~ one thousand dollars (\$1,000). Upon receipt of an
18 application for transfer, the ~~commissioner~~ board may grant a
19 temporary certificate of authority to the proposed transferee,
20 based upon criteria established by the ~~commissioner~~ board by
21 rule, which criteria shall promote the purposes of this
22 ~~article~~ chapter in protecting the consumer. A temporary
23 certificate of authority shall expire 60 days after issuance
24 unless renewed by the ~~commissioner~~ board. A certificate of
25 authority may not be transferred without the written approval
26 of the board.

27 "~~§27-17A-11.1. §34-13-192.~~

1 "~~(a) On a semi-annual basis, within 45 days after~~
2 ~~the end of each second calendar reporting period~~ or before
3 July 1, each year, the certificate holder shall file a report
4 of its preneed contract activity on a form or in a format
5 prescribed by the ~~commissioner~~ board. The information reported
6 shall include the total number of preneed contracts in force
7 at the end of the previous ~~reporting period~~ calendar year, the
8 total number of preneed contracts sold during the ~~reporting~~
9 ~~period~~ previous calendar year, the total number of preneed
10 contracts fulfilled during the ~~reporting period~~ previous
11 calendar year, the total number of preneed contracts in force
12 at the end of the ~~reporting period~~ previous calendar year, and
13 such other information as may be required by the ~~commissioner~~
14 board. The report shall be organized by type of funding
15 including, life insurance, annuity, trust, letter of credit,
16 or surety bond. The report shall also provide a certification
17 by the trustee of the amount of assets held by the trust at
18 the beginning of the reporting period and at the end of the
19 reporting period, together with the amount of deposits and
20 withdrawals during the reporting period. ~~If a certificate~~
21 ~~holder shall twice default in complying with the requirements~~
22 ~~of this subsection, the commissioner may require that the~~
23 ~~certificate holder thereafter submit the report within 45 days~~
24 ~~after the end of each calendar quarter and shall continue so~~
25 ~~reporting for a time to be determined by the commissioner~~ A
26 certificate of authority may not be renewed until the

1 certificate holder has complied with the requirements of this
2 chapter.

3 "(b) The certificate holder shall maintain a written
4 log of preneed sales. The log shall be on a form or in a
5 format prescribed by the ~~commissioner~~ board, shall detail all
6 information required by the ~~commissioner~~ board, and shall be
7 available for inspection at any time by the ~~commissioner~~
8 board.

9 "(c) Each cemetery authority shall maintain a
10 written log of the sale of cemetery interment rights. The log
11 shall be on a form or in a format prescribed by the
12 ~~commissioner~~ board and shall detail all information required
13 by the ~~commissioner~~ board.

14 ~~§27-17A-12. §34-13-193.~~

15 "(a) Preneed contract forms and related forms shall
16 be filed with and approved by the ~~commissioner~~ board.

17 "(b) Specific disclosure regarding whether,
18 consistent with the requirements of this chapter, the
19 certificate holder is placing certain preneed funds received
20 with the contract in trust, in an annuity, or in insurance, is
21 required in the preneed contract.

22 "(c) Preneed contracts which have been submitted to
23 the ~~commissioner~~ board shall be deemed to have been approved
24 by the ~~commissioner~~ board in the event that the ~~commissioner~~
25 board fails to notify the certificate holder that approval has
26 been denied within 30 days following submission to the
27 ~~commissioner~~ board.

1 "~~§27-17A-13.~~§34-13-194.

2 "(a) Except as provided in Sections ~~27-17A-3 and~~
3 ~~27-17A-14~~ 34-13-171 and 34-13-195, every preneed contract
4 shall require the monies paid to the seller or trustee to be
5 placed in trust in accordance with ~~Article 3~~ Division 3, for
6 funeral merchandise and services sold by funeral
7 establishments or third party sellers, or ~~Article 4~~ Division
8 4, for cemetery merchandise and services sold by cemetery
9 authorities.

10 "(b) Although this chapter does not apply to preneed
11 contracts entered into prior to May 1, 2002, a preneed
12 provider which contends that a preneed trust fund which was in
13 effect prior to May 1, 2002, complies with this chapter with
14 respect to the contracts entered into prior to May 1, 2002,
15 may provide to the ~~commissioner~~ board documentary proof
16 thereof. Upon the ~~commissioner~~ board determining that
17 compliance has been established, the pre-existing preneed
18 trust fund assets may be merged with or into the trust fund
19 required under this chapter or continued as the trust fund and
20 that determination by the ~~commissioner~~ board shall be noted on
21 the certificate of authority, and thereafter all preneed
22 contracts covered by the trust fund, including those entered
23 into prior to May 1, 2002, shall be subject to this chapter.

24 "~~§27-17A-14.~~§34-13-195.

25 "(a) As an alternative to the trust requirement of
26 Section ~~27-17A-13~~ 34-13-194, the details of which are set
27 forth in ~~Articles 3 and 4~~ Divisions 3 and 4, a preneed

1 provider ~~may~~, with the prior approval of the ~~commissioner~~
2 board, may purchase a surety bond in an amount not less than
3 the aggregate value of outstanding liabilities on undelivered
4 preneed contracts for merchandise, services, and cash
5 advances. For the purposes of this section, the term
6 outstanding liabilities means the original retail amount of
7 services and cash advances and the actual cost to the entity
8 to provide the undelivered merchandise sold on each contract
9 written after April 30, 2002. The surety bond shall be in an
10 amount sufficient to cover the outstanding liability at the
11 time each contract is executed.

12 "(b) The bond shall be made payable to the State of
13 Alabama for the benefit of the ~~commissioner~~ board and of all
14 purchasers of preneed merchandise, services, and cash
15 advances. The bond shall be issued by an insurance company
16 licensed in the State of Alabama and authorized to issue
17 surety bonds and approved by the ~~commissioner~~ board.

18 "(c) The amount of the bond shall be based on a
19 report documenting the outstanding liabilities of the preneed
20 provider for the previous calendar quarter and the projected
21 liability for the immediately following quarter, shall be
22 prepared by the preneed provider using generally accepted
23 accounting principles, and shall be signed by the chief
24 executive officer or chief financial officer of the preneed
25 provider. The report shall be compiled as of the end of the
26 preneed provider's fiscal year and updated quarterly.

1 "(d) The amount of the bond shall be increased or
2 decreased as necessary to correlate with changes in the
3 outstanding liabilities. Further, the ~~commissioner~~ board may
4 order the bond to be increased as necessary to correlate with
5 changes in the outstanding liabilities of bonded contracts due
6 to increases in the consumer price index.

7 "(e) If the preneed provider fails to maintain a
8 bond pursuant to this section the preneed provider shall
9 surrender its certificate of authority and cease the offering
10 for sale and sale of preneed merchandise, services, and cash
11 advances as provided by this chapter or rule of the board. The
12 board, by rule, may levy fines and take remedial action
13 requiring the preneed provider to correct any funding
14 deficiencies.

15 "(f) No surety bond used to comply with this section
16 shall be canceled or subject to cancellation unless at least
17 60 days' advance notice thereof, in writing, is filed with the
18 ~~commissioner~~ board, by the surety company. The cancellation of
19 the bond shall not relieve the obligation of the surety
20 company for claims arising out of contracts issued or
21 otherwise covered before cancellation of the bond. In the
22 event that notice of termination of the bond is filed with the
23 ~~commissioner~~ board, the certificate holder insured thereunder
24 ~~shall~~, within 30 days of the filing of the notice of
25 termination with the ~~commissioner~~ board, shall provide the
26 ~~commissioner~~ board with a replacement bond or with evidence
27 which is satisfactory to the ~~commissioner~~ board demonstrating

1 that ~~the provisions of~~ this chapter ~~have~~ has been fully
2 complied with. If within 30 days of filing of the notice of
3 termination with the ~~commissioner board~~ no replacement bond
4 acceptable to the ~~commissioner board~~ or no evidence
5 satisfactory to the ~~commissioner board~~ demonstrating that ~~the~~
6 ~~provisions of~~ this chapter have been complied with is filed
7 with the ~~commissioner board~~, the ~~commissioner board~~ shall
8 suspend the license of the certificate holder until the
9 certificate holder files a replacement bond acceptable to the
10 ~~commissioner board~~ or demonstrates to the satisfaction of the
11 ~~commissioner board~~ that it has complied with ~~the provisions of~~
12 this chapter.

13 "(g) Upon prior approval by the ~~commissioner board~~,
14 the preneed provider may file with the ~~commissioner board~~ a
15 letter of credit in the amount of the outstanding liabilities
16 in lieu of a surety bond, in the form and subject to the terms
17 and conditions evidencing the financial responsibility of the
18 party or parties issuing the letter of credit, and otherwise,
19 as may be prescribed by the ~~commissioner board~~.

20 "~~§27-17A-15. §34-13-196.~~

21 "(a) The ~~commissioner shall~~ board, as often as ~~he or~~
22 ~~she may deem~~ deemed necessary, ~~examine~~ shall audit the
23 business of any person writing, or holding himself or herself
24 out to be writing, preneed contracts under this chapter to the
25 extent applicable. The ~~examination~~ audit shall be made by
26 designated representatives employed or ~~examiners of the~~
27 ~~Department of Insurance~~ contracted by the board.

