

## CHAPTER 6-A. ABANDONED CEMETERIES

### § 411. Definitions

As used in this Chapter, the following terms have the following meanings:

(1) "Abandoned cemetery" means any cemetery for which the board, in its discretion and after having been provided with the requisite title information establishing the title owner of the property, determines it is impossible or impractical to locate the current owner based upon its findings, including but not limited to a presentation of title history by the applicant for an abandoned cemetery sales and management license.

(2) "Abandoned cemetery sales and management license" means any license issued by the board pursuant to the provisions of this Chapter.

(3) "Board" means the Louisiana Cemetery Board.

(4) "Division" means the division of archaeology of the office of cultural development within the Department of Culture, Recreation and Tourism.

(5) "Licensee" means any person who has been issued an abandoned cemetery sales and management license by the board.

*Acts 2016, No. 413, § 1. Amended by Acts 2022, No. 574, § 1.*

### § 412. Application for license; qualifications; fees

A. The board may charge an application fee for an abandoned cemetery sales and management license in the amount of two hundred fifty dollars and an annual license renewal fee in the amount of two hundred fifty dollars.

B. An abandoned cemetery sales and management license shall be issued only to a nonprofit juridical person, and the officers and directors of such entities shall serve voluntarily and without compensation for their services.

(1) Any excess funds realized by a licensee shall be deposited into a trust account, and the funds of the account may be used only for the maintenance and upkeep of the cemetery and the cemetery records.

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

C. Nonprofit juridical persons whose officers, directors, or members have ancestors within an abandoned cemetery and who meet the qualifications to obtain a cemetery management organization or cemetery sales organization license pursuant to R.S. 8:402 may apply to the board, pursuant to this Chapter, for an abandoned cemetery sales and management license.

D. (1) Prior to the issuance of any license issued pursuant to this Chapter, the board shall consult with the division regarding the reasonableness of the operation of any abandoned cemetery.

(2) The division may impose reasonable conditions and limitations on any license issued by the board relative to a particular abandoned cemetery.

(3) The division shall have a cause of action for specific performance against any licensee who violates the provisions of this Subsection.

*Acts 2016, No. 413, § 1. Amended by Acts 2022, No. 574, § 1.*

### **§ 413. Licensee authority; restrictions**

A. A licensee shall have exclusive authority to operate the cemetery, regardless of any other person who subsequently applies for licensure to operate the same cemetery, for as long as his abandoned cemetery sales and management license is valid.

B. A licensee may do any of the following relative to the cemetery subject to the license:

(1) Sell grave spaces, openings, and closings in the cemetery.

(2) Make and enforce written rules and regulations for the operation and maintenance of the cemetery.

C. (1) A licensee is expressly prohibited from selling merchandise in any manner that would either require monies to be deposited into a trust fund as required by the provisions of Chapter 8 of this Title or otherwise necessitate adherence to any provision of Chapter 8 of this Title.

(2) Any merchandise or service sold by a licensee shall be delivered or performed within one hundred twenty days of entering into the applicable contract with the consumer.

D. (1) The licensee is prohibited from destroying or removing any original grave markers from the premises of the cemetery without obtaining the permission required by R.S. 8:659.

(2) Nothing in this Subsection shall prohibit the licensee from removing trash or other common waste or debris from the cemetery premises.

*Acts 2016, No. 413, § 1.*

### **§ 414. Additional powers of the board**

The board may do the following:

(1) Refuse issuance of an abandoned cemetery sales and management license if the board finds that ownership of the abandoned cemetery is in dispute.

(2) Revoke or suspend an abandoned cemetery sales and management license if the board finds:

(a) The existence of credible evidence of an ownership dispute for the cemetery subject to the license.

(b) The violation by a licensee of any provision of this Title or any applicable rule or regulation promulgated by the board.

(3) Summarily suspend an abandoned cemetery sales and management license, pursuant to R.S. 8:49:961, when the board finds that public health, safety, or welfare imperatively requires emergency action.

(4) Impose upon a license certain retroactive recordkeeping or record creation requirements, including but not limited to the creation of known interment logs, plats, and maps, and any other documentation reasonably necessary for the cemetery subject to the license to be operated in compliance with the provisions of this Title.

*Acts 2016, No. 413, § 1.*

#### **§ 415. Labor by prisoners permitted**

A. For the purpose of abating any public health or safety risks, the state or any local political subdivision may, after consultation with the division, use prison labor, subject to the provisions of R.S. 15:708, to clean and maintain abandoned cemeteries.

B. (1) The state or any local political subdivision shall obtain the consent of a licensee prior to using prison labor to perform any work on a cemetery that is subject to an abandoned cemetery sales and management license.

(2) In the event that a licensee consents to the use of prison labor on the abandoned cemetery subject to his license, the licensee shall reimburse the appropriate prison any cost incurred by use of the prison labor.

C. The cost of any use of prison labor on an abandoned cemetery shall be reimbursed to the appropriate prison by the requesting governmental entity except as provided for in Paragraph (B)(2) of this Section.

*Acts 2016, No. 413, § 1.*

#### **§ 416. Liability**

A. A licensee shall adhere to all provisions of this Title that would otherwise be applicable to an actual owner of the cemetery.

B. (1) Any liability that results from the unlawful act or inadequate management of a prior owner or operator of a cemetery shall be strictly limited to the prior owner or operator.

(2) No cause or right of action shall be enforceable against a licensee for any unlawful action or inadequate management of a prior owner or operator of the cemetery.

C. Noting in this Section is intended to relieve a licensee from his own independent liability.

*Acts 2016, No. 413, § 1.*

#### **§ 417. Inadvertent discovery**

In the event of an inadvertent discovery of an unknown or unmarked grave by a licensee, the licensee shall document the existence of the grave and close the grave, but he shall neither disturb any human remains therein nor reuse the grave without the authority of those individuals identified in R.S. 8:659.

*Acts 2016, No. 413, § 1.*

#### **§ 418. Scope**

No provision within this Chapter shall supersede any other provisions of this Title to the contrary.

*Acts 2016, No. 413, § 1.*