REFERENCE TITLE: funeral services regulation; DHS

State of Arizona Senate Fifty-sixth Legislature First Regular Session 2023

SB 1210

Introduced by Senator Kaiser

AN ACT

AMENDING SECTIONS 32-321 AND 32-506, ARIZONA REVISED STATUTES; AMENDING SECTION 32-1301, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 257, SECTION 3; REPEALING SECTION 32-1301, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 279, SECTION 1; REPEALING SECTIONS 32-1302, 32-1303, 32-1304, 32-1305 AND 32-1306, ARIZONA REVISED STATUTES; AMENDING SECTION 32-1307, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1308, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 12, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-1308; AMENDING SECTIONS 32-1309, 32-1310, 32-1311, 32-1321, 32-1322 AND 32-1323, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1324, ARIZONA REVISED STATUTES: PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 32-1324, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED: REPEALING SECTIONS 32-1325 AND 32-1325.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1326, 32-1327, 32-1328 AND 32-1329, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1330, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1331, 32-1333, 32-1334, 32-1335 AND 32-1336, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1337, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1338, 32-1339, 32-1341, 32-1342, 32-1343, 32-1344, 32-1346 AND 32-1347, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1361, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 12, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-1361; AMENDING SECTIONS 32-1365.02, 32-1366, 32-1367, 32-1368, 32-1369, 32-1371, 32-1372, 32-1373, 32-1374, 32-1375, 32-1376, 32-1377, 32-1381, 32-1382, 32-1383, 32-1388, 32-1389, 32-1390, 32-1390.01, 32-1390.02, 32-1391.01, 32-1391.02, 32-1391.03, 32-1391.04, 32-1391.09, 32-1391.12 AND 32-1391.13, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-1391.14 AND 32-1391.15, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1391.16, 32-1393, 32-1394, 32-1394.01, 32-1395, 32-1397, 32-1397.01, 32-1397.02, 32-1398, 32-1399, 32-2194.03 AND 41-1092, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3023.17, ARIZONA REVISED STATUTES; AMENDING SECTION 41-3028.03, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO FUNERAL SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona: 2 Section 1. Section 32-321, Arizona Revised Statutes, is amended to 3 read: 4 32-321. Nonapplicability of chapter 5 This chapter does not apply to the following persons while in the 6 proper discharge of their professional duties: 7 1. Medical practitioners licensed pursuant to this title who treat 8 physical or mental ailments or disease. 9 2. Persons who perform services without compensation in case of emergency or in domestic administration. 10 11 3. Commissioned physicians and surgeons serving in the armed forces 12 of the United States or other federal agencies. 13 4. Students attending schools licensed pursuant to this chapter or chapter 5 of this title BY THE BOARD while they are on school premises 14 during school hours OR OFF CAMPUS AT A SCHOOL-SPONSORED EVENT. 15 16 5. Persons WHO ARE licensed pursuant to chapter 5 or 12 of this 17 title OR WHO WORK IN A PROFESSION REGULATED UNDER CHAPTER 12 OF THIS 18 TITLE. 19 Shampoo assistants who shampoo hair under the direction of a 6. 20 barber licensed pursuant to this chapter. 21 7. Persons who are in the custody of the state department of 22 corrections and who perform services for persons in the custody of the 23 state department of corrections. 24 8. Persons who are participating in a department of economic 25 security-approved apprenticeship program in barbering as described in 26 section 32-322 while working with a mentor in an establishment that is 27 licensed by the board. Persons who are licensed in another state, who are in this state 28 9. 29 for not more than two weeks and who provide services for persons who are attending an athletic, charitable, artistic or social event in this state. 30 31 Sec. 2. Section 32-506, Arizona Revised Statutes, is amended to 32 read: 33 32-506. Nonapplicability of chapter This chapter does not apply to the following persons while in the 34 35 proper discharge of their professional duties: 36 1. Medical practitioners who are licensed pursuant to this title if 37 the practices treat physical or mental ailments or disease. 2. Commissioned physicians and surgeons who are serving in the 38 armed forces of the United States or other federal agencies. 39 40 3. Persons who are licensed pursuant to chapter 3 $\frac{12}{12}$ of this 41 title OR WHO WORK IN A PROFESSION THAT IS REGULATED UNDER CHAPTER 12 OF 42 THIS TITLE. 43 4. Students who are attending schools licensed pursuant to this 44 chapter BY THE BOARD while they are on school premises during school hours 45 or off campus at a school-sponsored event.

1 5. Persons employed by theatrical groups who apply makeup, oils and 2 cosmetics.

6. Persons who sell makeup, oils and cosmetics and who apply such
products during the process of selling such products.

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7. Shampoo assistants who shampoo hair under the direction of a cosmetologist or hairstylist licensed pursuant to this chapter.

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8. Services performed by and for persons who are in the custody ofthe state department of corrections.

9 9. Persons who apply makeup, oils and cosmetics to patients in a 10 hospital, nursing home or residential care institution with the consent of 11 the patient and the hospital, nursing home or residential care 12 institution.

13 10. Persons who provide a service that results in tension on hair 14 strands or roots by twisting, wrapping, weaving, extending, locking or 15 braiding if the service does not include the application of dyes, reactive 16 chemicals or other preparations to alter the color of the hair or to 17 straighten, curl or alter the structure of the hair.

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11. Persons who provide threading.

19 12. Persons who provide tanning services by means of airbrushing,20 tanning beds or spray tanning.

13. Persons who apply makeup, including eyelash enhancements. This paragraph does not apply if a person is engaging in the practice of aesthetics or cosmetology. A person who is exempt pursuant to this paragraph shall post a sign in a conspicuous location in the person's place of business notifying the public that the person's services are not regulated by the board.

27 14. Persons who dry, style, arrange, dress, curl, hot iron or shampoo and condition hair if the service does not include applying 28 29 reactive chemicals to permanently straighten, curl or alter the structure of the hair and if the person takes and completes a class relating to 30 31 sanitation, infection protection and law review that is provided by the 32 board or its designee. This paragraph does not apply if a person is 33 engaging in the practice of aesthetics or cosmetology. A person who is 34 exempt pursuant to this paragraph shall post a sign in a conspicuous 35 location in the person's place of business notifying the public that the 36 person's services are not regulated by the board.

37 15. Persons who are participating in a department of economic 38 security-approved apprenticeship program in cosmetology as described in 39 section 32-511 while working with a mentor in an establishment that is 40 licensed by the board.

41 16. Persons who are licensed in another state and who are working 42 in this state at a charitable event that benefits a nonprofit 43 organization.

4417. Persons who are licensed in another state, who are in this45state for not more than two weeks and who provide services for persons who

1 are attending an athletic, charitable, artistic or social event in this 2 state. Persons who are enrolled in a school that is licensed by the 3 18. 4 board and who shampoo, rinse and apply cream rinse, conditioners and 5 reconstructors to hair, including hair that has been treated with color or 6 bleach. 7 Sec. 3. <u>Heading change</u> 8 A. The chapter heading of title 32, chapter 12, Arizona Revised 9 Statutes, is changed from "FUNERAL DIRECTORS AND EMBALMERS" to "FUNERAL INDUSTRY PROFESSIONALS". 10 11 B. The article heading of title 32, chapter 12, article 1, Arizona Revised Statutes, is changed from "BOARD OF FUNERAL DIRECTORS AND 12 13 EMBALMERS" to "FUNERAL SERVICES". Sec. 4. Section 32-1301, Arizona Revised Statutes, as amended by 14 Laws 2022, chapter 257, section 3, is amended to read: 15 16 32-1301. Definitions 17 In this chapter, unless the context otherwise requires: 18 "Accredited" means being recognized or authorized by the 1. American board of funeral service education. 19 20 2. "Administrative costs and expenses" means the cost of copies, 21 transcripts, court reporter and witness fees, reimbursement for mileage 22 and office of administrative hearings costs. 23 3. "Alkaline hydrolysis" means a form of final disposition that 24 includes all of the following: (a) Reducing a dead human body to essential elements through a 25 26 water-based dissolution process using alkaline chemicals, heat, agitation 27 and pressure to accelerate natural decomposition. 28 (b) Processing the hydrolyzed remains after they are removed from 29 the alkaline hydrolysis vessel. 30 (c) Placing the processed remains in a hydrolyzed remains 31 container. 32 (d) Releasing the hydrolyzed remains to an appropriate party. 33 4. "Alkaline hydrolysis container": (a) Means a hydrolyzable or biodegradable closed container or pouch 34 35 that is resistant to leakage of bodily fluids, that encases a dead human 36 body and into which the body is placed before the container's insertion 37 into an alkaline hydrolysis vessel. 38 (b) Includes a hydrolyzable or biodegradable alternative container 39 or casket. 40 5. "Alkaline hydrolysis facility" means a building or structure 41 containing one or more alkaline hydrolysis vessels for alkaline 42 hydrolysis. 43 6. "Alkaline hydrolysis operator" means a person who is trained to 44 carry out the process of alkaline hydrolysis.

1 7. "Alkaline hydrolysis vessel" means the container in which 2 alkaline hydrolysis is performed.

3 8. "Alternative container" means any unfinished wood box or other 4 nonmetal receptacle or enclosure, without ornamentation or a fixed 5 interior lining, that is designed for encasing human remains.

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6 9. "Authorizing agent" means a person who is legally entitled to 7 order the cremation, disinterment or embalming of human remains pursuant 8 to section 32-1365.02.

9 10. "Beneficiary" means a person whose future funeral arrangements will be handled by a funeral establishment pursuant to a prearranged 10 11 funeral agreement.

12 11. "Board" means the state board of funeral directors and 13 embalmers.

12. 11. "Business entity" includes any corporation, association, 14 limited liability company, professional corporation, partnership, limited 15 16 partnership, sole proprietorship, business trust, trust, joint venture and 17 other business entity.

18 13. 12. "Casket" means a rigid container that is designed to permanently encase human remains and that is usually constructed of wood, 19 20 metal or synthetic substances and ornamented and lined with fabric.

21 14. 13. "Change of ownership" means a transfer of a controlling 22 legal or equitable interest in a licensed funeral establishment or crematory resulting from a sale or merger. If the establishment or 23 24 crematory is operated by a business entity, any transfer of the ownership 25 of ten percent or more of the entity constitutes a change of ownership.

26 15. 14. "Conviction" means a criminal adjudication or conviction by any state or federal court of competent jurisdiction, including a 27 28 judgment based on a no contest plea, without regard to whether civil 29 rights have been restored.

30 16. 15. "Cremated remains" means the remaining bone fragments 31 after cremation.

17. 16. "Cremation" means the heating process that reduces human 32 33 remains to bone fragments by combustion and evaporation.

18. 17. "Cremation container" means a leak and spill resistant, 34 rigid, combustible, closed receptacle into which human remains are placed 35 36 before cremation.

19. 18. "Cremationist" means a person who operates a crematory 37 retort, who performs the actual cremation of human remains and who may be 38 39 licensed pursuant to article 6 of this chapter.

40 20. 19. "Crematory" means a building or portion of a building that 41 is licensed pursuant to article 6 of this chapter and that houses a retort 42 in which only human remains are cremated.

20. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

21. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT. 44

1 21. 22. "Disciplinary action" means an action taken by the board 2 to revoke or suspend a license or registration, to impose probationary 3 requirements or civil penalties or to issue a letter of censure or 4 reprimand to any person who is subject to this chapter and who violates 5 any provision of this chapter or rules adopted by the board.

6 22. 23. "Embalmer" means a person who is MAY BE licensed pursuant 7 to this chapter and who is engaged in embalming.

8 23. "Embalmer's assistant" means a person who is registered
 9 pursuant to this chapter and who is engaged in embalming without the
 10 supervision of a an licensed embalmer.

11 24. "Embalming" means the implementation of reconstructive 12 procedures and the process of disinfecting and preserving a dead human 13 body to retard organic decomposition by treating the body to reduce the 14 presence and growth of organisms.

15 25. "Financial institution" means a bank, savings and loan 16 association, trust company or credit union that is lawfully doing business 17 in this state and that is not affiliated with a funeral establishment.

18 26. "Fixed price prearranged funeral agreement funded by trust" 19 means any agreement or combination of agreements that establishes a fixed 20 price for funeral qoods and services, that requires a funeral 21 establishment to provide those funeral goods and services at the price 22 levels in effect at the time of the execution of the agreement and that requires the purchaser to convey all or a portion of the accrued interest 23 24 to the funeral establishment at the time that the funeral goods and 25 services are actually provided.

26 27. "Funded by insurance" means that monies for a prearranged 27 funeral agreement are paid directly to an insurance company licensed 28 pursuant to title 20 on behalf of the beneficiary of the agreement.

28. "Funeral directing" means arranging, directing or providing a
 30 service in the disposition of dead human bodies for compensation.

31 29. "Funeral director" means a person who is licensed pursuant to 32 this chapter and who is engaged in funeral directing.

33 30. "Funeral establishment" means a business at a specific location 34 that is licensed pursuant to this chapter and that is devoted to the care, 35 storage or preparation for final disposition or transportation of dead 36 human bodies.

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31. "Funeral goods and services":

(a) Means any personal property or services that are typically sold
or provided in connection with the final disposition of human remains,
including caskets, alternative containers, outer burial containers,
cremation containers, transportation containers, funeral clothing or
accessories, monuments, grave markers, urns, embalming services, funeral
directing services and similar funeral or burial items.

44 (b) Does not include goods and services sold by cemeteries.

1 32. "Good moral character" means that a person: 2 (a) Has not been convicted of a class 1 or 2 felony by a court of 3 competent jurisdiction. 4 (b) Has not, within five years of applying for licensure or 5 registration, been convicted of a felony or misdemeanor if the offense has 6 a reasonable relationship to the person's proposed area of licensure or 7 registration. (c) Has not, within five years of applying for licensure or 8 registration, committed any act involving dishonesty, 9 fraud, misrepresentation, breach of fiduciary duty, gross negligence or 10 11 incompetence if the act has a reasonable relationship to the person's 12 proposed area of licensure or registration. 13 (d) Is not currently incarcerated in or on community supervision 14 after a period of imprisonment in a local, state or federal penal 15 institution or on criminal probation. 16 (e) Has not engaged in fraud or misrepresentation in connection 17 with an application for licensure or registration under this chapter or an 18 examination required for licensure or registration. (f) Has not, within five years of applying for licensure 19 or 20 registration, had a license, registration or endorsement revoked or 21 suspended by the board or by the funeral services licensing authority of 22 any other jurisdiction. (g) Has not surrendered a license, registration or endorsement to 23 24 the board or the funeral licensing authority of any other jurisdiction in 25 lieu of disciplinary action. 26 (h) Has not practiced funeral directing or embalming without a 27 license in this state or any other jurisdiction that requires licensure to 28 perform these activities. 29 33. 32. "Holding facility" means a designated area for retaining 30 human remains. 31 34. 33. "Human remains" means a lifeless human body or parts of a human body that allow a reasonable inference that death occurred. 32 33 35. "Intern" means a person who is licensed pursuant to this 34 chapter and who is engaged in either or both of the following: 35 (a) Embalming under the supervision of a licensed embalmer. 36 (b) Arranging and directing funerals under the supervision of a 37 licensed funeral director. 36. "Intern trainee" means a person who intends to enter training 38 as an intern and who is temporarily employed by a funeral establishment. 39 37. 34. "License" means a written authorization that is issued by 40 41 the **board** DEPARTMENT and that entitles a person to act as a funeral 42 director, embalmer, intern or alkaline hydrolysis operator or to operate a 43 funeral establishment, crematory or alkaline hydrolysis facility in this 44 state.