1 "(b) The written report of each ~~examination~~ audit,
2 when completed, shall be filed ~~in the office of the~~
3 ~~commissioner and, when so filed, shall not constitute a public~~
4 ~~record~~ with the board.

5 "(c) Any person being ~~examined~~ audited shall
6 produce, upon request, all records of the person. The
7 designated representative of the ~~commissioner~~ board may at any
8 time examine the records and affairs of the person, whether in
9 connection with a formal ~~examination~~ audit or not.

10 "(d) The ~~commissioner~~ board may waive the
11 ~~examination~~ audit requirements of this section if the
12 certificate holder submits audited financial statements.

13 "(e) The person ~~examined~~ audited shall pay the
14 ~~examination expenses, travel expense and per diem subsistence~~
15 ~~allowance provided for examiners and incurred by the~~
16 ~~commissioner's representatives or examiners in connection with~~
17 ~~an examination in accordance with Section 27-2-25~~ board an
18 audit fee, in an amount determined by the board, not to exceed
19 one thousand dollars, (\$1,000) per audit day.

20 "(f) Whenever any special audit of the premises,
21 facilities, books, or records of a licensee is necessary based
22 on the failure of the licensee to comply with this chapter or
23 rule adopted by the board, the board shall charge a fee based
24 on the cost of the special audit including, but not limited
25 to, the prorated compensation of board employees involved in
26 the special audit and any expenses incurred.

1 "(g) The board may suspend the certificate of
2 authority of any person that fails to pay an audit fee to the
3 board within 30 days after the invoice date. Upon suspension,
4 a certificate holder shall immediately cease offering goods
5 and services on a preneed basis.

6 "(h) The board may conduct and enforce, by all
7 appropriate and available means, any audit under oath in any
8 other state or territory of the United States in which an
9 officer, director, or manager may then presently be, to the
10 full extent permitted by law of the other state or territory,
11 this special authorization considered.

12 "(i) If the board finds that a certificate of
13 authority holder or licensee has failed to operate in
14 accordance with this chapter and, by their action, has created
15 a deficit of preneed funds entrusted to them by the consumer,
16 then the board may:

17 "(1) Bring an action for injunctive relief against
18 the responsible licensee or the holder of the certificate of
19 authority in the Circuit Court of Montgomery County.

20 "(2) Issue an emergency suspension of all licenses
21 held by the holder of the certificate of authority, and its
22 associated personnel, in accordance with the Administrative
23 Procedure Act.

24 "(3) Take any other disciplinary action authorized
25 by this chapter.

26 ~~"§27-17A-16. §34-13-197.~~

1 "(a) A certificate holder shall be considered
2 inactive upon the acceptance of the surrender of its license
3 by the ~~commissioner~~ board or upon the nonreceipt by the
4 ~~commissioner~~ board of the certificate of authority renewal
5 application and fees.

6 "(b) A certificate holder shall cease all preneed
7 sales to the public upon becoming inactive. The certificate
8 holder shall collect and deposit into trust all of the funds
9 paid toward preneed contracts sold prior to becoming inactive.

10 "(c) Any certificate holder desiring to surrender
11 its license to the ~~commissioner~~ board shall first do all of
12 the following:

13 "(1) File notice with the ~~commissioner~~ board.

14 "(2) Submit copies of its existing trust agreements.

15 "(3) Submit a sample copy of each type of preneed
16 contract sold.

17 "(4) Resolve to the ~~commissioner's~~ satisfaction of
18 the board all findings and violations resulting from the last
19 ~~examination~~ audit conducted.

20 "(5) Pay all outstanding fines and invoices due the
21 ~~commissioner~~ board.

22 "(6) Submit its current certificate of authority.

23 "(d) Upon receipt of the notice, the ~~commissioner~~
24 board shall review the certificate holder's trust funds, trust
25 agreements, and evidence of all outstanding preneed contracts.

26 "(e) After a review to the ~~commissioner's~~
27 satisfaction of the board, the ~~commissioner~~ board shall

1 terminate the certificate of authority by an order which shall
2 set forth the conditions of termination established by the
3 ~~commissioner~~ board to ensure that the preneed funds will be
4 available for their intended purpose.

5 "(f) The trust fund of the certificate holder shall
6 be held intact and in trust after the certificate holder has
7 become inactive, and the funds in that trust shall be
8 disbursed in accordance with the requirements of the written
9 contracts until the funds have been exhausted.

10 "(g) The ~~commissioner~~ board shall continue to have
11 jurisdiction over the inactive certificate holder as if the
12 certificate were active and to require the reports and inspect
13 the records as the ~~commissioner~~ board deems appropriate so
14 long as there are funds in trust or preneed contracts that are
15 not fulfilled.

16 "(h) ~~In addition to any other~~ Other terms of
17 revocation or suspension ordered pursuant to ~~Chapter 13 of~~
18 ~~Title 34, the provisions of this chapter may also apply.~~

19 ~~§27-17A-17. §34-13-198.~~

20 ~~"(a) Any dissolution or liquidation of a certificate~~
21 ~~holder shall be deemed to be the liquidation of an insurance~~
22 ~~company and shall be conducted under the supervision of the~~
23 ~~commissioner, who shall have all powers with respect thereto~~
24 ~~granted to the commissioner under Chapter 32 with respect to~~
25 ~~the liquidation of insurance companies.~~

26 ~~"(b) The commissioner may apply for an order~~
27 ~~directing the commissioner to liquidate a certificate holder~~

1 ~~upon any one or more grounds set out in Section 27-32-6 or~~
2 ~~when, in the commissioner's opinion, the continued operation~~
3 ~~of the certificate holder would be hazardous either to~~
4 ~~purchasers, beneficiaries, or to the people of this state.~~

5 "The board may fine and revoke, suspend, or place on
6 probation the certificate of authority and the establishment
7 license of a certificate holder on any of the following
8 grounds:

9 "(1) The certificate holder is impaired or
10 insolvent.

11 "(2) The certificate holder has refused to submit,
12 or has withheld, any of its books, records, accounts, or
13 affairs to audit by the board.

14 "(3) The certificate holder has concealed or removed
15 records or preneed assets, or both.

16 "(4) The certificate holder has failed to comply
17 with an order of the board.

18 "(5) The certificate holder has transferred, or
19 attempted to transfer, substantially its entire property or
20 business, or has entered into any transaction the effect of
21 which is to merge substantially its entire property or
22 business with that of any other certificate holder, person,
23 corporation, or entity without first having obtained the
24 written approval of the board.

25 "(6) The certificate holder has willfully violated
26 its articles of incorporation or any law of this state,
27 including any rule of the board.

1 "(7) The certificate holder has an officer,
2 director, or manager who has refused to be audited under oath
3 concerning the affairs of the certificate holder. The Board
4 may conduct and enforce by all appropriate and available means
5 any audit under oath in any other state or territory of the
6 United States in which the officer, director, or manager may
7 then presently be, to the full extent permitted by law of the
8 other state or territory, this special authorization
9 considered.

10 "(8) The certificate holder has been or is the
11 subject of an application for the appointment of a receiver,
12 trustee, custodian, or sequestrate of the certificate holder
13 or its property otherwise than pursuant to this chapter or
14 rule of the board, but only if the appointment has been made,
15 or is imminent, and its effect is, or would be, to oust the
16 courts of this state of jurisdiction under this section.

17 "(9) The certificate holder has consented to an
18 order through a majority of its directors, stockholders, or
19 subscribers.

20 "(10) The certificate holder has failed to pay a
21 final judgement entered against it in this state upon any
22 contract issued or assumed by it, within 30 days after the
23 judgment became final, or within 30 days after the time for
24 taking an appeal has expired, or within 30 days after
25 dismissal of an appeal before final termination, whichever
26 date is the later.

1 "(11) If the board determines that the continued
2 operation of the certificate holder would be hazardous to
3 purchasers, beneficiaries, or residents of this state.

4 "~~§27-17A-18. §34-13-199.~~

5 "(a) All individuals who offer preneed contracts to
6 the public, or who execute preneed contracts on behalf of a
7 certificate holder, shall be registered with the ~~commissioner~~
8 board as preneed sales agents, pursuant to this ~~article~~
9 chapter.

10 "(b) All preneed sales agents and funeral directors
11 acting as preneed sales agents shall be affiliated with the
12 certificate holder that they are representing.

13 "(c) A certificate holder shall be responsible for
14 the activities of all preneed sales agents and all funeral
15 directors acting as preneed sales agents, who are affiliated
16 with the certificate holder and who perform any type of
17 preneed-related activity on behalf of the certificate holder.
18 In addition to the preneed sales agents and funeral directors
19 acting as preneed sales agents, each certificate holder shall
20 also be subject to discipline if its preneed sales agents or
21 funeral directors acting as preneed sales agents violate ~~any~~
22 provision of this article chapter.