1 38. 35. "Licensee" means a person to whom the board DEPARTMENT has 2 issued a license to act as a funeral director, embalmer, intern or 3 alkaline hydrolysis operator or to operate a funeral establishment, 4 crematory or alkaline hydrolysis facility in this state UNDER THIS 5 CHAPTER.

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39. 36. "Manage" means:

7 (a) That a responsible funeral director exercises control and 8 oversight over all employees of a funeral establishment and over funeral 9 transactions, including caring for dead human bodies, funeral services and 10 activities and documenting and retaining records.

(b) That a responsible cremationist exercises control and oversight over all employees of a crematory and crematory operations.

13 40. 37. "National board examination" means the test or tests given 14 by the INTERNATIONAL conference of funeral service examining boards to 15 determine the entry level knowledge and skills of a person regarding 16 funeral directing and embalming.

17 41. 38. "Net interest" means interest earned on a prearranged 18 funeral trust account minus applicable taxes, reasonable and necessary 19 charges made by the financial institution and the annual service fee 20 allowed to be deducted by the funeral establishment according to section 21 32-1391.06, subsection B.

42. 39. "Outer burial container" means a container that is
 designed for placement in a grave around a casket, including burial
 vaults, grave boxes and grave liners.

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43. 40. "Owner":

26 (a) Means a person who owns ten percent or more of a business 27 entity.

(b) Does not include shareholders of companies who have a class of common equity stock listed or authorized to be listed on the New York stock exchange or the American stock exchange or listed on the NASDAQ stock market.

32 44. 41. "Person legally responsible" means the person responsible
 33 for burying a dead body as determined in section 36-831.

34 **45.** 42. "Prearranged funeral agreement" means any agreement or 35 combination of agreements under which a payment is made before the death 36 of the intended beneficiary for funeral goods and services to be delivered 37 or performed after the death of the beneficiary.

38 46. 43. "Prearranged funeral trust account" means a trust account 39 that is established at a financial institution and into which all monies 40 paid on behalf of a beneficiary pursuant to a prearranged funeral 41 agreement are deposited.

47. 44. "Preparation" means washing, shaving, dressing or
43 arranging hair on, applying cosmetics to or positioning bodily features on
44 a dead human body and placing the dead human body in a casket.

48. 45. "Processed cremated remains" means cremated remains after
 they are pulverized and cleaned, leaving primarily small bone fragments.

3 49. 46. "Provisionally accredited" means being granted candidacy
4 status by the American board of funeral service education.

5 50. "Registration" means a written authorization that is issued by 6 the board and that entitles a person to act as an assistant funeral 7 director, an embalmer's assistant or a prearranged funeral salesperson in 8 this state.

9 51. 47. "Responsible cremationist" means a licensed cremationist 10 who manages a crematory.

11 52. 48. "Responsible funeral director" means a person who is 12 licensed pursuant to this chapter, who is engaged in funeral directing and 13 who manages and is accountable for a funeral establishment.

14 53. 49. "Retort" means an enclosed space within which cremation 15 takes place.

16 54. 50. "State equivalent examination" means the test or tests 17 that are provided by the INTERNATIONAL conference of funeral service 18 examining boards and offered by the board DEPARTMENT to determine the 19 entry level knowledge and skills of a person regarding funeral directing 20 and embalming.

Solution 21 55. "Supervise" or "supervision" means that a licensed embalmer has responsibility for and is within sight and sound of a licensed intern who is embalming a dead human body or a student who is assisting in embalming a dead human body.

25 56. 51. "Temporary container" means a receptacle that is usually 26 made of cardboard, rigid plastic or another similar material and that is 27 designed to hold processed cremated remains until they are placed in an 28 urn or another permanent container.

29 57. 52. "Trust funds" means all monies that are deposited on 30 behalf of a beneficiary of a prearranged funeral agreement funded by trust 31 and all accrued net interest. Trust funds shall be considered an account 32 kept in suspense until distributed to the beneficiary, the funeral 33 establishment or the estate of the beneficiary in accordance with this 34 article.

35 58. 53. "Universal precautions" means the universal blood and 36 fluid precautions recommended by the centers for disease control of the 37 United States public health service to prevent the transmission of 38 bloodborne and bodily fluid-borne infectious diseases.

39 59. 54. "Unprofessional conduct" includes the following acts, 40 whether occurring in this state or elsewhere:

(a) Committing a class 1 or 2 felony.

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42 (b) Committing a felony or misdemeanor if the offense has a 43 reasonable relationship to funeral directing or embalming. Conviction by 44 any court of competent jurisdiction or a plea of no contest is conclusive 45 evidence of the commission. 1 (c) Providing false, misleading or deceptive information on an 2 application for licensure or registration pursuant to this chapter or on 3 an examination required for licensure or registration.

4 (d) Bribing or offering to bribe, directly or indirectly, a member 5 AN EMPLOYEE of the board DEPARTMENT to influence the member's EMPLOYEE'S 6 actions in performing the member's EMPLOYEE'S duties.

7 (e) Wilfully interfering with an embalmer, funeral director or 8 cremationist who has lawful custody of a dead human body in performing the 9 embalmer's, funeral director's or cremationist's duty to embalm or prepare 10 the body for burial, transportation or cremation.

11 (f) Paying or causing monies or other valuable consideration to be 12 paid to a person, other than an employee of a funeral establishment, to 13 secure business regulated pursuant to this chapter from or through the 14 person.

15 (g) Violating any law of this state or any rule adopted by the 16 department of health services that relates to embalming or preparing dead 17 human bodies.

(h) Certifying falsely to having embalmed or prepared a dead human
 body that was embalmed by a ANOTHER person other than a licensed embalmer
 making the certification or an intern under the supervision of a licensed
 embalmer making the certification.

(i) Falsely advertising or labeling any service or merchandise withthe intention of deceiving the public.

(j) Shipping or delivering any merchandise or supplies that are not
 the substantial equivalent of or superior in quality to merchandise or
 supplies previously presented to the purchaser as samples.

(k) Committing any act involving dishonesty, fraud,
 misrepresentation, breach of fiduciary duty, gross negligence or
 incompetence if the act has a reasonable relationship to funeral directing
 or embalming.

31 (1) Engaging in any conduct or practice that is reasonably related 32 to funeral directing or embalming and that is or may be harmful or 33 dangerous to the health, safety or welfare of the public.

(m) Within a period of five years, having a license, registration or endorsement suspended or revoked by the board DEPARTMENT or by the funeral services licensing REGULATING authority of THIS STATE OR any other jurisdiction or surrendering a license, registration or endorsement in lieu of disciplinary action.

39 60. 55. "Urn" means a receptacle into which processed cremated 40 remains are placed for disposition.

41 Sec. 5. <u>Repeal</u>

42 Section 32-1301, Arizona Revised Statutes, as amended by Laws 2022, 43 chapter 279, section 1, is repealed.

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pursuant to section 38-611.

1 Sec. 6. <u>Repeal</u> 2 Sections 32-1302, 32-1303, 32-1304, 32-1305 and 32-1306, Arizona 3 Revised Statutes, are repealed. 4 Sec. 7. Section 32-1307, Arizona Revised Statutes, is amended to 5 read: 6 32-1307. Powers and duties of department 7 A. The **board** DEPARTMENT shall: 8 1. Administer and enforce this chapter and the rules adopted 9 pursuant to this chapter. 10 2. Adopt a seal. 11 3. 2. Maintain a record of the name and the mailing or employer's business address of each licensee and registrant. 12 13 **4.** 3. Investigate alleged violations of this chapter and the rules 14 adopted pursuant to this chapter. 5. 4. In accordance with title 41, chapter 6, adopt rules that 15 16 include provisions relating to the following: 17 (a) The keeping and disposition of records by licensees and 18 registrants. 19 (b) Standards of practice, professional conduct, competence and 20 consumer disclosure relating to owning or operating а funeral 21 establishment or crematory, funeral directing, embalming and cremation. 22 (c) The prohibition of deceptive, misleading or professionally negligent practices in advertising, offering or selling funeral goods or 23 24 AND services by funeral establishments, crematories, AND licensees and 25 registrants and agents of funeral establishments, crematories, AND 26 licensees and registrants. The rules shall specifically prohibit misrepresentation of the legal requirements concerning preparing and 27 28 interring dead human bodies. 29 (d) Standard price disclosure formats and price list requirements 30 and definitions to facilitate price comparisons by members of the public. 31 (e) Guidelines to enable members of the public to determine the 32 substantial equivalency of funeral goods available for sale to the public. 33 (f) Administrative and investigative procedures. 34 (g) The efficient administration of the board's DEPARTMENT'S 35 affairs and the enforcement of this chapter. 36 (h) The inspection of all funeral establishments, crematories and 37 alkaline hydrolysis facilities at least once every five years. 38 (i) Any other matters the **board** DEPARTMENT deems necessary to carry 39 out this chapter. 40 B. The **board** DEPARTMENT may: Subject to title 41, chapter 4, article 4, employ investigative, 41 1. professional and clerical employees as it deems necessary to carry out 42 43 this chapter. Compensation of these employees shall be determined

1 2. Appoint citizen advisory committees to make recommendations to 2 the board concerning enforcing and administering this chapter. 3 3. 2. In connection with investigations or administrative 4 hearings, issue subpoenas to compel the attendance of witnesses and the 5 production of books, papers, contracts, agreements and other documents or 6 records in any form, administer oaths and take testimony and evidence 7 concerning all matters within its jurisdiction. The board DEPARTMENT may 8 pay the fees and expenses of witnesses who appear in any proceeding before the **board** DEPARTMENT. If a person refuses to obey a subpoena issued by 9 the **board** DEPARTMENT, the **board** DEPARTMENT may invoke the aid of any court 10 11 in this state to require the attendance and testimony of witnesses and the 12 production of documentary evidence. 13 4. 3. Contract with other state and federal agencies as it deems necessary to carry out this chapter. 14 5. 4. Charge reasonable fees to distribute materials that the 15 16 board DEPARTMENT prints or has printed at its expense and for the costs of 17 mailing these materials. 18 $\overline{\mathbf{6}}$, 5. Charge the reasonable costs of a fingerprint background 19 check to an applicant for licensure or registration. 20 Sec. 8. <u>Repeal; transfer of monies</u> 21 A. Section 32-1308, Arizona Revised Statutes, is repealed. 22 B. All unexpended and unencumbered monies remaining in the board of funeral directors' and embalmers' fund established by section 32-1308, 23 24 Arizona Revised Statutes, as repealed by subsection A of this section, are transferred to the funeral directors fund established by section 32-1308, 25 26 Arizona Revised Statutes, as added by this act, on the effective date of 27 this section. 28 Sec. 9. Title 32, chapter 12, article 1, Arizona Revised Statutes, 29 is amended by adding a new section 32-1308, to read: 30 32-1308. Funeral directors fund 31 A. THE FUNERAL DIRECTORS FUND IS ESTABLISHED CONSISTING OF FEES AND 32 OTHER MONIES COLLECTED UNDER THIS CHAPTER. THE DEPARTMENT SHALL ADMINISTER THE FUND. THE DEPARTMENT SHALL USE THE MONIES TO IMPLEMENT AND 33 ENFORCE THIS CHAPTER. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE 34 35 APPROPRIATION. 36 B. ON NOTICE FROM THE DEPARTMENT, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUNERAL DIRECTORS FUND AS PROVIDED BY SECTION 37 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. 38 39 Sec. 10. Section 32-1309, Arizona Revised Statutes, is amended to 40 read: 41 32-1309. Fees 42 A. The **board** DEPARTMENT shall establish and collect the following application fees: 43 44 1. For a funeral director license, \$85. 45 2. For an embalmer license, \$85. - 11 -

1 3. For an embalmer's assistant registration, \$85. 2 4. For an intern license, \$85. 3 5. 3. For a funeral director or embalmer license for a person who 4 does not reside in this state, \$85. 5 6. For a prearranged funeral salesperson registration, \$85. 6 7. 4. For a funeral establishment license: 7 (a) For a new establishment, new owner or new location, \$500. 8 (b) For a change of name, \$175. 9 8. 5. For a prearranged funeral sales establishment endorsement, 10 \$185. 9. 6. For a crematory license: 11 (a) For a new crematory, new owner or new location, \$100 per 12 13 retort. (b) For a change of name, \$175. 14 15 10. 7. For a cremationist license, \$85. 16 11. 8. For an alkaline hydrolysis facility license: 17 (a) For a new alkaline hydrolysis facility, a fee in an amount to 18 be determined by the **board** DEPARTMENT. (b) For a change of name or location, a fee in an amount to be 19 20 determined by the **board** DEPARTMENT. 21 12. 9. For an alkaline hydrolysis operator license, a fee in an 22 amount to be determined by the **board** DEPARTMENT. 23 13. 10. For an interim alkaline hydrolysis facility permit, a fee 24 in an amount to be determined by the **board** DEPARTMENT. 25 14. 11. For extension of an interim alkaline hydrolysis facility 26 permit, a fee in an amount to be determined by the board DEPARTMENT. 27 B. The **board** DEPARTMENT shall establish and collect the following 28 examination fees: 29 1. For the funeral director state laws and rules examination, \$80. 2. For the embalmer state laws and rules examination, \$80. 30 31 3. For the prearranged funeral salesperson state laws and rules 32 examination. \$80. 33 4. For the funeral service science section of the state equivalent 34 examination, \$150. 5. For the funeral service arts section of the state equivalent 35 36 examination, \$150. 37 C. The **board** DEPARTMENT shall establish and collect the following 38 license and registration issuance fees: 39 1. For a funeral director license, \$85. 40 2. For an embalmer license, \$85. 41 3. For an embalmer's assistant registration, \$85. 42 4. For an intern license, \$85. 43 For a prearranged funeral salesperson registration, \$85. 5. 44 6. 3. For a cremationist license, \$85.