23 "(d) A preneed sales agent and a funeral director
24 acting as a preneed sales agent ~~shall be authorized to~~ may
25 sell, offer, and execute preneed contracts on behalf of all
26 properly licensed entities owned or operated by the sponsoring
27 certificate holder.

1 "(e) An individual may begin ~~functioning~~ operating
2 as a preneed sales agent as soon as a completed application
3 for registration, as set forth in subsection (g), is ~~sent to~~
4 ~~the commissioner~~ approved by the board.

5 "(f) (1) The qualifications for a preneed sales agent
6 are as follows:

7 "~~(1)~~a. The applicant must be at least 18 years of
8 age.

9 "~~(2)~~b. The applicant must be in good standing with
10 the ~~commissioner~~ board.

11 "~~(3)~~c. The applicant ~~must~~ may not have any felony or
12 misdemeanor convictions that relate to any activity regulated
13 by this chapter or a crime involving moral turpitude, as
14 defined by this chapter.

15 "d. The applicant shall be of good moral character
16 and submit to a criminal history background check pursuant to
17 subdivision (2).

18 "(2) An applicant for licensure as a preneed sales
19 agent shall submit to the board, on a form sworn to by the
20 applicant, his or her name, date of birth, Social Security
21 number, and two complete sets of fingerprints for completion
22 of a criminal history background check. The board shall submit
23 the fingerprints to the Alabama State Law Enforcement Agency
24 for a state criminal history background check. The
25 fingerprints shall be forwarded by the agency to the Federal
26 Bureau of Investigation for a national criminal history
27 background check. Costs associated with conducting a criminal

1 history background check shall be paid by the applicant. The
2 board shall keep information received pursuant to this
3 subdivision confidential, except that information received and
4 relied upon in denying the issuance of a certificate of
5 authority may be disclosed if necessary to support the denial.
6 All character information, including the information obtained
7 through the criminal history background checks, shall be
8 considered in licensure decisions to the extent permissible by
9 all applicable laws.

10 "(g) An application for registration as a preneed
11 sales agent shall be submitted to the ~~commissioner~~ board with
12 an application fee determined by the ~~commissioner~~ board, but
13 not to exceed ~~twenty-five dollars (\$25)~~ five hundred dollars
14 (\$500), by the certificate holder in a form that has been
15 prescribed by ~~commissioner~~ board rule ~~and approved by the~~
16 ~~commissioner~~. The application shall contain, at a minimum, all
17 of the following:

18 "(1) The name, address, Social Security number, and
19 date of birth of the applicant and any other information as
20 the ~~commissioner~~ board may reasonably require of the
21 applicant.

22 "(2) The name, address, and license number of the
23 sponsoring certificate holder.

24 "(3) A representation, signed by the applicant, that
25 the applicant meets the requirements set forth in subsection
26 (f).

1 "(4) A representation, signed by the certificate
2 holder, that the applicant is authorized to offer, sell, and
3 sign preneed contracts on behalf of the certificate holder,
4 and that the certificate holder has trained the applicant in
5 ~~the provisions of this article~~ chapter relating to preneed
6 sales, the provisions of the certificate holder's preneed
7 contract, and the nature of the merchandise, services, or
8 burial rights sold by the certificate holder.

9 "(5) A statement indicating whether the applicant
10 has any type of working or agency relationship with any other
11 certificate holder or insurance company.

12 "(h) An individual may be registered as a preneed
13 sales agent on behalf of more than one certificate holder,
14 provided that the individual has received the written consent
15 of all certificate holders.

16 "(i) A certificate holder who has registered a
17 preneed sales agent shall notify the ~~commissioner~~ board within
18 30 days after the individual's status as a preneed sales agent
19 has been terminated.

20 "(j) Upon receipt of an application that complies
21 with all of the requirements of subsection (g), the
22 ~~commissioner~~ board shall register the applicant. The
23 ~~commissioner shall by rule~~ board, in accordance with this
24 chapter, shall provide for annual renewal of registration upon
25 receipt of a renewal application and a renewal fee not to
26 exceed ~~twenty-five dollars (\$25)~~ five hundred dollars (\$500)
27 as set by the ~~commissioner~~ board.

1 "~~§27-17A-19.~~§34-13-200.

2 "No person shall engage in this state in any trade
3 practice which is addressed in the Alabama Deceptive Trade
4 Practices Act (~~Section 8-19-1 et seq.~~), Chapter 19 of Title 8,
5 or as determined pursuant to this chapter to be, an unfair
6 method of competition or an unfair or deceptive act or
7 practice.

8 "~~§27-17A-20.~~§34-13-201.

9 "(a) Whenever the ~~commissioner~~ board has reason to
10 believe that any person has engaged, or is engaging, in this
11 state in any unfair method of competition or any unfair or
12 deceptive act or practice as defined in this ~~article~~ chapter,
13 or is engaging in the sale of preneed contracts without being
14 properly licensed as required by this ~~article~~ chapter, or is
15 otherwise acting in violation of this chapter, and that a
16 proceeding by the ~~commissioner~~ board in respect thereto would
17 be in the interest of the public, the ~~commissioner~~ board shall
18 institute a proceeding in accordance with this section.

19 "(b) A statement of charges, notice, or order or
20 other process under this chapter may be served by anyone duly
21 authorized by the ~~commissioner~~ board. Service may be made
22 either in the manner provided by law for service of process in
23 civil actions or by certifying and mailing a copy of the
24 statement to the person affected by the statement, notice, or
25 order or other process at his or her or its residence or
26 principal office or place of business. The verified return by
27 the person so serving the statement, notice, or order or other

1 process, setting forth the manner of the service, shall be
2 proof of the service; and the return postcard receipt for the
3 statement, notice, or order or other process, certified and
4 mailed as provided in this subsection, shall be proof of
5 service of the statement, notice, or order or other process.

6 "(c) The ~~commissioner~~ board shall conduct or cause
7 to have conducted a hearing in accordance with ~~Article 1 of~~
8 ~~Chapter 2~~ this chapter, and shall, during the conduct of the
9 hearing, have those powers necessary to enforce this chapter
10 and rules of the board; however, the penalties for failure to
11 comply with a subpoena or with an order directing discovery
12 shall be limited to a fine not to exceed ~~one thousand dollars~~
13 ~~(\$1,000)~~ two thousand five hundred dollars (\$2,500) per
14 violation. All evidence introduced and presented in a hearing
15 conducted under this chapter shall be deemed public
16 information.

17 "~~§27-17A-21. §34-13-202.~~

18 "(a) If the ~~commissioner~~ board finds that one or
19 more grounds exist for the discretionary suspension or
20 revocation of a certificate of authority or establishment
21 license issued under this ~~article~~ chapter, the ~~commissioner~~
22 ~~may~~ board, in lieu of the suspension or revocation, may impose
23 a fine upon the certificate holder in an amount not to exceed
24 ~~one thousand dollars (\$1,000)~~ two thousand five hundred
25 dollars (\$2,500) for each nonwillful violation and in an amount
26 not to exceed ten thousand dollars (\$10,000) for each willful
27 violation.

1 "(b) The ~~commissioner~~ board may grant not more than
2 30 days from the date of the order for the payment of any
3 fine.

4 "~~§27-17A-22. §34-13-203.~~

5 "(a) (1) A person who knowingly receives payments for
6 a preneed contract without having a valid certificate of
7 authority:

8 "a. Commits a Class B felony, ~~punishable as provided~~
9 ~~by law,~~ as to each contract on which the payments collected
10 equal or exceed, in the aggregate, two thousand five hundred
11 dollars (\$2,500).

12 "b. Commits a Class C felony, ~~punishable as provided~~
13 ~~by law,~~ as to each contract on which the payments collected
14 are between, in the aggregate, five hundred dollars (\$500) and
15 two thousand five hundred dollars (\$2,500).

16 "c. Commits a Class A misdemeanor, ~~punishable as~~
17 ~~provided by law,~~ as to each contract on which the payments
18 collected do not exceed, in the aggregate, five hundred
19 dollars (\$500).

20 "(2) In addition to the criminal penalty imposed
21 under subdivision (1), upon conviction of an offense under
22 subdivision (1), a person may not thereafter obtain a
23 certificate of authority or register as a preneed sales agent.

24 "(b) (1) A person who ~~willfully fails to timely~~
25 ~~deposit the amount required to be so deposited under this~~
26 ~~chapter in a preneed merchandise and services trust or~~
27 ~~endowment care trust~~ knowingly receives payments for or

1 executes a preneed contract without having a valid license as
2 a preneed sales agent:

3 "a. Commits a Class B felony, ~~punishable as provided~~
4 ~~by law,~~ as to each contract on which the amount due for
5 deposit in trust equals or exceeds, in the aggregate, two
6 thousand five hundred dollars (\$2,500).

7 "b. Commits a Class C felony, ~~punishable as provided~~
8 ~~by law,~~ as to each contract on which the amount due for
9 deposit in trust is less than, in the aggregate, two thousand
10 five hundred dollars (\$2,500).

11 "(2) In addition to the criminal penalty imposed
12 under subdivision (1), upon conviction of an offense under
13 subdivision (1), the certificate of authority or preneed sales
14 agent registration held by the person shall be automatically
15 revoked and the person may not thereafter obtain a certificate
16 of authority or register as a preneed sales agent.

17 "(c) (1) A person who willfully fails to timely
18 deposit an amount required to be deposited under this chapter
19 in a preneed merchandise and services trust or endowment care
20 trust:

21 "a. Commits a Class B felony as to each contract on
22 which the amount due for deposit in trust equals or exceeds,
23 in the aggregate, two thousand five hundred dollars (\$2,500).

24 "b. Commits a Class C felony as to each contract on
25 which the amount due for deposit in trust is less than, in the
26 aggregate, two thousand five hundred dollars (\$2,500).

1 "(2) In addition to the criminal penalty imposed
2 under subdivision (1), upon conviction of an offense under
3 subdivision (1), the certificate of authority or preneed sales
4 agent registration held by the person shall be automatically
5 revoked, and the person may not thereafter obtain a
6 certificate of authority, register as a preneed sales agent,
7 register as a cemetery sales agent, or register as the general
8 manager of a cemetery.

9 "~~(c)~~ (d) (1) A person who knowingly withdraws funds or
10 assets from a preneed merchandise and services trust or
11 endowment care trust in a manner or under circumstances not
12 authorized by this chapter or rule of the board:

13 "a. Commits a Class B felony, ~~punishable as provided~~
14 ~~by law,~~ if the aggregate amount withdrawn in any single
15 transaction or series of related transactions equals or
16 exceeds two thousand five hundred dollars (\$2,500).

17 "b. Commits a Class C felony, ~~punishable as provided~~
18 ~~by law,~~ if the aggregate amount withdrawn in any single
19 transaction or series of related transactions is less than two
20 thousand five hundred dollars (\$2,500).

21 "(2) In addition to the criminal penalty imposed
22 under subdivision (1), upon conviction of an offense under
23 subdivision (1), the certificate of authority or preneed sales
24 agent registration held by the person shall be automatically
25 revoked, and the person may not thereafter obtain a
26 certificate of authority or register as a preneed sales agent.

1 "~~(d)~~(e) A person commits a Class C felony,
2 ~~punishable as provided by law,~~ if any of the following occur:

3 "(1) The person knowingly delivers to the
4 ~~commissioner~~ board any official form, report, record, data, or
5 other document required by the ~~commissioner~~ board containing a
6 false statement or false information concerning a matter
7 material to the ~~commissioner~~ board in the exercise of ~~his or~~
8 ~~her~~ its authority to administer and enforce this chapter.

9 "(2) Incident to, or during the course of, an
10 ~~examination~~ audit, inspection, investigation, or other inquiry
11 authorized by this chapter, the person knowingly makes
12 available to a representative of the ~~commissioner~~ board any
13 official form, report, record, data, or other document
14 required by the ~~commissioner~~ board containing a false
15 statement or false information concerning a matter material to
16 the purpose of the ~~examination~~ audit, inspection,
17 investigation, or inquiry.

18 "(3) With respect to the business records of a
19 person engaging in, or who has at any time engaged in, the
20 sale of a preneed contract, a person, with a purpose to use
21 deception as defined in subdivision (1) of Section 13A-8-1,
22 makes false entries in ~~such~~ the records or alters, erases,
23 obliterates, deletes, or removes a correct entry in ~~such~~ the
24 records, fails to make a correct entry in ~~such~~ the records, or
25 prevents the making of a correct entry, or causes the omission
26 of a correct entry in ~~such~~ the records.

1 "~~(e)~~ (f) Except as otherwise provided in this ~~section~~
2 chapter, the willful violation of this chapter is a Class A
3 misdemeanor, ~~punishable as provided by law.~~

4 "~~(f) The duties and authority of the insurance fraud~~
5 ~~unit created under Section 27-12A-40, including the powers of~~
6 ~~the unit's investigators, shall extend to investigations into~~
7 ~~violations of this section.~~

8 "(g) In addition to the powers conferred by this
9 chapter and the fines specified in Chapter 30 of Title 8, or
10 otherwise provided by this chapter, the board may levy a fine,
11 not to exceed two thousand five hundred dollars (\$2,500), for
12 each separate violation of this chapter or rule of the board.

13 "~~§27-17A-23. §34-13-204.~~

14 "The ~~commissioner~~ board, the Attorney General, or
15 any person may bring a civil action against a person or
16 company violating this chapter or rule of the board in
17 Montgomery County or the appropriate court of the county in
18 which the alleged violator resides or has his or her or its
19 principal place of business or in the county wherein the
20 alleged violation occurred. Upon adverse adjudication, the
21 defendant shall be liable for actual damages caused by the
22 violation. The court, as provided by common law, may award
23 punitive damages and may provide equitable relief as it deems
24 proper or necessary, including enjoining the defendant from
25 further violation of this chapter or rule of the board.

26 "~~§27-17A-24. §34-13-205.~~

1 The provisions of this chapter are cumulative to
2 rights under the general civil and common law, and no action
3 of the ~~commissioner board~~ may abrogate the rights to damages
4 or other relief in any court.

5 "~~§27-17A-25. §34-13-206.~~

6 "(a) All fees collected by the ~~commissioner board~~
7 pursuant to this chapter shall be deposited into the ~~State~~
8 ~~Treasury to the credit of the Insurance Department Fund~~
9 Alabama State Funeral Service Fund.

10 "(b) All fines collected by the ~~commissioner board~~
11 pursuant to this chapter shall be deposited into the ~~State~~
12 ~~Treasury to the credit of the State General Fund~~ Alabama State
13 Funeral Service Fund.

14 "(c) The ~~commissioner board~~ may use funds available
15 from any source including, but not limited to, grants,
16 appropriations, and gifts, for any purpose in the enforcement
17 of this chapter."

18 Section 4. Sections 27-17A-30, 27-17A-31, 27-17A-32,
19 27-17A-33, and 27-17A-34 of the Code of Alabama 1975, are
20 amended and renumbered as Division 3 of Article 5 of Chapter
21 13 of Title 34, Code of Alabama 1975, to read as follows:

22 "Division 3. Funeral Merchandise and Services Trust
23 Fund.

24 "~~§27-17A-30. §34-13-230.~~

25 "To comply with the trust requirement of subsection
26 (a) of Section ~~27-17A-13~~ 34-13-194, all certificate holders

1 providing preneed contracts for funeral services or funeral
2 merchandise shall be subject to this ~~article~~ chapter.

3 ~~§27-17A-31. §34-13-231.~~

4 "(a) Any person who is paid, collects, or receives
5 funds under a preneed contract for funeral services or funeral
6 merchandise to be funded by trust shall deposit in trust an
7 amount at least equal to the sum of 75 percent of the amount
8 collected on the purchase price for all funeral services and
9 funeral merchandise sold, transportation, and facilities
10 rented other than outer burial containers, 60 percent of the
11 amount collected on the purchase price for outer burial
12 containers, 110 percent of the wholesale cost of memorials
13 from the amount collected on the purchase price of memorials,
14 and 100 percent of the amount collected on the purchase price
15 for all cash advance items sold.

16 "(b) All deposits shall be made within 30 days after
17 the end of the calendar month in which the preneed contract is
18 paid in full, unless, prior to that time, all liabilities of
19 the seller under the preneed contract to deliver the specific
20 funeral merchandise or funeral services, or both, or the
21 specific cash advances, identified by the preneed provider as
22 properly allocated to the payment, have been satisfied, or the
23 preneed contract is validly cancelled.

24 "(c) The trustee shall take title to the property
25 conveyed to the trust for the purpose of investing,
26 protecting, and conserving it for the certificate holder;

1 collecting income; and distributing the principal and income
2 as prescribed in this ~~article~~ chapter.

3 "(d) The certificate holder is prohibited from
4 sharing in the discharge of these responsibilities, except
5 that the certificate holder may appoint an adviser to the
6 trustee or elect tax free investments. Nothing in this chapter
7 shall prohibit a trustee from electing the qualified funeral
8 trust option under the Internal Revenue Code.

9 "(e) The trust agreement shall be submitted to the
10 ~~commissioner~~ board for approval and filing.

11 "(f) The funds shall be held in trust, both as to
12 principal and income earned thereon, and shall remain intact,
13 except that the cost of the operation of the trust or trust
14 account authorized by this section may be deducted from the
15 income earned thereon.

16 "(g) The contract purchaser shall have no interest
17 whatsoever in, or power whatsoever over, funds deposited in
18 trust pursuant to this section.

19 "(h) In no event may ~~such~~ the funds be loaned to a
20 certificate holder, an affiliate of a certificate holder, or
21 any person directly or indirectly engaged in the burial,
22 funeral home, or cemetery business. Furthermore, the
23 certificate holder's interest in the trust shall not be
24 pledged as collateral for any loans, debts, or liabilities of
25 the certificate holder and shall not be transferred to any
26 person without the prior written approval from the
27 ~~commissioner~~ board and the trustee. Even though the

1 certificate holder shall be deemed and treated as the settlor
2 and beneficiary of the trust for all purposes, all of the
3 trust funds are exempt from all claims of creditors of the
4 certificate holder except as to the claims of the contract
5 purchaser, his or her representative, or the ~~commissioner~~
6 board.