1 7. 4. For an alkaline hydrolysis facility license, a fee in an 2 amount to be determined by the **board** DEPARTMENT. 3 8. 5. For an alkaline hydrolysis operator license, a fee in an 4 amount to be determined by the **board** DEPARTMENT. 5 D. The **board** DEPARTMENT shall establish and collect the following 6 renewal fees: 7 1. For a funeral director license, \$85. 8 2. For an embalmer license, \$85. 9 3. For an embalmer's assistant registration, \$85. 4. For an intern license, \$85. 10 11 5. For an assistant funeral director registration, \$85. 6. For a prearranged funeral salesperson registration, \$85. 12 13 7. 3. For an establishment license, \$4 for each disposition performed by the establishment during the immediately preceding calendar 14 15 year. For the purposes of this paragraph, a funeral establishment 16 performs a disposition each time the establishment files a death 17 certificate pursuant to section 36-325. 18 8. 4. For a prearranged funeral sales establishment endorsement, 19 \$185. 20 9. 5. For a crematory license, \$200 per retort. 21 10. 6. For a cremationist license, \$85. 22 11. 7. For an alkaline hydrolysis facility license, a fee in an 23 amount to be determined by the **board** DEPARTMENT. 24 12. 8. For an alkaline hydrolysis operator license, a fee in an 25 amount to be determined by the **board** DEPARTMENT. 26 E. The **board** DEPARTMENT shall establish and collect the following 27 fees: 1. For a duplicate license or registration, \$25. 28 29 2. For a reexamination: (a) For a state laws and rules examination, \$50. 30 31 (b) For the funeral service science section or the funeral service arts section of the state equivalent examination, \$65. 32 33 3. For late renewal of a licensee or registration, \$35. 4. For late renewal of an establishment license or endorsement, 34 \$60. 35 36 5. For inactive licensure or registration, \$25. For reinstatement of an inactive license, \$50. 37 6. 38 For reinstatement of an inactive registration, \$130. 7. 39 8. 7. For an interim funeral establishment permit, \$25. 40 9. 8. For filing an annual trust report, a fee of not more than 41 \$200. 42 10. 9. For filing a late or incomplete annual trust report, a 43 penalty of not more than \$200. 44 F. The board may establish and collect a fee for intern trainees in 45 an amount to be determined by the board.

1	Sec. 11. Section 32–1310, Arizona Revised Statutes, is amended to
2	read:
3	32–1310. <u>Confidentiality; limited release to public</u>
4	A. All examination materials, records of examination grading and
5	performance, and transcripts of educational institutions concerning
6	applicants , AND licensees and registrants are confidential and are not
7	public records.
8	B. Complaints, investigative reports, documents, exhibits and other
9	materials relating to an investigation are not public records and shall
10	remain confidential except as provided in subsection SUBSECTIONS C AND E
11	OF THIS SECTION.
12	C. On written request, the board DEPARTMENT shall release
13	confidential information to the subject of an informal interview and to
14	the public after the board votes to send DEPARTMENT SENDS a case to an
15	informal interview.
16	D. After the receipt of RECEIVING a complaint, the board DEPARTMENT
17	shall inform the licensee or registrant of the name of the complainant and
18	the general nature of the complaint.
19	E. During an investigation, following issuance of AFTER THE
20	DEPARTMENT ISSUES a formal hearing or informal interview notice, and
21	after notifying NOTIFIES the licensee or registrant , the board DEPARTMENT
22	may release the name of the complainant and the general nature of the
23	complaint to the public.
24	Sec. 12. Section 32–1311, Arizona Revised Statutes, is amended to
25	read:
26	32-1311. <u>Immunity</u>
27	A. Members, employees and agents of the board and members of
28	citizen advisory committees are EMPLOYEES AND AGENTS OF THE DEPARTMENT ARE
29	immune from personal liability with respect to acts done and actions taken
30	in good faith and in furtherance of the purposes of this chapter.
31	B. Any person who reports or provides information to the board
32	DEPARTMENT in good faith is not subject to an action for civil damages.
33	Sec. 13. Section 32–1321, Arizona Revised Statutes, is amended to
34	read:
35	32–1321. <u>License requirement; persons not required to be</u>
36	<u>licensed: nontransferability: display</u>
37	A. A person shall not advertise or engage in funeral directing or
38	embalming without having a valid license or registration issued by the
39	board DEPARTMENT. A PERSON DOES NOT NEED TO BE LICENSED BY THE DEPARTMENT
40	IN ORDER TO PRACTICE AS AN EMBALMER.
41	B. This article does not prohibit:
42	1. A student who is enrolled in a college of mortuary science that
43	is recognized by the board department pursuant to section 32-1336 from
44	assisting a licensed embalmer in embalming dead human bodies pursuant to
45	section 32-1337.

1 2. 1. A person from performing removals or arrangements or from 2 directing funeral services IF THE PERSON IS under the direction of and 3 accountable to a licensed funeral director. 4 3. 2. A licensed cemetery employee from selling burial or final 5 disposition items or from arranging or directing cemetery services. 6 C. A license or registration issued by the board DEPARTMENT is not 7 transferrable or subject to sale or assignment, whether by A voluntary or 8 involuntary process. D. A licensee or registrant shall conspicuously display the 9 10 person's license or registration at the person's place of employment. 11 Sec. 14. Section 32-1322, Arizona Revised Statutes, is amended to 12 read: 13 32-1322. Embalmers and funeral directors; gualifications for 14 <u>licensure</u> A. An applicant for licensure as an intern shall: 15 16 1. Hold a high school diploma or its equivalent. 17 2. Be a graduate of an accredited or provisionally accredited 18 school of mortuary science. 19 3. Be of good moral character. 20 **B.** A. An applicant for licensure as an embalmer shall: 21 1. Pass the funeral service science section of the national board 22 examination or the state equivalent examination. 2. Pass the embalmer state laws and rules examination. 23 24 3. Be of good moral character. 25 4. Have been licensed as an intern for at least one year. 26 5. Have successfully completed an internship program that included assisting in embalming at least twenty-five dead human bodies. 27 C. B. An applicant for licensure as a funeral director shall: 28 29 1. Pass the funeral service arts section of the national board examination or the state equivalent examination. 30 31 2. Pass the funeral director state laws and rules examination. 32 3. Be of good moral character. 4. Have held an active license as an intern for at least one year 33 34 and have assisted in arranging and directing at least twenty-five 35 funerals. 36 Sec. 15. Section 32-1323, Arizona Revised Statutes, is amended to 37 read: 32-1323. Embalmers and funeral directors; application for 38 39 <u>licensure</u> 40 A. An applicant for licensure as an intern shall submit a completed 41 application on a form prescribed by the board. The application shall be 42 subscribed under oath and shall be accompanied by: 43 1. Any educational, professional and employment information 44 required by the board in its rules.

1 Proof of the applicant's employment as an intern at 2. an 2 establishment licensed under article 4 of this chapter under the 3 supervision of a funeral director or embalmer licensed under this article. 4 3. A completed fingerprint card and the prescribed fingerprint 5 background check fee. 6 4. Any other information required by the board. 7 5. All applicable fees pursuant to section 32-1309. 8 B. A. An applicant for licensure as an embalmer or funeral 9 director shall submit a completed application on a form prescribed by the board DEPARTMENT. The application shall be subscribed under oath and 10 11 shall be accompanied by: professional and 12 employment 1. Any educational, information 13 required by the **board DEPARTMENT** in its rules. 14 2. A completed fingerprint card and the prescribed fingerprint 15 background check fee. 16 3. Any other information required by the board DEPARTMENT. 17 4. All applicable fees pursuant to section 32-1309. 18 C. B. If the board DEPARTMENT finds that the applicant meets the criteria for licensure under this article and rules adopted by the board 19 20 DEPARTMENT, the **board** DEPARTMENT shall issue the appropriate license. 21 Sec. 16. Repeal 22 Section 32-1324, Arizona Revised Statutes, is repealed. Sec. 17. Section 32-1384, Arizona Revised Statutes, is transferred 23 24 and renumbered for placement in title 32, chapter 12, article 2, Arizona Revised Statutes, as a new section 32-1324 and, as so renumbered, is 25 26 amended to read: 27 32-1324. Multiple funeral director license; display; 28 <u>nontransferrability</u> 29 A. An applicant for a license as a funeral director who is proposing to manage and supervise the operations of more than one funeral 30 31 establishment shall apply on a form prescribed by the board and The application shall be accompanied by the prescribed fee 32 DEPARTMENT. 33 for the additional FUNERAL establishment. B. The **board** DEPARTMENT shall review the application for a multiple 34 35 funeral director license, and, if it is reasonable to believe that the 36 funeral establishments can be adequately supervised and managed by the applicant, the **board** DEPARTMENT shall issue the license. 37 C. A funeral director who holds a multiple funeral director license 38 39 shall display the license at the FUNERAL establishment to which the license is issued. Unless otherwise stated in this article, a multiple 40 41 funeral director license is renewable at the same time as the FUNERAL 42 establishment license. A multiple funeral director license is not 43 transferable without prior approval of the **board** DEPARTMENT.

1 Sec. 18. <u>Repeal</u> 2 Sections 32-1325 and 32-1325.01, Arizona Revised Statutes, are 3 repealed. 4 Sec. 19. Section 32-1326, Arizona Revised Statutes, is amended to 5 read: 6 32-1326. Embalmers and funeral directors; temporary licenses 7 The **board** DEPARTMENT may issue a temporary embalmer or funeral 8 director license to a person who is not licensed in this state in cases of 9 emergency or public disaster or for educational purposes if the person holds an active license in good standing issued by the funeral services 10 11 licensing authority of another jurisdiction. The **board** DEPARTMENT shall 12 issue a license under this section only for the category of licensure for 13 which the person holds an active license issued by another jurisdiction. 14 A temporary license issued under this section is valid for thirty days. The **board** DEPARTMENT may renew a temporary license once for a period of 15 16 thirty or fewer days. 17 Sec. 20. Section 32-1327, Arizona Revised Statutes, is amended to 18 read: 32-1327. <u>State equivalent examination: national</u> board 19 20 <u>examination</u> 21 A. A person who desires to take either the funeral service science section or the funeral service arts section of the state equivalent 22 23 examination shall submit to the **board** DEPARTMENT: 24 1. An examination application on a form prescribed by the board 25 DEPARTMENT. 26 2. Documentation of a high school diploma or its equivalent. 27 Documentation of the person's graduation from an accredited or 3. provisionally accredited school of mortuary science. 28 29 4. All applicable fees pursuant to section 32-1309. 30 The **board** DEPARTMENT shall schedule and administer the state Β. 31 equivalent examination at least once each year. The state equivalent examination shall consist of a two part TWO-PART written examination with 32 33 at least seventy questions. 34 C. A person who takes both sections of the state equivalent 35 examination or the national board examination must achieve a passing score 36 ACCORDING TO THE STANDARDS OF THE INTERNATIONAL CONFERENCE OF FUNERAL 37 SERVICE EXAMINING BOARDS. D. The **board** DEPARTMENT shall accept a passing score that an 38 applicant achieved on a state equivalent examination or a national board 39 40 examination taken within the five years immediately preceding the date 41 that the applicant filed a license application with the board DEPARTMENT.

1 Sec. 21. Section 32-1328, Arizona Revised Statutes, is amended to 2 read: 3 32-1328. State laws and rules examination A. The **board DEPARTMENT** shall administer a state laws and rules 4 5 examination at least once every three months. When the board DEPARTMENT 6 receives a license application, it shall schedule the applicable state 7 laws and rules examination for the applicant. 8 B. Each state laws and rules examination shall contain at least 9 fifty questions on the following subjects: 1. The provisions of this chapter and rules adopted by the board 10 11 DEPARTMENT pursuant to this chapter. 12 2. THE applicable provisions of title 36 and rules adopted by the 13 department of health services PURSUANT TO THE APPLICABLE PROVISIONS OF 14 TITLE 36. C. A score of seventy-five or more is required to pass the state 15 16 laws and rules examination. 17 D. The **board** DEPARTMENT shall accept the passing score of an 18 applicant achieved on a state laws and rules examination taken within one 19 year immediately preceding the date that the applicant filed a license 20 application with the **board** DEPARTMENT. 21 Sec. 22. Section 32-1329, Arizona Revised Statutes, is amended to 22 read: 23 32-1329. <u>Reexamination</u> 24 A. An applicant who fails to pass the state equivalent examination or the state laws and rules examination may retake the examination within 25 26 one year after the date that the applicant filed a license application 27 with the **board** DEPARTMENT. A person who desires to retake an examination shall request that the board DEPARTMENT schedule a second examination and 28 29 shall submit the applicable fee pursuant to section 32-1309. The state 30 equivalent examination may not be retaken in the same calendar quarter. 31 B. An applicant who fails to pass the state equivalent examination 32 or the state laws and rules examination within one year after the date 33 that the applicant originally filed a license application shall submit a 34 new license application and the applicable fee pursuant to section 35 32-1309. 36 Sec. 23. <u>Repeal</u> 37 Section 32-1330, Arizona Revised Statutes, is repealed. 38 Sec. 24. Section 32-1331, Arizona Revised Statutes, is amended to 39 read: 40 32-1331. <u>Renewal of licenses</u> 41 A. Except as provided in section 32-4301, each license and each 42 registration issued under this article expires on August 1 of each year. 43 B. A licensee or a registrant shall submit a renewal application 44 and the applicable renewal fee pursuant to section 32-1309 on or before

1 July 1 of each year. A license or registration renewal fee is 2 nonrefundable. 3 C. A licensee or a registrant who submits a renewal application and 4 the applicable renewal fee after July 1 but before August 1 shall pay a 5 late fee pursuant to section 32-1309 in addition to the renewal fee. 6 D. A licensee who fails to submit a renewal application and the 7 applicable fee on or before August 1 shall apply for licensure as an 8 original applicant. A person who submits a license application within 9 three years after the date that the person's license expires is not 10 required to pass the national board examination or state equivalent 11 examination. 12 E. A registered assistant funeral director who fails to submit a 13 renewal application and the applicable renewal fee on or before August 1: 14 1. Is not eligible for renewal of the person's registration. 15 2. May apply for a funeral director license pursuant to this 16 article. 17 F. An embalmer's assistant who fails to submit -renewal đ 18 application and the applicable renewal fee on or before August 1 may apply 19 for reinstatement of the person's registration by submitting a completed 20 reinstatement application on a form prescribed by the board and the 21 applicable reinstatement fee within one year after the date that the 22 person's registration expires. 23 G. An intern license may not be renewed more than three times. 24 Sec. 25. Section 32-1333, Arizona Revised Statutes, is amended to 25 read: 26 32-1333. Notice of change in employment 27 A. An intern who is licensed or an embalmer's assistant who is 28 registered under this article shall notify the board in writing within ten 29 business days after a change in employment. The notice shall include the 30 names of the new establishment and, if applicable, the new supervising 31 licensed funeral director or embalmer. B. A. An embalmer or funeral director who is licensed under this 32 article shall notify the board DEPARTMENT in writing within ten business 33 days after a change in employment. The notice shall include the names of 34 35 the former and the new establishment. 36 \mathbf{C} . B. A responsible funeral director who is licensed under this article shall notify the board DEPARTMENT in writing within five business 37 days after a change in employment, excluding Saturdays, Sundays and other 38 39 legal holidays. 40 Sec. 26. Section 32-1334, Arizona Revised Statutes, is amended to 41 read:

42

32-1334. Inactive status

43 A. A licensed embalmer, funeral director, cremationist or alkaline 44 hydrolysis operator who retires from practicing embalming, funeral 45 directing, cremation or alkaline hydrolysis and who is not currently practicing embalming, funeral directing, cremation or alkaline hydrolysis in this state may request that the board DEPARTMENT place the person's license on inactive status. The person shall submit the request on a form prescribed by the board DEPARTMENT and shall pay the applicable fee pursuant to section 32-1309.