7 "(i) For all preneed contracts written or entered
8 into on or after January 1, 2015, all required deposits in
9 trust shall commence not later than 30 days after the end of
10 the calendar month in which the sum of the monies collected on
11 the preneed contract exceeds the amount that is not required
12 to be deposited in trust as determined under subsection (a)
13 unless, prior to that time, all liabilities of the preneed
14 seller under the preneed contract have been satisfied, or the
15 preneed contract is validly cancelled. Further required
16 deposits on the contract shall thereafter be made not later
17 than 30 days after the end of the calendar month in which each
18 contract payment is collected by the seller.

19 "~~§27-17A-32.~~§34-13-232.

20 "(a) If amounts paid by the purchaser under a
21 preneed contract for funeral merchandise have previously been
22 deposited in trust, the seller may withdraw the principal
23 amount and trust appreciation attributable to the delivered
24 item at such time as the funeral merchandise is delivered or
25 installed or, if comprised of materials designed to withstand
26 prolonged, protected storage without deterioration, the
27 merchandise is placed in storage with a responsible third

1 party bonded and insured for the wholesale value thereof and
2 evidenced by a receipt specifically identifying the item, the
3 specific preneed contract, the location of the item, and the
4 identity and address of the bonding and insuring parties. For
5 purposes of this subsection only, caskets and alternative
6 containers may not be held in storage by the seller or a third
7 party storage facility prior to the death of the funeral
8 beneficiary.

9 "(b) The trustee shall make regular valuations of
10 the assets it holds in trust and provide a report of the
11 valuations to the certificate holder at least quarterly. At
12 all times, the certificate holder shall be able to determine
13 the amount held in trust attributable to each contract holder.
14 For all contracts effective on or after January 1, 2015, the
15 determination shall be based upon the fair market value of the
16 trust at the time and the proportionate share of the fair
17 market value attributable to each contract holder. For all
18 contracts in effect before January 1, 2015, the valuation of
19 each contract may be calculated using any valuation method
20 that had been previously approved by the ~~commissioner or the~~
21 ~~department~~ Commissioner or the Department of Insurance before
22 January 1, 2015. Any person who withdraws appreciation in the
23 value of trust, other than the pro rata portion of ~~such~~ the
24 appreciation which may be withdrawn upon the death of a
25 contract's funeral beneficiary or upon cancellation of a
26 preneed contract, shall be required to make additional
27 deposits from his or her own funds to restore the aggregate

1 value of assets to the value of funds deposited in trust, but
2 excluding from the funds deposited those funds paid out upon
3 preneed contracts which the person has fully performed or
4 which have been otherwise withdrawn, as provided in this
5 ~~article~~ chapter. The certificate holder shall be liable to
6 third parties to the extent that income from the trust is not
7 sufficient to pay the expenses of the trust.

8 "(c) The trustee of the trust established pursuant
9 to this ~~article~~ chapter shall have all of the following
10 powers:

11 "(1) Make investments and exercise necessary
12 investment powers, provided that the ~~commissioner~~ board may by
13 order require the trustee to liquidate or dispose of any
14 investment within 30 days after the order.

15 "(2) Commingle the property of the trust with the
16 property of any other preneed funeral, preneed cemetery, or
17 endowment care trust established pursuant to this ~~article~~
18 chapter and make corresponding allocations and divisions of
19 assets, liabilities, income, and expenses.

20 "(d) Notwithstanding the provisions of Section
21 19-3-125, the trustee ~~may~~, subject to compliance with the
22 requirements set forth below, may invest any portion or all of
23 the funds received under preneed contracts and deposited in
24 trust in life insurance contracts or annuities issued on the
25 lives of preneed contract purchasers or preneed contract
26 beneficiaries, hereinafter, the insured or annuitant, without
27 any obligation to cover at a minimum the retail amount of the

1 preneed contract at the time of purchase of the life insurance
2 contracts or annuities as set forth in Section ~~27-17A-3~~
3 34-13-171.

4 "(1) Trust funds shall not be invested by the
5 trustee in life insurance contracts or annuities unless the
6 following requirements are met:

7 "a. The company issuing the life insurance contracts
8 or annuities is licensed by the Department of Insurance and
9 the insurance producer or annuity seller is properly licensed
10 within its domiciliary jurisdiction.

11 "b. Prior to the investment, the insured or
12 annuitant consents, in writing, to the investment in life
13 insurance contracts or annuities.

14 "c. For life insurance contracts or annuities issued
15 prior to May 6, 2008, and currently in force, such contracts
16 shall be construed to have been an authorized investment by
17 the trustee under this chapter if the insured or annuitant is
18 notified in writing of the existence of any such contract and
19 provided with a copy of the contract.

20 "(2) Upon request, the insured or annuitant shall be
21 provided with a copy of any life insurance contract or annuity
22 issued to a preneed trustee at no expense to the insured or
23 annuitant.

24 "(3) Any life insurance contract or annuity issued
25 in accordance with this subsection and otherwise in compliance
26 therewith shall be valid and in full force according to the
27 terms and conditions thereof.

1 "(4) A trustee that invests all or any portion of
2 the funds received under preneed contracts and deposited in
3 trust in life insurance contracts or annuities issued by one
4 company licensed by the ~~department~~ State Department of
5 Insurance shall be considered to satisfy the standards and
6 requirements of Section 19-3-120.2 and Chapter 3B of Title 19.

7 "(5) It is the intention of the Legislature that
8 this subsection shall be retroactive and shall apply to all
9 life insurance contracts or annuities issued prior to May 6,
10 2008.

11 "~~§27-17A-33.~~ §34-13-233.

12 "(a) A purchaser, by providing written notice to the
13 certificate holder, may cancel a preneed contract within 30
14 days of the date that the contract was executed provided that
15 the funeral merchandise and funeral services have not yet been
16 used. Upon providing the notice, the purchaser shall be
17 entitled to a complete refund of the amount paid, except for
18 the amount allocable to any funeral merchandise or funeral
19 services that have been used, and shall be released from all
20 obligations under the contract. This subsection shall apply to
21 all items that are purchased as part of a preneed contract.

22 "(b) After 30 days from the date the preneed
23 contract was executed, a purchaser, by providing written
24 notice to the certificate holder, may cancel the funeral
25 services, funeral merchandise, facilities, and cash advance
26 items portions of a preneed contract at any time, and shall be
27 entitled to the refund defined in the preneed contract

1 allocable to those items. Any accumulated earnings allocable
2 to the preneed contract shall be paid to the certificate
3 holder upon the cancellation.

4 "(c) Upon breach of contract or failure of the
5 certificate holder to provide funeral merchandise or services
6 under a preneed contract, the contract purchaser shall be
7 entitled to a refund of 100 percent of all money paid on the
8 contract. The refund shall be made within 30 days after
9 receipt by the certificate holder of the contract purchaser's
10 written request for refund.

11 "(d) If a purchaser is 90 days past due in making
12 payments on a preneed contract, the contract shall be
13 considered to be in default, and the certificate holder shall
14 be entitled to cancel the contract and withdraw all funds in
15 trust. Upon making the withdrawal, the certificate holder
16 shall refund to the purchaser the amount defined in the
17 preneed contract in the event of default of the purchaser,
18 provided that the certificate holder has provided the
19 purchaser with 30 days' written notice of its intention to
20 exercise any of its rights under this provision.

21 "(e) All preneed contracts are cancelable and
22 revocable as provided in this section during the lifetime of
23 the purchaser, provided that a preneed contract does not
24 restrict any contract purchaser who is a qualified applicant
25 for, or a recipient of, supplemental security income,
26 temporary cash assistance, or Medicaid from making his or her
27 contract irrevocable.

1 "(f) In the event that the preneed contract is made
2 irrevocable pursuant to subsection (e), ~~the purchaser or the~~
3 authorizing agent shall have the right to appoint a provider
4 other than the seller of the preneed contract. In the event
5 that a provider is appointed pursuant to this subsection, the
6 seller shall transfer to the appointed provider the amount
7 paid by the purchaser to the seller and those amounts
8 deposited into trust, less a reasonable transfer fee
9 determined by the ~~seller~~ board. In the event the preneed
10 contract was funded by insurance or annuity policy the seller
11 shall cancel and relinquish any assignment of benefits or
12 beneficiary status under the policy or annuity contract, and
13 deliver the policy, if in the custody of the preneed seller,
14 to the policy owner or his or her legal representative, and
15 the seller may collect a reasonable transfer fee as determined
16 by rule of the board. No transfer hereunder shall occur
17 without the acceptance of the appointed provider.

18 "(g) All refunds required to be made under this
19 section to a purchaser who has canceled a contract must be
20 made within 30 days after the date the written notice of
21 cancellation is received by the certificate holder.

22 "~~§27-17A-34.~~§34-13-234.

23 "(a) Disbursement of funds discharging any preneed
24 contract for funeral services or funeral merchandise fulfilled
25 after May 1, 2002, shall be made by the trustee to the
26 certificate holder upon receipt by the trustee of a
27 certification of the certificate holder that the preneed

1 contract has been performed in whole or in part or the preneed
2 contract has been cancelled. Before the trustee may disburse
3 any trust funds, the certificate holder shall provide to the
4 trustee a death certificate or other valid proof of death, a
5 letter from the preneed contract holder cancelling the preneed
6 contract or valid proof the contract has been cancelled in
7 accordance with Section ~~27-17A-33~~ 34-13-233, or valid proof
8 the merchandise has been delivered and installed, and services
9 have been performed. Any trustee accepting preneed contract
10 proceeds under this ~~article~~ chapter may rely upon the
11 certification of the certificate holder accompanied by the
12 required proof, and shall not be liable to anyone for such
13 reliance. If the contract is only partially performed, the
14 disbursement shall only cover that portion of the contract
15 performed. In the event of any contract default by the
16 contract purchaser, or in the event that the funeral
17 merchandise or funeral service contracted for is not provided,
18 the trustee shall return, within 30 days after its receipt of
19 a written request therefor, 100 percent of the funds deposited
20 into the trust on the contract and the income and accretion
21 thereon to the certificate holder or to its assigns, subject
22 to Section ~~27-17A-33~~ 34-13-233.

23 " (b) For all contracts effective on or after January
24 1, 2015, the amount that may be withdrawn from the trust upon
25 fulfillment or cancellation of any particular preneed contract
26 may not exceed the amount attributable to that preneed
27 contract in proportion to the total amount held in trust for

1 all preneed contracts as of the date of withdrawal. For all
2 contracts in effect before January 1, 2015, the valuation of
3 each contract and the amount that may be withdrawn from the
4 trust may be calculated using any valuation method that had
5 been approved by the ~~commissioner or the department~~
6 Commissioner or the Department of Insurance before January 1,
7 2015."

8 Section 5. Sections 27-17A-40, 27-17A-41, 27-17A-42,
9 27-17A-43, 27-17A-44, 27-17A-45, 27-17A-46, 27-17A-47,
10 27-17A-48, 27-17A-49, 27-17A-50, 27-17A-51, 27-17A-52,
11 27-17A-53, 27-17A-54, 27-17A-55, 27-17A-56, and 27-17A-57
12 of the Code of Alabama 1975, are amended and renumbered as
13 Division 4 of Article 5 of Chapter 13 of Title 34, Code of
14 Alabama 1975, to read as follows:

15 "Division 4. Cemetery Merchandise and Services Trust
16 Fund.

17 ~~"§27-17A-40. §34-13-260.~~

18 "To comply with the trust requirement of subsection
19 (a) of Section ~~27-17A-13~~ 34-13-194, all certificate holders
20 who are cemetery authorities providing preneed contracts for
21 cemetery services or cemetery merchandise shall be subject to
22 this ~~article~~ chapter.

23 ~~"§27-17A-41. §34-13-261.~~

24 "(a) Any person who receives or collects any funds
25 on account of a preneed contract in this state for cemetery
26 services or cemetery merchandise, or both, entered into after
27 May 1, 2002, shall have the obligation to pay over and

1 contribute into a trust fund as hereinafter described, those
2 amounts or proportions of the funds as hereinafter provided.

3 "(b) Whether or not the preneed contract provides
4 for cemetery merchandise or cemetery services, or any
5 combination thereof, the trust fund shall be referred to in
6 this section as the Cemetery Merchandise and Services Trust
7 Fund.

8 "(c) The trustee of the Cemetery Merchandise and
9 Services Trust Fund shall be qualified as such within the
10 definition of the trustee.

11 "(d) The trustee shall take title to the property
12 conveyed to the Cemetery Merchandise and Services Trust Fund
13 subject to this section.

14 "(e) The contract purchaser shall have no interest
15 whatsoever in, or power whatsoever over, the funds deposited
16 in the Cemetery Merchandise and Services Trust Fund.

17 "(f) The party contracting to deliver the cemetery
18 merchandise or cemetery services or cash advances, whether or
19 not a preneed provider, shall be referred to in this section
20 as the "seller."

21 "(g) The seller shall be the beneficiary of the
22 Cemetery Merchandise and Services Trust Fund.

23 ~~"§27-17A-42. §34-13-262.~~

24 "(a) The obligation of the seller under a preneed
25 contract shall be to make contributions into the Cemetery
26 Merchandise and Services Trust Fund in accordance with the
27 following formulae:

1 "(1) With respect to all cemetery merchandise, 110
2 percent of wholesale cost.

3 "(2) With respect to outer burial containers, 60
4 percent of the purchase price specified in the preneed
5 contract.

6 "(3) With respect to cemetery services, 60 percent
7 of the purchase price specified in the preneed contract.

8 "(4) With respect to all cash advance items sold,
9 100 percent of the purchase price specified for the same in
10 the preneed contract.

11 "(5) With respect to caskets, 75 percent of the
12 purchase price.

13 "(b) All contributions shall be made within 30 days
14 after the end of the calendar month in which the preneed
15 contract is paid in full, unless, prior to that time, all
16 liabilities of the seller under the preneed contract to
17 deliver the specific cemetery merchandise or cemetery
18 services, or both, or the specific cash advances, identified
19 by the preneed provider as properly allocated to the payment,
20 have been satisfied, or the preneed contract is validly
21 cancelled.

22 "(c) For all preneed contracts entered into on or
23 after January 1, 2015, all contributions shall be made not
24 later than 30 days after the end of the calendar month in
25 which the sum of the monies collected on the preneed contract
26 exceeds the amount that is not required to be contributed as
27 determined under subsection (a), unless, prior to that time,

1 all liabilities of the seller under the preneed contract have
2 been satisfied, or the preneed contract is validly cancelled.
3 Further required trust contributions on the contract shall
4 thereafter be made not later than 30 days after the end of the
5 calendar month in which each contract payment is collected by
6 the seller.

7 "(d) The trustee shall invest and reinvest the
8 Cemetery Merchandise and Services Trust Fund.

9 "(e) The trustee shall make regular evaluations of
10 the fair market value of assets held in and liabilities, if
11 any, of the Cemetery Merchandise and Services Trust Fund and
12 provide a report of the evaluations to the seller at least
13 quarterly. Upon receipt of each quarterly report, the seller
14 may submit to the trustee a written and detailed analysis
15 concerning the balance of funds in the Cemetery Merchandise
16 and Services Trust Fund, certified under oath as being true
17 and correct upon information and belief by a responsible
18 officer of the seller.

19 "(f) While the obligation of the seller to make
20 contributions to the Cemetery Merchandise and Services Trust
21 Fund is set forth in this section, the obligation of the
22 seller at the time of making certain withdrawals from the
23 Cemetery Merchandise and Services Trust Fund as herein
24 provided for shall be calculated with respect to the current
25 wholesale cost of cemetery merchandise and current retail
26 price of cemetery services and cash advances at the time of
27 withdrawal. If the fair market value as reported by the

1 trustee exceeds 110 percent of the total of the following, the
2 seller shall be entitled to withdraw and retain from the
3 merchandise trust fund, the excess funds therein: 110 percent
4 of the current wholesale cost of the liability to deliver all
5 cemetery merchandise, 60 percent of the current retail price
6 for all cemetery services, 60 percent of the current retail
7 price of outer burial containers, 75 percent of the current
8 retail price of caskets, and 100 percent of the current retail
9 price of all cash advances, for the total of all preneed
10 contracts for which the purchasers have paid in full, all
11 calculated as of the time of withdrawal; and concerning the
12 total of all preneed contracts for which the purchasers have
13 not paid in full, 25 percent of the total of the following:
14 110 percent of the current wholesale cost of the liability to
15 deliver all cemetery merchandise, 60 percent of the current
16 retail price for all cemetery services, and 100 percent of the
17 current retail price of all cash advances, all calculated as
18 of the time of withdrawal.

19 "(g) At least annually the seller shall make the
20 aforesaid analysis and certification and provide the same to
21 the trustee. If the certification discloses that the fair
22 market value of the Cemetery Merchandise and Services Trust
23 Fund is less than 100 percent of the aggregate calculated
24 amount the seller shall from its own funds contribute to the
25 Cemetery Merchandise and Services Trust Fund within the 12
26 months succeeding the annual computation the amount necessary

1 to restore the trust fund to an amount equal to not less than
2 100 percent of the aggregate amount so calculated.

3 ~~"§27-17A-43. §34-13-263.~~

4 "(a) Upon cancellation of a preneed contract by
5 mutual agreement between the seller and purchaser, or upon
6 unilateral cancellation of a preneed contract by the seller by
7 reason of default on the part of the purchaser, or other valid
8 cancellation by reason of transfers to another seller or
9 otherwise, the seller ~~may~~, upon submission of a certification
10 under oath by a responsible officer of the seller to the
11 trustee, may withdraw from the Cemetery Merchandise and
12 Services Trust Fund and retain an amount equal to the amount
13 of all funds contributed to the trust fund with respect to the
14 preneed contract. Any trustee accepting preneed contract
15 proceeds under this ~~article~~ chapter may rely on the seller's
16 certification under oath as required herein to be made, and
17 shall not be liable to anyone for such reliance.