B. A person who holds an inactive license shall not practice:
 7 embalming,

8 1. Funeral directing, cremation or alkaline hydrolysis in this 9 state.

10 2. CREMATION IN THIS STATE UNLESS THERE IS ANOTHER INDIVIDUAL AT 11 THE CREMATORY WHO OPERATES OR SUPERVISES THE CREMATORY AND WHO IS LICENSED 12 PURSUANT TO THIS CHAPTER.

3. ALKALINE HYDROLYSIS IN THIS STATE UNLESS THERE IS ANOTHER
INDIVIDUAL AT THE ALKALINE HYDROLYSIS FACILITY WHO OPERATES OR SUPERVISES
THE ALKALINE HYDROLYSIS FACILITY AND WHO IS LICENSED PURSUANT TO THIS
CHAPTER.

17 C. A person who holds an inactive license may request that the 18 board DEPARTMENT reactivate the person's license. If an inactive licensee desires to reactivate a license, the inactive licensee shall submit a 19 20 completed application on a form prescribed by the **board** DEPARTMENT, the 21 applicable fee pursuant to section 32-1309, a completed fingerprint card 22 and the prescribed fingerprint background check fee. The person shall 23 demonstrate that the person is of good moral character and shall pass the 24 applicable state laws and rules examination.

25 Sec. 27. Section 32–1335, Arizona Revised Statutes, is amended to 26 read:

27

32-1335. <u>Out-of-state licensees</u>

A. A person who holds an embalmer or funeral director license in good standing that was issued by the funeral services licensing authority of another jurisdiction and who desires an embalmer or funeral director license in this state shall meet the requirements and qualifications for licensure prescribed in this article.

33 B. Notwithstanding subsection A of this section, the board 34 DEPARTMENT may waive the testing requirements of section 32-1322, subsection \mathbf{B}^- A, paragraph 1 and subsection \mathbf{C}^- B, paragraph 1 if the 35 36 person has actively practiced embalming or funeral directing in another 37 jurisdiction within the three years immediately preceding the date that 38 the person applies for a license in this state and the board DEPARTMENT 39 determines that the requirements for licensure in the other jurisdiction 40 are equal to or more stringent than the requirements prescribed in this 41 article.

42 C. A person who holds an intern license or its equivalent in good 43 standing that was issued by the funeral services licensing authority of 44 another jurisdiction and who desires an intern, embalmer or funeral

1 director license in this state shall meet the requirements and 2 qualifications for licensure prescribed in this article. 3 Sec. 28. Section 32-1336, Arizona Revised Statutes, is amended to 4 read: 5 32-1336. Department recognition; colleges of funeral service 6 education or mortuary science 7 The **board** DEPARTMENT shall recognize any college of funeral service 8 education or mortuary science that is either: 9 1. Accredited or provisionally accredited by the American board of 10 funeral service education. 11 2. Approved by an accrediting agency that is recognized by the 12 United States department of education and the council on postsecondary 13 accreditation and requires a course of instruction in funeral service education or mortuary science that is equivalent to the course of 14 15 instruction required by the American board of funeral service education. 16 Sec. 29. Repeal 17 Section 32-1337, Arizona Revised Statutes, is repealed. 18 Sec. 30. Section 32-1338, Arizona Revised Statutes, is amended to 19 read: 20 32-1338. Continuing education requirements; waiver 21 A. A person who is licensed or registered pursuant to this article 22 shall complete continuing education designed to educate the person 23 regarding current skills and procedures and developments in the funeral 24 industry. The board DEPARTMENT may prescribe in its rules the number of 25 hours of continuing education required each year, not to exceed sixteen 26 SIX hours, and the subject matter that shall TO be covered. 27 B. The **board** DEPARTMENT shall waive the continuing education requirements for persons whose licenses have been placed on inactive 28 29 status and for persons who are serving in the United States armed forces in time of war. The **board** DEPARTMENT may waive the continuing education 30 31 requirement for good cause shown as prescribed in its rules. 32 Sec. 31. Section 32-1339, Arizona Revised Statutes, is amended to 33 read: 34 32-1339. Fingerprinting of applicants; background checks 35 An applicant for registration under this article or for a license 36 under this article other than a temporary license shall submit a full set of fingerprints to the **board** DEPARTMENT OF HEALTH SERVICES for the purpose 37 38 of conducting a state and national FEDERAL criminal records check pursuant to section 41-1750 and P.L. PUBLIC LAW 92-544. The department of public 39 40 safety is authorized to exchange this fingerprint data with the federal 41 bureau of investigation.

1	Sec. 32. Section 32–1341, Arizona Revised Statutes, is amended to
2	read:
3	32–1341. <u>Alkaline hydrolysis facilities; license required</u>
4	A person may not advertise or operate an alkaline hydrolysis
5	facility without first obtaining an alkaline hydrolysis facility license
6	issued by the board DEPARTMENT.
7	Sec. 33. Section 32-1342, Arizona Revised Statutes, is amended to
8	read:
9	32–1342. <u>Alkaline hydrolysis facilities; requirements</u>
10	A. An alkaline hydrolysis facility licensed under this article must
11	meet all of the following:
12	1. Have a building or structure that complies with applicable local
13	and state building codes, zoning laws and ordinances and wastewater
14	management and environmental standards and that contains one or more
15	alkaline hydrolysis vessels.
16	2. Use a method that is approved by the board DEPARTMENT to dry the
17	hydrolyzed remains and that occurs within the licensed facility.
18	3. Have a means approved by the board DEPARTMENT for refrigerating
19	dead human bodies awaiting alkaline hydrolysis.
20	4. Have an appropriate refrigerated holding facility for dead human
21	bodies awaiting alkaline hydrolysis that maintains dead human bodies at or
22	below thirty-eight degrees fahrenheit.
23	B. An alkaline hydrolysis facility:
24	1. Shall employ a licensed alkaline hydrolysis operator to carry
25	out the process of alkaline hydrolysis. THIS PARAGRAPH DOES NOT APPLY IF
26	THE ALKALINE HYDROLYSIS FACILITY IS OPERATED OR SUPERVISED BY A LICENSED
27	FUNERAL DIRECTOR.
28	Shall provide proper procedures for all personnel.
29	3. Shall comply with this chapter and other applicable state and
30	federal laws relating to occupational and workplace health and safety.
31	Sec. 34. Section 32–1343, Arizona Revised Statutes, is amended to
32	read:
33	32–1343. <u>Alkaline hydrolysis operators; licensure;</u>
34	application; qualifications; fingerprinting;
35	<u>renewal</u>
36	A. An applicant for an alkaline hydrolysis operator license shall
37	submit a completed application on a form prescribed by the board
38	DEPARTMENT. The application shall be subscribed under oath and shall be
39	accompanied by the applicable fee pursuant to section 32–1309 and any
40	additional information that the board DEPARTMENT deems necessary.
41	B. An applicant for an alkaline hydrolysis operator license shall
42	meet all BOTH of the following:
43	1. Be of good moral character.
44	2. 1. Submit a completed fingerprint card and the prescribed
45	fingerprint records check fee to the board DEPARTMENT OF HEALTH SERVICES

1 to enable the **board** DEPARTMENT OF HEALTH SERVICES or the department of 2 public safety to conduct a criminal records check.

3 3. 2. Meet the educational requirements as prescribed by the board
 4 DEPARTMENT in rule.

5 C. If the **board** DEPARTMENT finds that the applicant meets the 6 criteria for an alkaline hydrolysis operator license under this section 7 and under rules adopted by the **board** DEPARTMENT, the **board** DEPARTMENT 8 shall issue an alkaline hydrolysis operator license. A PERSON DOES NOT 9 NEED TO BE LICENSED AS AN ALKALINE HYDROLYSIS OPERATOR IN ORDER TO 10 PRACTICE AS AN ALKALINE HYDROLYSIS OPERATOR IF THE ALKALINE HYDROLYSIS 11 FACILITY IS OPERATED OR SUPERVISED BY A LICENSED FUNERAL DIRECTOR OR 12 ANOTHER PERSON WHO IS A LICENSED ALKALINE HYDROLYSIS OPERATOR.

13 D. Except as provided in section 32-4301, an alkaline hydrolysis 14 operator license issued pursuant to this article expires on August 1 of each year. A licensed alkaline hydrolysis operator shall submit a renewal 15 16 application and the applicable nonrefundable renewal fee pursuant to 17 section 32-1309 on or before July 1 of each year. A licensed alkaline 18 hydrolysis operator that submits a renewal application and the applicable 19 renewal fee after July 1 but before August 1 shall pay a late fee pursuant 20 to section 32-1309 in addition to the renewal fee. A licensed alkaline 21 hydrolysis operator that fails to submit a renewal application and the 22 applicable fee on or before August 1 must apply for a new license pursuant 23 to this article.

24 Sec. 35. Section 32–1344, Arizona Revised Statutes, is amended to 25 read:

26

27

32-1344. <u>Alkaline hydrolysis facilities: licensure</u> requirements: application: renewal

28 A. An application for an alkaline hydrolysis facility shall be in a 29 form prescribed by the **board** DEPARTMENT. If the applicant is a business entity, the entity shall direct a natural person who is an owner of the 30 31 entity to submit its application. The application shall be subscribed under oath and shall be accompanied by the applicable fee pursuant to 32 section 32-1309 and any additional information that the board DEPARTMENT 33 34 deems necessary. A business entity that applies for a license pursuant to this article shall submit to the board DEPARTMENT with its application for 35 36 licensure a copy of its partnership agreement, its articles of 37 incorporation or organization or any other organizational documents required to be filed with the corporation commission. 38

B. An individual who applies for an alkaline hydrolysis facility license pursuant to this article, or if the applicant is a business entity, the owners, partners, officers, directors and trust beneficiaries of the entity, shall:

43

1. Be of good moral character.

2. submit a completed fingerprint card, criminal history background
 2 information and a fingerprint background check fee to the board
 3 DEPARTMENT.

C. The board or the board's designee DEPARTMENT shall inspect the premises of an alkaline hydrolysis facility and investigate the character and other qualifications of all applicants for licensure pursuant to this rticle to determine whether the alkaline hydrolysis facility and the applicants are in compliance with the requirements of this article and rules adopted by the board DEPARTMENT.

10 D. If the **board** DEPARTMENT finds that the applicant meets the 11 criteria for licensure under this article and rules adopted by the **board** 12 DEPARTMENT, the **board** DEPARTMENT shall issue an alkaline hydrolysis 13 facility license.

14 E. Except as provided in section 32-4301, an alkaline hydrolysis facility license issued pursuant to this article expires on August 1 of 15 16 each year. A licensed alkaline hydrolysis facility shall submit a renewal 17 application and the applicable nonrefundable renewal fee pursuant to 18 section 32-1309 on or before July 1 of each year. A licensed alkaline 19 hydrolysis facility that submits a renewal application and the applicable 20 renewal fee after July 1 but before August 1 shall pay a late fee pursuant 21 to section 32-1309 in addition to the renewal fee. A licensed alkaline 22 hydrolysis facility that fails to submit a renewal application and the 23 applicable fee on or before August 1 must apply for a new license pursuant 24 to this article.

25 Sec. 36. Section 32–1346, Arizona Revised Statutes, is amended to 26 read:

- 27
- 28 29

32-1346. <u>Alkaline hydrolysis facilities: nontransferability of</u> <u>license: interim permits: confidentiality:</u> definition

A. An alkaline hydrolysis facility license issued by the board DEPARTMENT is not transferable or subject to sale or assignment, whether by a voluntary or involuntary process.

B. If a change of ownership of an alkaline hydrolysis facility occurs, the licensee shall notify the board DEPARTMENT in writing and shall surrender the license to the board DEPARTMENT within twenty days after the change of ownership. The new owner shall also notify the board DEPARTMENT in writing within twenty days after the change of ownership and shall submit an application for an alkaline hydrolysis facility license to the board DEPARTMENT pursuant to section 32-1344.

C. The board DEPARTMENT shall issue an interim permit to the new owner of an alkaline hydrolysis facility to allow the new owner to continue operating the alkaline hydrolysis facility during the period that the new owner's license application is pending if the following conditions are met: 1 1. The new owner notifies the **board** DEPARTMENT of the change of 2 ownership and submits an application for an interim permit and the 3 applicable fee pursuant to section 32-1309 at least three days, excluding 4 Saturdays, Sundays and holidays, after the change takes place. Notice 5 shall be given during regular business hours.

6

2. The alkaline hydrolysis facility continues to meet the 7 requirements of section 32-1342.

8 D. An interim permit issued by the **board** DEPARTMENT pursuant to 9 this section shall be for not more than forty-five days and may not be extended except as provided in subsection E of this section. An interim 10 11 permit is a conditional permit and authorizes the holder to operate an 12 alkaline hydrolysis facility as would be allowed under an alkaline 13 hydrolysis facility license issued pursuant to this article. The holder 14 of an interim permit is subject to the licensing rules and disciplinary proceedings prescribed in this chapter and in rules adopted by the board 15 16 DEPARTMENT pursuant to this article.

17 E. Notwithstanding subsection D of this section, for good cause 18 shown, the **board** DEPARTMENT may extend an interim permit for not more than 19 forty-five days.

20 F. Until the new owner's license is issued, the **board** DEPARTMENT 21 shall keep confidential all notices filed with the board DEPARTMENT by the 22 prospective new owner of an alkaline hydrolysis facility pursuant to this 23 section.

24 G. For the purposes of this section, "regular business hours" means 25 between the hours of 8:00 a.m. and 5:00 p.m. on any day of the week other 26 than Saturday, Sunday or any other legal holiday or a day on which the 27 board DEPARTMENT is authorized or obligated by law or executive order to 28 close.

29 Sec. 37. Section 32-1347, Arizona Revised Statutes, is amended to 30 read:

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32-1347. Change of name or location

A. The owner of a licensed alkaline hydrolysis facility who desires 32 to change the name of the alkaline hydrolysis facility shall submit an 33 application on a form prescribed by the **board** DEPARTMENT. The application 34 35 shall be subscribed under oath and shall be accompanied by the applicable 36 fee.

37 B. The owner of a licensed alkaline hydrolysis facility shall submit an application on a form prescribed by the board DEPARTMENT to 38 39 change the location of the alkaline hydrolysis facility. The application 40 shall be subscribed under oath and shall be accompanied by the applicable 41 fee. Before the **board** DEPARTMENT approves a request for a change of location pursuant to this section, the owner shall demonstrate that the 42 43 new location meets the requirements of this article.

44 Sec. 38. <u>Repeal</u>

45 Section 32-1361, Arizona Revised Statutes, is repealed.

1 Sec. 39. Title 32, chapter 12, article 3, Arizona Revised Statutes, 2 is amended by adding a new section 32-1361, to read: 3 32-1361. Licensed funeral director; funeral establishments, crematories and alkaline hydrolysis facilities; 4 5 licensed cremationist; licensed alkaline hydrolysis operator 6 7 EACH FUNERAL ESTABLISHMENT, CREMATORY OR ALKALINE HYDROLYSIS 8 FACILITY THAT IS LICENSED UNDER THIS CHAPTER MUST BE OPERATED OR 9 SUPERVISED BY A LICENSED FUNERAL DIRECTOR, EXCEPT THAT INSTEAD OF A LICENSED FUNERAL DIRECTOR: 10 11 1. A CREMATORY MAY BE OPERATED OR SUPERVISED BY A LICENSED 12 CREMATIONIST. 13 2. AN ALKALINE HYDROLYSIS FACILITY MAY BE OPERATED OR SUPERVISED BY 14 A LICENSED ALKALINE HYDROLYSIS OPERATOR. Sec. 40. Section 32-1365.02, Arizona Revised Statutes, is amended 15 16 to read: 17 32-1365.02. Authorizing agents; consent for cremation, 18 disinterment or embalming; definition 19 Except as provided in section 32-1365.01 and in subsection E of Α. 20 this section, it is unlawful to cremate or disinter a dead human body 21 without prior written consent of the authorizing agent. 22 B. Except as provided in section 32-1365.01, it is unlawful to 23 embalm a dead human body without prior oral or written consent of the 24 authorizing agent. 25 C. A funeral establishment shall create a written record of an oral 26 consent given pursuant to this section that includes all of the following: 27 1. The name of the authorizing agent. 28 2. The relation of the authorizing agent to the deceased. 29 3. The date and time that consent was given. 4. The name of the person who obtained the consent. 30 31 5. Any other information required by the board DEPARTMENT. In determining who the proper authorizing agent is, the order of 32 D. 33 preference is the same as provided in section 36-831. If there is more than one member in a category listed in section 36-831 entitled to serve 34 35 as the authorizing agent, final arrangements may be made by any member of 36 that category unless that member knows of an objection by another member of the category. If an objection is known, final arrangements shall be 37 38 made by a majority of the members of the category who are reasonably 39 available. 40 E. On the order of a court or a county medical examiner, or a 41 person performing the duties of a county medical examiner, a dead human 42 body shall be disinterred. 43 F. If none of the persons listed in section 36-831 is willing or 44 financially capable of providing for the cremation or embalming of a dead 45 human body, the public fiduciary or other person who is designated by the

1 county in which a death occurs to handle funeral arrangements may order 2 the cremation or embalming.

3 G. A funeral establishment, an employee or agent of a funeral 4 establishment or a licensee shall exercise due diligence to obtain the 5 consent required pursuant to this section from the proper authorizing 6 It is an affirmative defense to any action or claim brought agent. 7 against a crematory, cemetery or funeral establishment relating to the 8 disposition of a dead human body that the crematory, cemetery or funeral 9 establishment relied in good faith on the direction of a person who 10 claimed to be the authorizing agent in providing for the lawful 11 disposition of a dead human body. The decision of a crematory, cemetery 12 or funeral establishment to cremate or otherwise provide for the lawful 13 disposition of a dead human body in reliance on the direction of a person 14 who claims to be the authorizing agent is presumed to be in good faith 15 unless the crematory, cemetery or funeral establishment has actual 16 knowledge that the claim is false.

H. If the authorizing agent is not reasonably available or unable to act as the authorizing agent, the person's right to be the authorizing agent shall pass to the next person or category of persons in the order of preference prescribed in section 36-831.

21 I. It is presumed that the authorizing agent is not reasonably 22 available to act as authorizing agent if the crematory, cemetery or funeral establishment after exercising due diligence has been unable to 23 24 contact the individual or if that person has been unwilling or unable to make final arrangements for the disposition of the decedent within fifteen 25 26 days after the initial contact by the crematory, cemetery or funeral 27 establishment. If a person in a prior category makes an initial contact 28 with the crematory, cemetery or funeral establishment or becomes able 29 before the final disposition of the decedent, that person resumes that 30 person's right to serve as the authorizing agent.

31 J. Any dispute among any of the persons listed in section 36-831, 32 subsection A concerning the right to control the disposition, including 33 cremation, of a decedent's remains shall be resolved by the parties to the dispute or by a court of competent jurisdiction in order to expedite the 34 35 resolution of a dispute among the parties. A crematory, cemetery or 36 funeral establishment shall IS not be liable for refusing to accept the 37 decedent's remains or TO inter, cremate or otherwise dispose of a decedent's remains until it receives a court order or other suitable 38 confirmation that the dispute has been resolved or settled. A crematory, 39 40 cemetery or funeral establishment may bring an action in a court of 41 competent jurisdiction in order to expedite the resolution of a dispute among the parties listed in section 36-831, subsection A. 42

43 K. For the purposes of this section, "reasonably available" means a 44 person who is able to be contacted by the crematory, cemetery or funeral 45 establishment without undue effort and who is willing and able to act

1 within fifteen days after the initial contact by the crematory, cemetery or funeral establishment. 2 3 Sec. 41. Section 32-1366, Arizona Revised Statutes, is amended to 4 read: 5 32-1366. Grounds for disciplinary action 6 A. After a formal hearing, the board DEPARTMENT may deny or refuse 7 to renew a license or registration or may take disciplinary action against 8 any embalmer, intern, funeral director, alkaline hydrolysis operator or 9 other person who is licensed or registered pursuant to article 2 or 2.1 of 10 this chapter for any of the following reasons: 11 1. Commission of an act of unprofessional conduct. 12 Repeated or continuing negligence or any other professional 2. 13 incompetence in the practice of funeral directing, embalming or alkaline 14 hydrolysis. 3. Violation of any provision of this chapter or any rule adopted 15 16 pursuant to this chapter. 17 4. Violation of any provision of title 44, chapter 10, article 7. 18 B. After a formal hearing, the board DEPARTMENT may deny or refuse 19 to renew a license or take disciplinary action against a responsible 20 funeral director for a violation of any provision of this chapter or any 21 rule adopted pursuant to this chapter by an employee of the licensed 22 funeral establishment that the responsible funeral director manages. Sec. 42. Section 32-1367, Arizona Revised Statutes, is amended to 23 24 read: 25 32-1367. Investigations; initial review; disciplinary 26 proceedings; civil penalty; letters of concern; 27 rehearings; inspections; probationary terms The **board** DEPARTMENT shall conduct an investigation when it 28 Α. 29 receives a written complaint that appears to show the existence of any 30 grounds for disciplinary action under this chapter or rules adopted 31 pursuant to this chapter. B. The board DEPARTMENT on its own initiative may investigate any 32 33 information that appears to show the existence of any grounds for disciplinary action under this chapter or rules adopted pursuant to this 34 35 chapter. 36 C. If it appears after an initial investigation that grounds for 37 disciplinary action may exist, the board DEPARTMENT may either request an 38 informal interview with the licensee or registrant or may issue a notice 39 of a formal hearing. If the initial investigation indicates that 40 suspension other than a temporary suspension imposed pursuant to 41 subsection D of this section or revocation of a license, registration or 42 endorsement may be warranted, the board DEPARTMENT shall schedule a formal 43 hearing pursuant to title 41, chapter 6, article 10. 44 D. After completing an informal interview, the board DEPARTMENT may 45 take any or all of the following disciplinary actions:

1. Issue a letter of censure or reprimand.

2 Impose probationary terms as the **board** DEPARTMENT deems 2. 3 necessary to protect the public health, safety and welfare and to 4 rehabilitate or educate the licensee or registrant. Probationary terms 5 imposed pursuant to this paragraph may include temporary suspension of a 6 license, registration or endorsement for a period of not more than thirty 7 days, restriction of the licensee's or registrant's right to practice 8 pursuant to this chapter and a requirement that restitution be made to any 9 funeral service consumer or other person who was injured by a violation of this chapter or rules adopted pursuant to this chapter. A licensee's or 10 11 registrant's failure to comply with any probationary terms imposed 12 pursuant to this paragraph is cause for the **board** DEPARTMENT to consider 13 the entire case against the licensee or registrant and any other alleged 14 violations of this chapter at a formal hearing.

15 3. Impose a civil penalty of not more than one thousand dollars 16 \$1,000 for each violation.

17 E. After completing a formal hearing, the **board** DEPARTMENT may take 18 any or all of the following disciplinary actions:

19

1

1. Issue a letter of censure or reprimand.

20 2. Impose probationary terms as the board DEPARTMENT deems 21 necessary to protect the public health, safety and welfare and to 22 rehabilitate or educate the licensee or registrant. Probationary terms 23 imposed pursuant to this paragraph may include a requirement that 24 restitution be made to any funeral service customer or other person who 25 was injured by a violation of this chapter or rules adopted pursuant to 26 this chapter.

27 3. Impose a civil penalty not to exceed three thousand dollars
28 \$3,000 per violation.

4. Suspend a license, registration or endorsement for not more than
ninety days for a first offense and not more than one hundred eighty days
for a second offense.

32

5. Revoke a license, registration or endorsement.

33 F. If. as a result of information ascertained during an investigation, informal interview or formal hearing, the **board** DEPARTMENT 34 determines that an alleged violation of this chapter or rules adopted 35 36 pursuant to this chapter is not sufficiently serious to warrant disciplinary action, the board DEPARTMENT may issue a letter of concern to 37 the licensee or registrant. The letter of concern shall advise the 38 licensee or registrant of the possible violation. 39

G. If a licensee or registrant refuses to participate in an informal interview or a formal hearing, the board DEPARTMENT may take any or all of the disciplinary actions listed in subsections D and E of this section.

44 H. Before the **board** DEPARTMENT may revoke or suspend a 45 license, registration or endorsement, other than a temporary suspension 1 imposed pursuant to subsection D of this section, the board DEPARTMENT 2 shall serve notice and conduct a hearing in the manner prescribed in title 3 41, chapter 6, article 10.

4 I. After service of notice of a decision of the **board** DEPARTMENT 5 suspending or revoking a license, registration or endorsement or imposing 6 a disciplinary action on a licensee or registrant pursuant to subsection D 7 or E of this section, a licensee may apply for a rehearing or review by 8 filing a motion pursuant to title 41, chapter 6, article 10. The filing 9 of a motion for a rehearing or review suspends the operation of the board's DEPARTMENT'S decision to impose a disciplinary action and allows 10 11 the licensee or registrant to continue to practice pending a denial or 12 granting of the petition and pending the decision of the board DEPARTMENT 13 on rehearing if a rehearing is granted. The board DEPARTMENT also may 14 grant a rehearing on its own motion if it finds newly discovered evidence or for any other reason that justifies a reconsideration of a matter. 15

J. Except as provided in section 41–1092.08, subsection H, any party who is aggrieved by a final order or decision of the board DEPARTMENT may appeal to the superior court pursuant to title 12, chapter 7, article 6.

K. All notices that the **board** DEPARTMENT is required to provide to any person under this chapter are fully effective by personal service or by mailing a copy of the notice by certified mail addressed to the person's last known address of record in the **board's** DEPARTMENT'S files. Notice by mail is complete at the time of its deposit in the mail.

L. In addition to the requirements of subsection K of this section, a funeral establishment or crematory shall file a notice with the board DEPARTMENT identifying the person on whom the board's DEPARTMENT'S notices relating to the funeral establishment or crematory shall be served.

M. IN ADDITION TO THE AUTHORITY GIVEN TO THE DEPARTMENT IN THIS
SECTION, THE DEPARTMENT MAY IMPOSE PROBATIONARY TERMS AS DESCRIBED IN
SUBSECTION D, PARAGRAPH 2 OF THIS SECTION AFTER THE DEPARTMENT INSPECTS A
FUNERAL ESTABLISHMENT, CREMATORY OR ALKALINE HYDROLYSIS FACILITY IF THE
DEPARTMENT DEEMS THE PROBATIONARY TERMS NECESSARY TO PROTECT THE PUBLIC
HEALTH, SAFETY AND WELFARE AND TO REHABILITATE OR EDUCATE THE LICENSEE.

35 Sec. 43. Section 32–1368, Arizona Revised Statutes, is amended to 36 read:

37

32-1368. Administrative costs

38 On its determination that a licensee or registrant has violated 39 a provision of this chapter or a rule adopted pursuant to this chapter, 40 the **board DEPARTMENT** may assess the licensee or registrant its 41 administrative costs and expenses incurred in conducting the investigation 42 and its administrative costs and expenses incurred in connection with the 43 informal interview or formal hearing. The **board** DEPARTMENT may assess these administrative costs and expenses in addition to any civil penalties 44 45 imposed pursuant to section 32-1367. The board DEPARTMENT shall deposit,

pursuant to sections 35-146 and 35-147, all monies collected pursuant to this section in the board of funeral directors' and embalmers' DIRECTORS fund ESTABLISHED BY SECTION 32-1308 to defray the board's DEPARTMENT'S expenses in connection with disciplinary investigations and hearings. Notwithstanding section 35-143.01, These monies may be spent on investigations and hearings without legislative appropriation.

Sec. 44. Section 32–1369, Arizona Revised Statutes, is amended to read:

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32-1369. <u>Cease and desist orders; injunctive relief; civil</u> penalty

A. In addition to all other remedies, if it appears to the board DEPARTMENT, either on complaint or otherwise, that any person has engaged in or is engaging in any act, practice or transaction that constitutes a violation of this chapter, of title 44, chapter 10, article 7 or of any rule adopted pursuant to this chapter, the board DEPARTMENT may either:

16 1. Serve a cease and desist order on the person by certified mail 17 or personal service requiring the person to cease and desist immediately 18 from engaging in the act, practice or transaction.

19 2. Apply, through the attorney general or county attorney of the 20 county in which the act, practice or transaction is alleged to have been 21 committed, to the superior court in that county for an injunction 22 restraining the person from engaging in the act, practice or transaction or doing any act in furtherance of the act, practice or transaction. On a 23 24 proper showing, the court shall grant a temporary restraining order, a 25 preliminary injunction or a permanent injunction without bond. Process in 26 an action under this paragraph may be served on the defendant in any 27 county of this state where the defendant transacts business or is found.

B. A person who receives a cease and desist order issued by the board DEPARTMENT pursuant to subsection A, paragraph 1 OF THIS SECTION is entitled to a hearing pursuant to title 41, chapter 6, article 10 within thirty days after the effective date of the order.

C. If a person fails to comply with an order issued by the board 32 DEPARTMENT pursuant to subsection A, paragraph 1 OF THIS SECTION, the 33 board DEPARTMENT shall file an action pursuant to subsection A, paragraph 34 35 2 OF THIS SECTION to restrain and enjoin the person from engaging in the 36 act, practice or transaction. The court in the action shall proceed as in 37 other actions for injunction. If the court finds that the person wilfully failed to obey a valid cease and desist order issued by the board 38 39 DEPARTMENT, the court shall impose a civil penalty of at least two hundred 40 fifty \$250 and not more than one thousand dollars \$1,000 per violation.

41 Sec. 45. Section 32–1371, Arizona Revised Statutes, is amended to 42 read:

32-1371. List of prices of funeral goods and services offered

44 A. The **board** DEPARTMENT shall adopt rules that require every 45 licensee or registrant to give a standardized written or printed price 1 list for retention to each person who personally inquires about funeral 2 arrangements or prices of funeral goods or AND services. A funeral 3 establishment shall offer each person the price list on beginning a 4 discussion either of funeral arrangements or of the selection of funeral 5 goods or AND services.