18 "(b) At such time as the seller undertakes to
19 perform its obligations under a preneed contract by delivery
20 or installation, or both, of cemetery merchandise and the
21 provision of cemetery services and disbursement on account of
22 cash advances, or otherwise, upon certification to the trustee
23 under oath by a responsible officer of the seller that the
24 obligations of the seller under the contract have been
25 completely fulfilled, the seller may withdraw from the
26 Cemetery Merchandise and Services Trust Fund and retain an

1 amount equal to the current wholesale cost to the fund with
2 respect to the preneed contract.

3 "(c) At such time as the seller has fulfilled all of
4 its obligations under all preneed contracts with respect to
5 which funds have been contributed to the trust fund, and
6 certification under oath to the trustee by a responsible
7 officer of the seller of those facts, the seller may withdraw
8 from the trust fund and retain all of the remaining assets
9 thereof.

10 ~~"§27-17A-44. §34-13-264.~~

11 "If the amounts paid by the purchaser under a
12 preneed contract for cemetery merchandise have previously been
13 deposited in trust, the seller may withdraw the principal
14 amount there, at such time as the cemetery merchandise is
15 delivered or installed or, if comprised of materials designed
16 to withstand prolonged, protected storage without
17 deterioration, the merchandise is placed in storage with a
18 responsible third party bonded and insured for the wholesale
19 value thereof and evidenced by a receipt specifically
20 identifying the item, the specific preneed contract, the
21 location of the item, and the identity and address of the
22 bonding and insuring parties. For purposes of this section
23 only, caskets and alternative containers may not be held in
24 storage by the seller or a third party storage facility prior
25 to the death of the funeral beneficiary.

26 ~~"§27-17A-45. §34-13-265.~~

1 "An endowment care fund and all payments or
2 contributions to it are expressly permitted as and for
3 charitable and eleemosynary purposes. No payment, gift, grant,
4 bequest, or other contribution for endowment care is invalid
5 by reason of any indefiniteness or uncertainty of the persons
6 designated as beneficiaries in the instruments creating the
7 fund, nor is the fund or any contributions to it invalid as
8 violating any law against perpetuities, or the suspension of
9 the power of alienation of title to property.

10 "~~§27-17A-46~~§34-13-266.

11 "(a) Any cemetery now existing or hereafter
12 established, excluding those operated by governmental agencies
13 or religious institutions, ~~shall be~~ may be qualified as an
14 endowment care cemetery, except those cemeteries which do not
15 charge fees or sell plots, interment rights, or any related
16 cemetery merchandise.

17 "(b) If the history of operations and current and
18 past business practices of a cemetery are not clearly defined
19 so as to qualify the cemetery for an exemption from this
20 chapter, the board may determine whether the cemetery
21 authority in question qualifies for the exemption.

22 "~~§27-17A-47~~§34-13-267.

23 "(a) Every cemetery authority operating an endowment
24 care cemetery shall establish an endowment care fund which
25 shall be placed with and held by a bank, trust company,
26 savings and loan association, or other financial institution
27 authorized to provide trust services under Title 5, as

1 amended, or under the applicable laws of the United States or
2 any other state, or a board of trustees, consisting of at
3 least three members, who shall reside in the State of Alabama,
4 one of whom is engaged in outside cemetery management, and
5 each of whom shall be bonded to honestly perform the duties of
6 trustee under a formal trust agreement.

7 "(b) An endowment care fund and all payments or
8 contributions to it are expressly permitted as and for
9 charitable and eleemosynary purposes. No payment, gift, grant,
10 bequest, or other contribution for endowment care is invalid
11 by reason of any indefiniteness or uncertainty of the persons
12 designated as beneficiaries in the instruments creating the
13 fund, nor is the fund or any contributions to it invalid as
14 violating any law against perpetuities, or the suspension of
15 the power of alienation of title to property.

16 ~~"(b)~~ (c) Except as specifically provided in this
17 subsection, commencing on July 1, 2014, a person serving on a
18 board of trustees or cemetery authority may not also serve as
19 a trustee of an endowment care fund for the cemetery
20 authority. A board of trustees in existence on July 1, 2014,
21 may continue to serve as the trustee of an endowment care fund
22 if the board of trustees otherwise complies with this
23 subsection. Unless exempted by the ~~commissioner~~ board pursuant
24 to this subsection, on or before January 1, 2015, each member
25 of a board of trustees in existence on July 1, 2014, shall
26 furnish the bond required by subsection (a) in the greater of
27 one hundred thousand dollars (\$100,000) or the amount in each

1 endowment care fund for which the board of trustees acts as
2 trustee as of December 31, 2014. Thereafter, the amount of the
3 bonds shall be increased on January 1 of each succeeding year
4 to equal the amount in each endowment care fund as of the
5 immediately preceding December 31. The ~~commissioner~~ board
6 shall exempt a board of trustees from the bond requirement if
7 the board of trustees provides to the ~~commissioner~~ board an
8 annual audit report that satisfies all of the following
9 criteria:

10 "(1) The report is prepared by a certified public
11 accountant authorized to practice in Alabama.

12 "(2) The report evidences that the review made the
13 subject of the report by the accountant encompasses each
14 endowment care fund for which the board of trustees acts as
15 trustee.

16 "(3) The report notes relating to the endowment care
17 fund or funds are in a form that is reasonably acceptable to
18 the ~~commissioner~~ board.

19 "(4) The report does not evidence any material
20 violation of or noncompliance with this chapter relating to an
21 endowment care fund.

22 "~~(c)~~ (d) The corporate trustee or board of trustees
23 shall be referred to as a qualified trustee. Unless otherwise
24 specified in this ~~article~~ chapter or in the terms of the trust
25 instrument, the trustee of any trust established under or
26 pursuant to this ~~article~~ chapter shall have all powers granted
27 to trustees under Article 14 of Chapter 3 of Title 19. The

1 incorporation herein of such powers shall not be deemed to
2 imply any duties of trustees of trusts established under or
3 pursuant to this ~~article~~ chapter not expressly delineated in
4 this ~~article~~ chapter.

5 "~~(d)~~ (e) The cemetery authority may employ a person
6 to advise the trustee in the management of the fund.

7 "~~(e)~~ (f) The cemetery authority may enter into a
8 contract with the qualified trustee for the management and
9 investment of the endowment care fund, which contract may
10 provide for the payment of income from the fund of reasonable
11 fees or commissions to the trustee, and its reasonable
12 expenses for administering the trust.

13 "~~(f)~~ (g) As often as he or she may deem necessary,
14 the ~~commissioner~~ board may ~~examine~~ audit the records or
15 facilities, or both, of any cemetery authority operating an
16 endowment care cemetery.

17 "~~§27-17A-48.~~ §34-13-268.

18 "(a) ~~Each~~ In addition to Section 8-30-2, each
19 cemetery authority shall comply with this chapter and maintain
20 at each place of business a list of the names and addresses of
21 its owners and directors, which shall be available to the
22 public.

23 "(b) Each cemetery authority shall maintain a record
24 of all ~~property~~ interment space owners by name and last known
25 address with a description of merchandise and location of
26 burial lots, crypts, or niches and the records shall be on a
27 form or in a format prescribed by the board and shall detail

1 all information required by the board. A plat map shall be
2 maintained for each cemetery location at the cemetery business
3 office. A book or file shall be kept as to the date, location
4 by lot, and space number of each person interred or entombed
5 in the cemetery. A written copy of the cemetery rules and
6 regulations and a schedule of charges shall be maintained at
7 each location and made available to the public upon request.

8 ~~"§27-17A-49~~§34-13-269.

9 "(a) From the sale price of each plot, crypt, or
10 niche sold by the cemetery authority, of an endowment care
11 cemetery, it shall pay an amount, not less than as determined
12 in accordance with the following schedule, to the trustee of
13 the endowment care fund, which payment shall be paid over to
14 the trustee not more than four months after the close of the
15 month in which the total or final payment on the sale has been
16 received:

17 "(1) Fifteen percent of the sale price of each grave
18 or lawn crypt space as specified in the cemetery's schedule of
19 charges.

20 "(2) Five percent of the sale price of each
21 mausoleum crypt or niche as specified in the cemetery's
22 schedule of charges.

23 "(3) The amount received for special care funds,
24 gifts, grants, contribution devises, or bequests made with
25 respect to the separate or special care of a particular lot,
26 grave, crypt, niche, mausoleum, monument, or marker or that of

1 a particular family, as distinguished from the general endowed
2 care of a cemetery or of a garden.

3 "(b) In addition to subsection (a), a cemetery
4 authority may receive, and transfer to the trustee, as a part
5 of or incident to the endowment care fund, any property, real,
6 personal, or mixed, bequeathed, devised, given, or otherwise
7 contributed to it for endowment care purposes. Any contractual
8 endowment care deposits shall fall under this ~~article~~ chapter.