6 B. A price list shall be presented in an accurate and readable 7 manner in order to facilitate price comparisons by funeral service 8 consumers.

9 Sec. 46. Section 32–1372, Arizona Revised Statutes, is amended to 10 read:

11

32-1372. Display of merchandise prices; rules

12 The **board** DEPARTMENT shall adopt rules that require each funeral 13 establishment to place a price card in a conspicuous place with each casket, alternative container, outer burial container, alkaline hydrolysis 14 container or other item of funeral goods available for purchase. A 15 16 funeral establishment shall place each price card in a location that 17 enables a person to view the card without physically handling the card. 18 Merchandise photographs must have the price of the merchandise displayed 19 in a conspicuous manner.

20 Sec. 47. Section 32–1373, Arizona Revised Statutes, is amended to 21 read:

22

32-1373. Statement of funeral goods and services

A. A licensee or registrant shall not enter into a contract to furnish funeral goods or AND services in connection with the burial or other disposition of a dead human body until the licensee or registrant has first delivered to the potential purchaser a written or printed statement of funeral goods and services that contains the following information, if this information is available at the time the contract is executed:

30 1. The total charge for the services of the licensee or registrant 31 and the use of the funeral establishment, including preparing the body and 32 other professional services, and the charge for using automotive and other 33 necessary equipment.

34 2. An itemization of charges for the casket, alternative container35 or alkaline hydrolysis container and any outer burial container.

36 3. An itemization of fees or charges and the total amount of cash 37 advances made by the licensee or registrant for transportation, flowers, 38 cemetery or crematory charges, newspaper notices, clergy honorarium 39 HONORARIA, transcripts, telegrams, long-distance telephone calls, music 40 and any other advances authorized by the purchaser.

41

4. The method of payment and any interest charges.

42 5. An itemization of any fees or charges not included in paragraphs43 1 through 4 of this subsection.

6. The total amount of charges itemized and included pursuant to this subsection. 1 7. The location where the deceased will be held, embalmed or 2 cremated or will undergo alkaline hydrolysis if the location is not the 3 funeral establishment's premises.

8. A statement containing the name, address and telephone number of any corporation, limited liability company, partnership or limited partnership that holds an ownership interest of ten percent or more in the funeral establishment or crematory.

8 B. The statement of funeral goods and services delivered to the 9 potential purchaser shall also contain a conspicuous statement informing the potential purchaser that a casket, outer burial container, alternative 10 11 container used for cremation or covering used for alkaline hydrolysis may 12 be purchased and used, at the option of the purchaser, in connection with 13 the funeral services and final disposition of human remains, but that, 14 except as provided pursuant to section 36-136, the purchase or use of caskets, outer burial containers, alternative containers used for 15 16 cremation or coverings used for alkaline hydrolysis is not required by 17 law.

18 C. A licensee or registrant shall not bill or cause to be billed 19 any item that is referred to as a cash advanced item unless the net amount 20 paid for the item or items by the funeral establishment is the same as the 21 amount billed by the funeral establishment.

D. If the charge for any of the items prescribed in this section is not known at the time the contract is entered into, the licensee or registrant shall advise the purchaser of the charge for the item within a reasonable period after the information becomes available.

E. A funeral director shall certify a statement of funeral goods and services with the funeral director's license number and signature before conducting final services or within five days after the purchaser signs the statement, whichever is earlier.

30 Sec. 48. Section 32–1374, Arizona Revised Statutes, is amended to 31 read:

32

32-1374. Price list requirement: exemption

33 When a licensee or registrant makes arrangements by interstate 34 telecommunications to perform services in this state with any person 35 residing outside this state, the licensee or registrant is not required to 36 provide the written price list required pursuant to section 32-1371.

37 Sec. 49. Section 32-1375, Arizona Revised Statutes, is amended to 38 read:

39

32-1375. Price lists; telephone information

A. A licensee or registrant shall provide accurate information
about the retail prices of funeral goods or AND services readily available
for sale at the FUNERAL establishment at which the licensee or registrant
is employed to any person inquiring about these prices by telephone.

1 B. If a person requests a price list by telephone, the FUNERAL 2 establishment shall mail a price list to the caller and may charge a 3 reasonable postage and handling fee of not more than two dollars \$2. 4 Sec. 50. Section 32-1376, Arizona Revised Statutes, is amended to 5 read: 6 32-1376. Consumer information pamphlet 7 A. The **board** DEPARTMENT shall prepare and distribute to funeral 8 establishments a consumer information pamphlet that provides the following 9 information: 10 1. The meaning of terms used in funeral arrangements. 11 2. Legal requirements concerning funerals and the disposition of 12 human remains. 13 3. A description of illegal practices. 14 4. A description of required disclosures to funeral consumers. 5. A description of the **board's** DEPARTMENT'S responsibilities, 15 16 including where complaints may be filed. 17 6. Other relevant information. 18 B. A funeral establishment shall provide a copy of the consumer information pamphlet for retention to each person who personally inquires 19 20 about funeral arrangements or funeral goods or AND services. 21 Sec. 51. Section 32-1377, Arizona Revised Statutes, is amended to 22 read: 23 32-1377. Rules: relation to federal trade commission 24 regulations Except as authorized by the provisions of this article, rules 25 26 adopted by the **board** DEPARTMENT to implement this article shall be at least as stringent as federal trade commission regulations relating to 27 funeral industry practices as authorized by the federal trade commission 28 29 act as amended and in effect on July 19, 1994 (16 Code of Federal 30 Regulations part 453). 31 Sec. 52. Section 32-1381, Arizona Revised Statutes, is amended to 32 read: 32-1381. Funeral establishments; license required 33 A person shall not advertise or operate for compensation a funeral 34 establishment without first obtaining a funeral establishment license 35 36 PURSUANT TO THIS ARTICLE or an interim permit issued by the board 37 DEPARTMENT PURSUANT TO SECTION 32-1388. Sec. 53. Section 32-1382, Arizona Revised Statutes, is amended to 38 39 read: 40 32-1382. Funeral establishment requirements; responsible 41 <u>funeral director</u> A. A funeral establishment licensed pursuant to this article shall: 42 43 1. Provide separate rooms for each of the following: (a) An area inside the FUNERAL establishment that may be used as a 44 45 chapel for conducting funeral services.

1 (b) A preparation room meeting THAT MEETS minimum requirements 2 adopted by the board DEPARTMENT, that is maintained at all times in a 3 sanitary and professional manner, with THAT HAS sanitary flooring, 4 drainage and ventilation and that is equipped with instruments and 5 supplies necessary for the protection of TO PROTECT the health and safety 6 of the public and THE employees of the FUNERAL establishment in connection 7 with the preparation PREPARING and embalming σf dead human bodies. 8 Nothing prohibits THIS PARAGRAPH DOES NOT PROHIBIT the embalming of a body 9 at a central location.

10 (c) A display area for displaying funeral goods or the display of 11 FOR DISPLAYING funeral goods by photograph or electronic means.

12 2. Provide access to hearses or funeral coaches that are properly 13 equipped for the transportation of TRANSPORTING dead human bodies and that 14 are kept in a sanitary and professional manner.

3. Employ and designate a responsible funeral director to manage and supervise the daily operation of the funeral establishment. The responsible funeral director is responsible for the funeral establishment complying with the laws of this state and the rules of the board DEPARTMENT. The FUNERAL establishment or the responsible funeral director shall designate a licensed funeral director to act as an interim responsible funeral director.

B. All employees of a funeral establishment who handle dead human bodies shall use universal precautions and shall exercise reasonable care to minimize the risk of transmitting any communicable disease from a dead human body.

26 Sec. 54. Section 32–1383, Arizona Revised Statutes, is amended to 27 read:

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29

32-1383. <u>Application: qualifications for funeral</u> <u>establishment licensure</u>

30 An applicant for a funeral establishment license shall submit a Α. 31 completed application on a form prescribed by the board DEPARTMENT. The application shall be subscribed under oath and shall be accompanied by the 32 applicable fee pursuant to section 32-1309 and any additional information 33 34 that the **board** DEPARTMENT deems necessary. A business entity that applies for a license pursuant to this article shall submit to the board 35 36 DEPARTMENT with its application for licensure a copy of its partnership 37 agreement, its articles of incorporation or any other organizational documents REQUIRED TO BE FILED WITH THE CORPORATION COMMISSION. 38

B. A person who applies for a license pursuant to this article, or if the applicant is a business entity, the proprietors, partners, officers and directors of the entity, shall:

42

1. Be of good moral character.

43 2. submit a completed fingerprint card, criminal history background
 44 information and a fingerprint background check fee to the board
 45 DEPARTMENT.

1 C. The board or the board's designee DEPARTMENT shall inspect the 2 premises of a funeral establishment and investigate the character and 3 other qualifications of all applicants for licensure.

D. If the board DEPARTMENT finds that the applicant meets the
criteria for licensure under this article and rules adopted by the board
DEPARTMENT, the board DEPARTMENT shall issue an A FUNERAL establishment
license.

8 Sec. 55. Section 32-1388, Arizona Revised Statutes, is amended to 9 read:

10 11

12

32-1388. <u>Nontransferability of funeral establishment</u> <u>licenses; change of ownership; interim permits;</u> <u>definition</u>

A. A funeral establishment license issued by the **board** DEPARTMENT is not transferable or subject to sale or assignment, whether by A voluntary or involuntary process.

B. When IF there is a change of ownership of a funeral establishment, the licensee shall notify the board DEPARTMENT in writing and shall surrender the license to the board DEPARTMENT within twenty days after the change of ownership. The new owner shall also notify the board DEPARTMENT in writing within twenty days after the change of ownership and shall submit an application for a funeral establishment license to the board DEPARTMENT pursuant to section 32-1383.

C. The **board** DEPARTMENT shall issue an interim permit to a new owner of a licensed funeral establishment to allow the new owner to continue the operation of the FUNERAL establishment during the period that the new owner's license application is pending if the following conditions are met:

1. The new owner notifies the board DEPARTMENT of the change of ownership and submits an application for an interim permit and the applicable fee pursuant to section 32-1309 at least WITHIN three days, excluding Saturdays, Sundays and holidays, after the change takes place. Notice shall be given during regular business hours.

33 2. The funeral establishment continues to meet the requirements of 34 section 32-1382.

35 D. An interim permit issued by the **board** DEPARTMENT pursuant to 36 this section shall be for not more than forty-five days and shall not be extended except as provided in subsection E of this section. An interim 37 permit is a conditional permit and authorizes the holder to operate a 38 funeral establishment as would be permitted ALLOWED under a funeral 39 40 establishment license issued pursuant to this article. The holder of an 41 interim permit is subject to the licensing rules and disciplinary proceedings prescribed in this chapter and in rules adopted pursuant to 42 43 this chapter.

E. Notwithstanding subsection D of this section, for good cause shown, the board DEPARTMENT may extend an interim permit for not more than forty-five days.

F. Until an interim permit is issued, the **board** DEPARTMENT shall keep confidential all notices filed with the **board** DEPARTMENT by the prospective new owner of a licensed funeral establishment pursuant to this section.

6. For the purposes of this section, "regular business hours" means between the hours of 8:00 a.m. and 5:00 p.m. on any day of the week other than Saturday, Sunday or any other legal holiday or a day on which the board DEPARTMENT is authorized or obligated by law or executive order to close.

13 Sec. 56. Section 32–1389, Arizona Revised Statutes, is amended to 14 read:

15

32-1389. Application for change of name

16 The owner of a licensed funeral establishment shall submit an 17 application on a form prescribed by the board DEPARTMENT to change the 18 name of the funeral establishment. The application shall be subscribed 19 under oath and shall be accompanied by the applicable fee pursuant to 20 section 32-1309.

21 Sec. 57. Section 32–1390, Arizona Revised Statutes, is amended to 22 read:

23

32-1390. Application for change of location

24 The owner of a licensed funeral establishment shall submit an application on a form prescribed by the board DEPARTMENT to change the 25 26 location of the funeral establishment. The application shall be subscribed under oath and shall be accompanied by the applicable fee 27 pursuant to section 32-1309. Before the **board** DEPARTMENT approves a 28 29 request for a change of location pursuant to this section, the owner shall 30 demonstrate that the new location meets the requirements of section 31 32-1382.

32 Sec. 58. Section 32-1390.01, Arizona Revised Statutes, is amended 33 to read:

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35

32-1390.01. <u>Prohibited acts; disciplinary actions; agents and</u> <u>employees; civil penalty</u>

A. The board DEPARTMENT may deny or refuse to renew the license of a funeral establishment or may take disciplinary action against a funeral establishment for any of the following reasons:

39

1. COMMITTING fraud or misrepresentation in obtaining a license.

40 2. Failure FAILING to employ and designate a responsible funeral 41 director.

42 3. The display DISPLAYING or use of USING a funeral establishment 43 license at any place other than the FUNERAL establishment to which it is 44 issued. 4. A violation of any provision of VIOLATING title 44, chapter 10,
 article 7.

3 5. A violation of any provision of VIOLATING this chapter or a rule
4 adopted pursuant to this chapter.

5 6. THE COMMISSION OF an act by an agent or an employee of a THE 6 funeral establishment that violates any provision of this chapter or rules 7 adopted pursuant to this chapter.

8 B. The acts or omissions of an agent or employee of a funeral 9 establishment that violate any provision of this chapter or rules adopted 10 pursuant to this chapter are considered to be the acts or omissions of the 11 funeral establishment.

12 C. If the **board** DEPARTMENT finds that a funeral establishment has 13 committed an offense listed in subsection A OF THIS SECTION, it THE 14 DEPARTMENT may take any of the following actions:

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1. Issue a letter of censure or reprimand.

16 2. Impose probationary terms as the **board** DEPARTMENT considers 17 necessary to protect the public health, safety and welfare and to 18 rehabilitate or educate the licensee, including restitution to any 19 customer or other person who was injured by a violation of this chapter or 20 A rule adopted pursuant to this chapter.

21 3. Impose a civil penalty not to exceed three thousand dollars 22 \$3,000 per violation.

4. Revoke the license of the FUNERAL establishment pursuant to a
 disciplinary proceeding.

25 5. Suspend the license OF THE FUNERAL ESTABLISHMENT for not more 26 than ninety days for a first offense or not more than one hundred eighty 27 days for a second offense.

28 Sec. 59. Section 32-1390.02, Arizona Revised Statutes, is amended 29 to read:

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32-1390.02. <u>Disciplinary proceedings; notice</u>

A. Article 3 of this chapter and rules adopted pursuant to article 32 3 of this chapter govern disciplinary proceedings brought against a 33 funeral establishment.

34 B. Any notice required to be served by the board DEPARTMENT pursuant to section 32-1367, subsection K on a person WHO IS licensed 35 36 pursuant to article 2 of this chapter shall also be served by the board DEPARTMENT on each funeral establishment that employed or hired the person 37 at the time of the conduct causing the board DEPARTMENT to serve the 38 39 notice on the person. Each funeral establishment shall identify the person to whom the board DEPARTMENT shall send the notice to be served on 40 41 the funeral establishment as required by this subsection.

42 Sec. 60. Section 32-1391.01, Arizona Revised Statutes, is amended 43 to read:

44 45 32-1391.01. <u>Powers and duties of department</u>

A. The board DEPARTMENT shall adopt rules that:

Describe or define deceptive, misleading or professionally
 negligent practices concerning the offer or sale of prearranged funeral
 agreements funded by trust and the handling of these funds or accounts.

4 2. Implement and interpret consumer disclosure requirements of this 5 article to provide adequate information to purchasers of prearranged 6 funerals.

7 3. Prescribe funeral establishment recordkeeping requirements
 8 concerning prearranged funeral trust sales and PREARRANGED FUNERAL trust
 9 accounts and the handling and disposition of trust funds.

10 4. Define terms and develop forms and procedures to implement this 11 article.

B. The board DEPARTMENT OF HEALTH SERVICES shall enter into an intergovernmental agreement with the department of insurance and financial institutions to examine and report on prearranged funeral trust accounts of funeral establishments and to review prearranged funeral trust sales and trust account forms and procedures used by funeral establishments.

17 Sec. 61. Section 32-1391.02, Arizona Revised Statutes, is amended 18 to read:

19 20 32-1391.02. <u>Prearranged funeral agreements: restrictions on</u> <u>sales</u>

A. A person shall not enter into a prearranged funeral agreement other than in accordance with the provisions of this article and the rules adopted pursuant to this article.

24 B. The **board** DEPARTMENT shall adopt rules that require every 25 funeral establishment that sells prearranged funeral agreements to give a 26 standardized written or printed price list for retention to each person 27 personally inquires about prearranged funeral agreements. On who 28 beginning a discussion regarding prearranged funeral agreements, а 29 registered prearranged funeral salesperson or a licensed insurance producer who a funeral establishment employs or contracts with to sell 30 31 prearranged funeral agreements funded by insurance PERSON AFFILIATED WITH THE FUNERAL ESTABLISHMENT shall present the price list to the consumer. 32 33 The list shall be presented in an accurate and readable manner in order to 34 facilitate price comparisons by consumers.

C. A prearranged funeral agreement shall be funded by insurance or trust. A funeral establishment or an agent or employee of a funeral establishment shall not accept payment for or agree to enter into any prearranged funeral agreement unless the name of a licensed funeral establishment appears on the statement of goods and services used in connection with the PREARRANGED FUNERAL agreement and one of the following is true:

42 1. If the PREARRANGED FUNERAL agreement is a prearranged funeral 43 agreement funded by insurance, the funeral establishment employs or 44 contracts with insurance producers who are licensed pursuant to title 20 45 to sell the PREARRANGED funeral agreement.

1 2. If the PREARRANGED FUNERAL agreement is a prearranged funeral 2 agreement funded by trust, the FUNERAL establishment has been issued a 3 prearranged funeral sales endorsement to its license and the salesperson 4 has been issued a prearranged funeral salesperson registration by the 5 board allowing the FUNERAL establishment and the person to sell 6 prearranged funeral agreements funded by trust. 7 3. If the PREARRANGED FUNERAL agreement is a payable on death 8 account. the account is not under the control of the FUNERAL 9 A funeral establishment or an agent or employee of a establishment. funeral establishment shall not accept a deposit for a payable on death 10 11 account. 12 Sec. 62. Section 32-1391.03, Arizona Revised Statutes, is amended 13 to read: 14 32-1391.03. Department of insurance and financial 15 institutions; powers and duties; prearranged 16 funeral trust accounts 17 A. The department of insurance and financial institutions shall 18 determine all of the following in its examinations of prearranged funeral 19 trust accounts: 20 1. The names and addresses of purchasers of prearranged funerals 21 and the amount each purchaser paid to the funeral establishment. 22 2. The location and status of all monies received. 23 3. The total amount in trust accounts. 4. Whether a funeral establishment is complying with this article 24 25 and rules adopted pursuant to this article. 26 5. Whether a funeral establishment is following recognized 27 accounting procedures for prearranged funeral trust accounts and handling monies received from prearranged funeral sales. 28 29 B. The department OF INSURANCE AND FINANCIAL INSTITUTIONS shall: 30 Conduct examinations on a random basis or in connection with an 1. 31 investigation pursuant to procedures established by the board DEPARTMENT OF HEALTH SERVICES. 32 2. Examine the prearranged funeral trust accounts of each funeral 33 34 establishment at least once within the first twelve months after it begins to sell prearranged funerals and at least once every three years 35 36 thereafter. 37 3. Include prearranged funeral trust accounts established before January 1, 1985 in its examinations. 38 39 C. The department OF INSURANCE AND FINANCIAL INSTITUTIONS may 40 examine and investigate prearranged funeral trust accounts pursuant to 41 title 6, chapter 1, article 3 and pursuant to the powers of the board DEPARTMENT OF HEALTH SERVICES concerning prearranged funeral sales and 42 43 trust accounts. D. If the department OF INSURANCE AND FINANCIAL INSTITUTIONS 44 45 determines after investigation INVESTIGATING or examination of EXAMINING a

prearranged funeral trust account that a violation of any provision of this article has occurred, it shall send a written report to the board DEPARTMENT OF HEALTH SERVICES within thirty days of AFTER completion of the investigation or examination that includes an identification of the violation and any relevant documents.

6 E. The department OF INSURANCE AND FINANCIAL INSTITUTIONS shall 7 assess each funeral establishment at the rate of not more than \$520 per 8 day for each examiner employed in the examination of the FUNERAL 9 establishment's prearranged funeral trust accounts pursuant to the 10 requirements of this section.

11 Sec. 63. Section 32–1391.04, Arizona Revised Statutes, is amended 12 to read:

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ት ጥ 1 ጦ 32-1391.04. <u>Prearranged funeral trust accounts; books and</u> <u>records: inspection and examination</u>

A. All funeral establishments and financial institutions shall, on request of the department of insurance and financial institutions, SHALL make their prearranged funeral trust account books and records available for inspection and examination by the department OF INSURANCE AND FINANCIAL INSTITUTIONS.

B. All EACH financial institutions INSTITUTION with trust funds deposited pursuant to this article shall at least quarterly send a copy to the department OF INSURANCE AND FINANCIAL INSTITUTIONS of each cancellation request or death certificate it THE FINANCIAL INSTITUTION has received that resulted in a withdrawal of funds from the trust account.

25 C. A financial institution shall have no DOES NOT HAVE A legal duty 26 to inquire about the disbursement of any trust funds deposited pursuant to 27 this article if the financial institution has received the properly 28 executed notifications or certifications required by this article.

D. A financial institution or funeral establishment operating
 according to the trust provisions established in this article shall IS not
 be considered TO BE in the trust business under title 6, chapter 8.

32 Sec. 64. Section 32-1391.09, Arizona Revised Statutes, is amended 33 to read:

34 35 32-1391.09. <u>Prearranged funeral agreements funded by trust</u>; consumer disclosures

A. Each prearranged funeral agreement funded by trust shall contain
 the following conspicuous notice that shall be initialed by the purchaser:
 <u>Notice to Purchaser</u>

39This prearranged funeral agreement is for the future40funeral arrangements of _____(name of beneficiary) _____. The41payments you make under this prearranged funeral agreement42will be deposited in trust account number _______ at43the (office or branch) of the (name of financial44institution). Written notice will be mailed to you if this45PREARRANGED FUNERAL TRUST account is transferred to another

1 financial institution. That notice will include the name and 2 location of the financial institution and the new PREARRANGED 3 FUNERAL trust account number. The total monies intended to be 4 deposited in this PREARRANGED FUNERAL trust account over the 5 term of the agreement is \$_____. An initial service 6 fee of \$_____ has been charged which will be paid to this 7 funeral establishment. If this PREARRANGED FUNERAL agreement 8 is canceled, any portion of the initial service fee which THAT 9 has not been paid under the PREARRANGED FUNERAL agreement is 10 no longer due and payable to the FUNERAL establishment. An 11 annual service fee of _____% of the annual accrued interest 12 on the funds in the PREARRANGED FUNERAL trust account will 13 also be charged for administrative and accounting expenses. If 14 you wish to cancel this agreement, you must give the funeral 15 establishment a written request to cancel before the trust 16 funds will be refunded. If you cancel this PREARRANGED 17 FUNERAL agreement within three business days after signing 18 this PREARRANGED FUNERAL agreement, all monies paid, including 19 all service fees, will be refunded to you. If remaining trust 20 funds exist after performance of this PREARRANGED FUNERAL 21 agreement, those funds will be refunded to the estate of the 22 beneficiary. The prices of the funeral goods and services you 23 have requested will be the prices in effect at the time of the 24 future funeral arrangements.

25

Purchaser initials:____

B. A prearranged funeral agreement shall specifically itemize the funeral goods and services to be provided under the PREARRANGED FUNERAL agreement and any funeral, burial, cemetery or crematory expenses that are not covered under the PREARRANGED FUNERAL agreement.

30 C. Each fixed price prearranged funeral agreement funded by trust 31 shall contain the following additional conspicuous notice that shall be 32 initialed by the purchaser:

33 Fixed Price Contract Notice 34 This funeral establishment has agreed to charge you the 35 prices listed in this PREARRANGED FUNERAL agreement for the 36 funeral goods and services you have selected for the future 37 funeral arrangements of (name of beneficiary) . However, you should note that this PREARRANGED FUNERAL agreement may be 38 39 in effect for many years and that future events may affect our 40 ability to honor this PREARRANGED FUNERAL agreement at the 41 time of the funeral arrangements. If a funeral item is no longer manufactured or available at the time of the funeral 42 43 arrangements, a substantially equivalent item acceptable to the person designated on this PREARRANGED FUNERAL agreement 44 45 will be substituted. This PREARRANGED FUNERAL agreement

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should not be considered as insurance. You have agreed that the funeral establishment shall receive _____% of all interest accruing on the trust fund if it performs the future funeral arrangements as required by this PREARRANGED FUNERAL agreement. If the funeral establishment does not honor this PREARRANGED FUNERAL agreement, you may have legal remedies available to enforce this contract at the price you agreed to pay.

Purchaser initials:____

D. A fixed price prearranged funeral agreement funded by trust 10 11 shall specifically itemize the funeral goods and services to be provided under the PREARRANGED FUNERAL agreement, the current prices to be charged 12 13 for the FUNERAL goods and services at the time of the future funeral arrangements and any burial, cemetery or crematory expenses that are not 14 15 covered under the PREARRANGED FUNERAL agreement. If certain funeral goods provided under the PREARRANGED FUNERAL 16 to be agreement are not 17 manufactured or supplied at the time of the funeral arrangements, the 18 funeral establishment shall provide substantially equivalent funeral goods 19 that are acceptable to the person designated on the PREARRANGED FUNERAL 20 agreement or the person legally responsible for final disposition of the 21 beneficiary's remains. If any of these persons are unavailable, the 22 substitution of funeral goods shall be determined by rules established by 23 the **board** DEPARTMENT. A funeral establishment shall not represent or 24 imply that the agreed to prices are guaranteed, frozen or otherwise an absolute economic certainty in the future. If a funeral establishment 25 26 specifies the prices to be charged pursuant to this subsection, it shall 27 delete the last sentence of the notice required by subsection A from the 28 PREARRANGED FUNERAL agreement.

29 E. A prearranged funeral agreement funded by trust shall contain 30 all terms of the prearranged funeral trust account agreement with the 31 financial institution.

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F. Each funeral establishment shall provide a copy of:

33 1. The prearranged funeral agreement for retention to each person34 who enters into a prearranged funeral agreement.

35 2. Its THE FUNERAL ESTABLISHMENT'S current price list for retention
 36 to each person who inquires about or is solicited regarding a prearranged
 37 funeral agreement.

38 Sec. 65. Section 32-1391.12, Arizona Revised Statutes, is amended 39 to read:

40 41 32–1391.12. <u>Prearranged funeral sales endorsement:</u> <u>requirements: renewal</u>

A. A funeral establishment that desires to offer or sell
 prearranged funeral agreements funded by trust shall apply to the board
 DEPARTMENT for an endorsement to its establishment license. The board

1 DEPARTMENT shall issue the endorsement if the funeral establishment 2 satisfies the following requirements:

3

1. Pays the prescribed application fee pursuant to section 32-1309.

2. Provides the name and address of each person owning ten per cent
PERCENT or more of the common shares or other ownership or beneficial
interest in the funeral establishment.

3. Provides the name and address, any prior names or aliases, all prior addresses for the immediately preceding seven year SEVEN-YEAR period, and the date and location of birth of any responsible funeral director, manager, officer, owner, trustee or other person controlling the funeral establishment and who has been convicted of any of the crimes or has been the subject of any of the court actions described in section 10-202, subsection D, paragraph 1, subdivisions (a), (b) and (c).

4. Delivers a corporate surety bond in favor of this state, executed by a surety company authorized to do business in this state, in the amount that is prescribed by the board DEPARTMENT and that is recoverable by this state for the benefit of any person injured by a violation of this article. The board DEPARTMENT shall establish, in its rules, a separate bond requirement amount for each of the following:

20 (a) Funeral establishments that sold fewer than one hundred 21 prearranged funeral agreements funded by trust during the immediately 22 preceding calendar year.

(b) Funeral establishments that sold one hundred or more but fewer
 than two hundred fifty prearranged funeral agreements funded by trust
 during the immediately preceding calendar year.

(c) Funeral establishments that sold two hundred fifty or more
 prearranged funeral agreements funded by trust during the immediately
 preceding calendar year.

Bond amount requirements established by the board DEPARTMENT shall not be less than fifteen thousand dollars AT LEAST \$15,000 or BUT NOT more than fifty thousand dollars \$50,000 for each FUNERAL establishment, except that as each salesperson is registered by the board, the funeral establishment shall increase its bond by an additional five thousand dollars during the employment of that salesperson.

5. Provides the full name and address of the funeral director
 designated by the FUNERAL establishment to offer or sell prearranged
 funerals and all of the following:

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(a) A recent photograph of the designated funeral director.

39 (b) Any prior names or aliases used by the designated funeral 40 director.

41 (c) All prior addresses of the designated funeral director for the 42 immediately preceding seven year SEVEN-YEAR period.

43 (d) The date and location of the designated funeral director's 44 birth.