9 "(c) Any cemetery authority which is organized and
10 engaged in business prior to May 1, 2002, shall qualify as an
11 endowment care cemetery if the following occur:

12 "(1) Not already placed, it shall within 90 days of
13 May 1, 2002, have placed the entire principal of any endowment
14 care fund in its possession, custody, or control, into the
15 hands of a qualified trustee designated by it, to be
16 administered as set forth in this ~~article~~ chapter; and
17 principal of its endowment care fund, or the aggregate
18 principal of its endowment care funds, if more than one, shall
19 have a fair market value on either May 1, 2002, or on the date
20 of transfer to the trustee of not less than twenty-five
21 thousand dollars (\$25,000); or it shall substitute 25 percent
22 for each percentage of each sale for the next five years or
23 five thousand dollars (\$5,000) per year, whichever is greater,
24 until the balance of twenty-five thousand dollars (\$25,000) is
25 reached. In such case, the entire amount of twenty-five
26 thousand dollars (\$25,000) shall be paid into the fund before
27 the end of the fifth year, and no interest may be removed from

1 the fund until the twenty-five thousand dollars (\$25,000)
2 minimum has been reached.

3 "(2) It shall at all times after May 1, 2002, comply
4 with the minimum requirements for payments to the trustee for
5 endowment care.

6 "(d) Any cemetery authority organizing a cemetery
7 after May 1, 2002, whether it be by incorporation,
8 association, individually, or by any other means, or having
9 its first burial after May 1, 2002, before disposing of any
10 burial lot or right or making any sale thereof or making its
11 first burial, or both, shall cause to be deposited with a
12 qualified trustee, in cash, the sum of twenty-five thousand
13 dollars (\$25,000) in the endowment care fund.

14 "(e) When a cemetery authority has placed with a
15 trustee, pursuant to this ~~article~~ chapter, a sum of money in
16 excess of the aggregate which would be required only under
17 subsection (a), the cemetery authority shall not be required
18 under this ~~article~~ chapter to make further payments to the
19 trustee until such time thereafter as, taking into account all
20 sales of plots, crypts, and niches in the cemetery property
21 since the first of the sales, the aggregate of payments to the
22 trustee if made in accordance with subsection (a) would equal
23 the applicable minimum amount paid to the trustee under
24 subdivision (1) of subsection (c), or subsection (d) ~~of this~~
25 ~~section~~.

26 "(f) Any deposit previously made, or represented to
27 be made to an existing endowment care fund which exceeds 10

1 percent of the gross selling price of all plots, crypts, and
2 niches sold since representation of endowment care shall be
3 made a permanent part of the endowment care fund and
4 transferred to the qualified trustee under this ~~article~~
5 chapter.

6 ~~"§27-17A-50~~§34-13-270.

7 "(a) No cemetery authority may directly or
8 indirectly require or direct the investment, reinvestment, or
9 retention by a qualified trustee of any part of an endowment
10 care trust in any asset or business in which the cemetery
11 authority or any officer, director, owner, partner, or
12 employee of the cemetery authority has a financial interest.
13 Nothing contained in this subsection shall prevent the
14 trustee, subject to the provisions regarding investment and
15 reinvestment of the trust estate as are contained in the
16 governing instrument creating the trust, from investing,
17 reinvesting, or retaining any asset or business in which the
18 cemetery authority or any officer, director, owner, partner,
19 or employee of the cemetery authority has an insubstantial or
20 nonmaterial financial interest, provided that the trustee, in
21 the exercise of the trustee's discretion, deems the
22 investment, reinvestment, or retention to be for the best
23 interest of the trust estate.

24 "(b) The net income from the endowment care fund, to
25 the extent that the same is distributed from the fund, shall
26 be used exclusively for covering the costs of endowment care
27 of the cemetery.

1 "(c) For the purposes of this section, net income
2 does not include realized or unrealized capital gains or
3 losses. All realized capital gains and losses shall be
4 recorded to corpus, which is the sum of deposits made by a
5 cemetery authority into an endowment care fund, pursuant to
6 Section ~~27-17A-49~~ 34-13-269, and all realized capital gains or
7 losses. Capital gains taxes, if any, may be paid from the
8 corpus. Unrealized capital gains and losses, if any, shall be
9 recorded as an adjustment to the fair market value of the
10 endowment care fund.

11 "~~§27-17A-51~~§34-13-271.

12 "The trustee shall not be required to inquire into
13 the propriety of the expenditures made by the cemetery
14 authority in connection with endowment care of the cemetery,
15 and it shall not be held responsible in any manner whatsoever
16 for and on account of payments of the income from the
17 endowment care fund made to the cemetery authority.

18 "~~§27-17A-52~~§34-13-272.

19 "The trustee ~~shall~~, not less than annually, shall
20 file with the cemetery authority an account which shall
21 include a complete disclosure of all activity since the
22 previous account and a statement detailing fund investments.

23 "~~§27-17A-53~~§34-13-273.

24 "To the extent that any endowment care trust
25 existing on May 1, 2002, includes investments or assets, the
26 retention of which the trustee in the free exercise of its
27 discretion deems not in the best interest of the trust estate,

1 the trustee shall dispose of the investments or assets as soon
2 as practicable without undue sacrifice to the trust estate,
3 and in any event within two years after May 1, 2002.

4 ~~"§27-17A-54~~§34-13-274.

5 "An annual report of the endowment care fund shall
6 be made to the ~~commissioner~~ board by each cemetery authority
7 within 90 days of the close of each calendar year. This report
8 shall include the qualified trustee's name or names, the bond
9 numbers if individual trustees or the name and address of the
10 financial institution in which the fund is maintained, and the
11 affidavit of the cemetery authority affirming compliance with
12 this ~~article~~ chapter. Prior to the sale or transfer of a
13 cemetery, the cemetery authority shall report and document to
14 the ~~commissioner~~ board that the endowment care fund is
15 currently funded in accordance with this ~~article~~ chapter.

16 ~~"§27-17A-55.~~§34-13-275.

17 "A cemetery authority shall start construction of
18 that section of a mausoleum or bank of below-ground crypts in
19 which sales, contracts for sale, reservations for sale, or
20 agreements for sale are being made, within five years after
21 the date of the first sale or when 75 percent of the mausoleum
22 or below-ground crypts have been sold and the purchase price
23 has been received, whichever occurs first. The construction
24 shall be completed within six years after the date of the
25 first sale made. Extensions for completion, not to exceed one
26 year, may be granted by the ~~commissioner~~ board for good cause
27 shown. If the units have not been completely constructed at

1 the time of need or the time specified herein, unless
2 otherwise specified in the preneed contract, all monies paid
3 shall be refunded upon request, plus interest earned thereon
4 if deposited by the cemetery authority in an escrow or trust
5 fund, and if not so deposited in an escrow or trust fund
6 earning interest, then plus interest in an amount equal to the
7 interest or discount which would have been earned thereon had
8 the funds been invested in United States Treasury Bills having
9 a 90-day maturity.

10 ~~"§27-17A-56. §34-13-276.~~

11 ~~"(a) Each cemetery authority shall adopt rules.~~

12 Cemetery rules and regulations are adopted for the mutual
13 protection of the cemetery owners and the owners of interment
14 rights in the cemetery. All owners of interment rights and
15 other persons within the cemetery shall be subject to these
16 rules and regulations as they now exist and as they may be
17 amended or altered by the cemetery. The cemetery authority ~~has~~
18 ~~the right to~~ may enforce these rules and regulations. ~~The~~
19 ~~cemetery authority expressly reserves the right and,~~ at any
20 time and without prior notice to any owners, ~~to~~ may adopt new
21 rules and regulations or ~~to~~ amend, modify, or repeal any
22 ~~section, paragraph, or sentence of these rules and~~
23 regulations.

24 ~~"(b) This section shall not apply to the officers,~~
25 ~~directors, shareholders, partners, employees, agents, or~~
26 ~~representatives of a cemetery authority who intentionally~~
27 ~~commit an act of vandalism or other illegal act.~~

1 "~~§27-17A-57.~~§34-13-277.

2 "The commissioner shall have the same jurisdiction
3 over funeral establishments, funeral directors, cemetery
4 authorities, or third party sellers who sell preneed contracts
5 without a preneed certificate of authority as he or she has
6 over those preneed sellers who possess a preneed certificate
7 of authority."

8 Section 6. All laws or parts of laws which conflict
9 with this act are repealed, and specifically, Section
10 27-17A-2, Code of Alabama 1975, relating to definitions as now
11 appearing in Section 34-13-1, Code of Alabama 1975, is
12 repealed.

13 Section 7. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, now
17 appearing as Section 111.05 of the Official Recompilation of
18 the Constitution of Alabama of 1901, as amended, because the
19 bill defines a new crime or amends the definition of an
20 existing crime.

21 Section 8. This act shall become effective on the
22 first day of the first month following its passage and
23 approval by the Governor, or its otherwise becoming law.