1 (e) A declaration from the designated funeral director that the funeral director has not been convicted of any felony or convicted of any 2 other crime involving dishonesty, fraud, deception, misrepresentation, 3 4 embezzlement or breach of fiduciary duty in any state or federal court 5 within the seven year SEVEN-YEAR period immediately preceding the date of 6 application. 7 (f) A declaration from the designated funeral director that the 8 funeral director has not been the subject of a consumer fraud, securities 9 fraud or civil racketeering judgment or consent order in any state or 10 federal court within the seven year SEVEN-YEAR period immediately 11 preceding the date of application. about 12 6. Provides information existing prearranged funeral 13 agreements funded by trust of the funeral establishment required by the board DEPARTMENT. 14 B. A prearranged funeral sales endorsement shall be renewed 15 16 annually by the funeral establishment by payment of the prescribed renewal fee pursuant to section 32-1309 and by compliance with the requirements 17 described in subsection A, paragraphs 2, 3 and 4 of this section on or 18 19 before July 31. 20 C. Failure to pay the renewal fee by July 31 voids the endorsement. 21 An endorsement voided under this subsection may be reinstated on 22 compliance with subsection B of this section and payment of the prescribed 23 reinstatement fee. 24 Sec. 66. Section 32-1391.13, Arizona Revised Statutes, is amended 25 to read: 26 32-1391.13. Grounds for denial or refusal to renew funeral 27 establishment sales endorsement or disciplinary 28 action 29 The **board** DEPARTMENT may deny or refuse to renew a prearranged 30 funeral sales endorsement or may take disciplinary action against a 31 funeral establishment if any of the following occurs: 32 1. The funeral establishment fails to satisfy the requirements of 33 section 32-1391.12. 2. The funeral establishment fails to comply with the annual report 34 35 requirement prescribed in section 32-1391.16. 36 3. The funeral establishment, OR its designated funeral director 37 or any prearranged funeral salesperson it employs or engages violates this 38 article or any rule adopted pursuant to this article. 39 4. The funeral establishment makes false or misleading statements 40 on its initial or renewal application or on the required annual report. 41 5. The designated funeral director is convicted of any crime or is 42 the subject of any court decision described in section 32-1391.12, 43 subsection A, paragraph 5, subdivision (e) or (f).

1 6. The FUNERAL establishment, OR its designated funeral director 2 or any registered salesperson it employs or engages violates any provision 3 of title 44, chapter 10, article 7. 4 Sec. 67. <u>Repeal</u> 5 Sections 32-1391.14 and 32-1391.15, Arizona Revised Statutes, are 6 repealed. 7 Sec. 68. Section 32-1391.16. Arizona Revised Statutes, is amended 8 to read: 9 32-1391.16. Prearranged funeral sales and trust account 10 activities: funeral establishments: annual 11 report A. On or before May 1, each funeral establishment holding a 12 13 prearranged funeral sales endorsement shall file an annual report with the board DEPARTMENT concerning its prearranged funeral sales and trust 14 account activities during the preceding calendar year. 15 16 B. The funeral establishment shall pay the annual report fee 17 prescribed in section 32-1309 when the annual report is filed. 18 C. The annual report shall contain the following information sworn 19 to by the owner or owners of the funeral establishment: 20 1. The names and addresses of persons who were sold prearranged 21 funerals funded by trust by the funeral establishment during the preceding 22 calendar year, AND the names of the persons who are to be the 23 beneficiaries of the prearranged funerals and the name of the registered 24 salesperson selling each prearranged funeral. 25 2. The total contract amount for each purchaser listed in paragraph 26 1 of this subsection, the total AMOUNT OF monies previously paid on each contract and the AMOUNT OF monies paid by and refunded to the purchaser on 27 each contract during the preceding calendar year. 28 29 3. The total trust funds contained in the funeral establishment's prearranged funeral trust accounts as of the end of the preceding calendar 30 31 year and the total funds received in the trust accounts during that year. 4. The total AMOUNT OF monies, if any, received from purchasers but 32 not deposited in the trust accounts as of the end of the preceding 33 calendar year, excluding initial service fees received by the funeral 34 35 establishment. 36 5. The names, registration numbers and addresses a]] of salespersons employed or otherwise engaged by the funeral establishment 37 during the preceding calendar year and the names and registration numbers 38 39 of all salespersons terminated during that year. 40 6. The names and addresses of the financial institutions where the 41 trust funds are on deposit and the account number of each account. 7. A statement of the owner of the funeral establishment that the 42 43 FUNERAL establishment has complied with this article and rules adopted 44 pursuant to this article. 45 8. Other information required by the **board** DEPARTMENT.

1 D. Each funeral establishment that does not offer or sell 2 prearranged funerals funded by trust or hold a prearranged funeral sales 3 endorsement shall file with the **board** DEPARTMENT the annual report 4 described in subsection C of this section concerning all prearranged 5 funeral trust accounts established before January 1, 1985 and in existence 6 during the preceding calendar year on or before May 1. For the purposes 7 of this subsection, "prearranged funeral trust account" includes all 8 prearranged funeral trust accounts or funds established pursuant to laws 9 in existence before January 1, 1985.

10 E. The **board** DEPARTMENT OF HEALTH SERVICES shall provide the 11 department of insurance and financial institutions with a copy of each 12 annual report filed pursuant to this section.

13 Sec. 69. Section 32–1393, Arizona Revised Statutes, is amended to 14 read:

15

32-1393. <u>Crematories; license required; employee training</u>

A. A person shall not advertise or operate a crematory, unless the person has received a certificate of authority from the state real estate department, without first obtaining a crematory license issued by the board DEPARTMENT OF HEALTH SERVICES.

B. A licensed crematory and its employees shall follow all applicable provisions of this article and rules adopted pursuant to this article. A licensed crematory shall provide appropriate training for its employees and is strictly accountable for compliance by both its licensed and unlicensed employees with the provisions of this article and all applicable federal, state and local rules and regulations regarding occupational and workplace health and safety.

27 Sec. 70. Section 32-1394, Arizona Revised Statutes, is amended to 28 read:

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32-1394. <u>Crematory requirements; responsible cremationist</u>

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A crematory licensed pursuant to this article shall:

1. Maintain a retort that is operated at all times in a sanitary and professional manner, that conforms to local building and environmental codes and that provides protection for the health and safety of persons in attendance at a cremation and employees of the crematory.

2. Maintain a holding facility that is secure from access by anyone other than employees of the crematory and public officials in the performance of their official duties, that complies with applicable public health laws, that protects the health and safety of employees of the crematory and that preserves the dignity of human remains in the facility.

A. Possess all equipment and supplies that are necessary to conduct
cremations in a manner that provides protection for the health and safety
of persons in attendance at a cremation and employees of the crematory.

43 4. Employ and designate a responsible cremationist who is licensed 44 pursuant to this article and who is trained in crematory operations to 45 manage the daily operation of the crematory. The responsible cremationist is responsible for the crematory complying with the laws of this state and
 the rules of the board DEPARTMENT OF HEALTH SERVICES or the rules of the
 department of STATE real estate DEPARTMENT, as applicable. The crematory
 or the responsible cremationist shall designate a licensed cremationist to
 act as an interim responsible cremationist. THIS PARAGRAPH DOES NOT APPLY
 IF THE CREMATORY IS OPERATED OR SUPERVISED BY A LICENSED FUNERAL DIRECTOR.
 Sec. 71. Section 32-1394.01, Arizona Revised Statutes, is amended

7 Sec. 71. Section 32-1394.01, Arizona Revised Statutes, is amended 8 to read:

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32-1394.01. <u>Application; qualifications for cremationist</u> <u>licensure: licensure requirement for</u> <u>responsible cremationists</u>

A. An applicant for a cremationist license shall submit a completed application on a form prescribed by the board DEPARTMENT. The application shall be subscribed under oath and shall be accompanied by the applicable fee pursuant to section 32-1309 and any additional information that the board DEPARTMENT deems necessary.

B. An applicant for a cremationist license shall be of good moral character and shall submit a completed fingerprint card and the prescribed fingerprint records check fee to the board DEPARTMENT OF HEALTH SERVICES to enable the board DEPARTMENT OF HEALTH SERVICES or the department of public safety to conduct a criminal records check.

22 C. An applicant for a cremationist license shall meet the 23 educational requirements as prescribed by the board DEPARTMENT in rule.

D. If the **board** DEPARTMENT finds that the applicant meets the criteria for cremationist licensure under this section and under rules adopted by the **board** DEPARTMENT, the **board** DEPARTMENT shall issue a cremationist license.

E. Notwithstanding any other law, A responsible cremationist is required to SHALL be licensed pursuant to this article. Any other cremationist may be licensed pursuant to this article but, if not licensed, may engage only in cremation activity that is allowed without a license.

33 Sec. 72. Section 32–1395, Arizona Revised Statutes, is amended to 34 read:

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32-1395. <u>Application; qualifications for licensure</u>

36 A. An applicant for a crematory license shall submit a completed 37 application on a form prescribed by the board DEPARTMENT. If the applicant is a business entity, the entity shall direct a natural person 38 who is an owner of the entity to submit its application. The application 39 40 shall be subscribed under oath, shall contain the name of the responsible 41 cremationist and shall be accompanied by the applicable fee pursuant to section 32-1309 and any additional information that the board DEPARTMENT 42 43 deems necessary. A business entity that applies for a license pursuant to 44 this article shall submit to the **board** DEPARTMENT with its application for 45 licensure a copy of its partnership agreement, its articles of

1 incorporation or organization or any other organizational documents 2 required to be filed with the corporation commission.

B. A person who applies for a license pursuant to this article, or if the applicant is a business entity, the ALL owners, partners, officers, directors and trust beneficiaries of the entity, shall.

6

1. Be of good moral character.

7 2. submit a completed fingerprint card, criminal history background 8 information and a fingerprint background check fee to the board 9 DEPARTMENT.

10 C. The board or the board's designee DEPARTMENT shall inspect the 11 premises of a crematory and investigate the character and other 12 qualifications of all applicants for licensure pursuant to this article to 13 determine whether the crematory and the applicants are in compliance with 14 the requirements of this article and rules adopted by the board 15 DEPARTMENT.

16 D. If the **board** DEPARTMENT finds that the applicant meets the 17 criteria for licensure under this article and rules adopted by the **board** 18 DEPARTMENT, the **board** DEPARTMENT shall issue a crematory license.

19 Sec. 73. Section 32–1397, Arizona Revised Statutes, is amended to 20 read:

21 22 32-1397. <u>Nontransferability of crematory licenses; change of</u> <u>ownership; interim permit; definition</u>

A. A crematory license issued by the **board** DEPARTMENT is not transferable or subject to sale or assignment, whether by A voluntary or involuntary process.

B. When IF a change of ownership of a crematory occurs, the licensee shall notify the board DEPARTMENT in writing and shall surrender the license to the board DEPARTMENT within twenty days after the change of ownership. The new owner shall also notify the board DEPARTMENT in writing within twenty days after the change of ownership and shall submit an application for a crematory license to the board DEPARTMENT pursuant to section 32-1395.

33 C. The board DEPARTMENT shall issue an interim permit to a new 34 owner of a licensed crematory to allow the new owner to continue the 35 operation of the crematory during the period that the new owner's license 36 application is pending if the following conditions are met:

37 1. The new owner notifies the board DEPARTMENT of the change of 38 ownership and submits an application for an interim permit and the 39 applicable fee pursuant to section 32–1309 at least WITHIN three days, 40 excluding Saturdays, Sundays and holidays, after the change takes place. 41 Notice shall be given during regular business hours.

42 2. The crematory continues to meet the requirements of section 43 32-1394.

D. An interim permit issued by the **board** DEPARTMENT pursuant to this section shall be for not more than forty-five days and shall not be extended except as provided in subsection E of this section. An interim permit is a conditional permit and authorizes the holder to operate a crematory as would be permitted ALLOWED under a crematory license issued pursuant to this article. The holder of an interim permit is subject to the licensing rules and disciplinary proceedings prescribed in this chapter and in rules adopted pursuant to this chapter.

7 E. Notwithstanding subsection D of this section, for good cause 8 shown, the board DEPARTMENT may extend an interim permit for not more than 9 forty-five days.

10 F. Until an interim permit is issued, the **board** DEPARTMENT shall 11 keep confidential all notices filed with the **board** DEPARTMENT by the 12 prospective new owner of a licensed crematory pursuant to this section.

G. For the purposes of this section, "regular business hours" means between the hours of 8:00 a.m. and 5:00 p.m. on any day of the week other than Saturday, Sunday or any other legal holiday or a day on which the board DEPARTMENT is authorized or obligated by law or executive order to close.

18 Sec. 74. Section 32–1397.01, Arizona Revised Statutes, is amended 19 to read:

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32-1397.01. <u>Crematories; change of name</u>

The owner of a licensed crematory who desires to change the name of the crematory shall submit an application on a form prescribed by the **board** DEPARTMENT. The application shall be subscribed under oath and shall be accompanied by the applicable fee.

25 Sec. 75. Section 32-1397.02, Arizona Revised Statutes, is amended 26 to read:

27

32-1397.02. <u>Crematories: change of location</u>

The owner of a licensed crematory shall submit an application on a form prescribed by the board DEPARTMENT to change the location of the crematory. The application shall be subscribed under oath and shall be accompanied by the applicable fee. Before the board DEPARTMENT approves a request for a change of location pursuant to this section, the owner shall demonstrate that the new location meets the requirements of section 32-1394.

35 Sec. 76. Section 32–1398, Arizona Revised Statutes, is amended to 36 read:

37

32-1398. Crematories: prohibited acts; disciplinary actions

A. The board DEPARTMENT may take disciplinary action against a
 crematory or an agent or employee of a crematory for any of the following
 acts:

41 1. Unless otherwise permitted ALLOWED by law, selling or offering 42 to sell a cremation that is not arranged by a funeral establishment 43 licensed pursuant to article 4 of this chapter. This paragraph does not 44 prohibit charging a cremation fee. 1 2. Unless otherwise permitted by law, selling or offering to sell 2 any funeral goods or AND services other than cremation.

41

3 3. Cremating or causing the cremation of a dead human body before 4 obtaining certification from the county medical examiner or person 5 performing the duties of the county medical examiner pursuant to section 6 11-599 and, if the deceased person did not execute a document authorizing 7 the deceased person's cremation pursuant to section 32-1365.01, before 8 obtaining express written consent to cremate the body from the authorizing 9 agent pursuant to section 32-1365.02.

10 4. Using a retort for any purpose other than the cremation of human 11 remains.

12 Cremating more than one dead human body at the same time in the 5. 13 same retort without the express written consent of the authorizing agents.

6. Introducing a second dead human body into a retort before 14 reasonable efforts have been made to remove all fragments of the cremated 15 16 remains from the preceding cremation without the express written consent 17 of the authorizing agents. Incidental and unavoidable residue remaining 18 in a retort after a cremation does not constitute a violation of this 19 paragraph.

20 7. Introducing the cremated human remains of a second dead human 21 body into a processor before the termination of the processing of the 22 cremated human remains that were previously in the processor and before reasonable efforts have been made to remove all fragments of cremated 23 24 remains from the preceding processing without the express written consent of the authorizing agents. Incidental and unavoidable residue remaining 25 26 in a processor after a processing does not constitute a violation of this 27 paragraph.

28 8. Retaining any accumulated human residue from any retort, 29 processor, container or other equipment used in cremation. A crematory 30 shall dispose of all accumulated human residue in a cemetery in accordance 31 with the rules of the cemetery and any applicable local ordinances.

32 9. Selling or offering for sale anything of value obtained as a 33 result of the cremation process.

34 10. Violating any provision of this chapter or a rule adopted 35 pursuant to this chapter.

36 B. The acts OR OMISSIONS of an agent or employee of a crematory 37 that violate this chapter or rules adopted pursuant to this chapter shall 38 be ARE deemed to be acts OR OMISSIONS of the crematory.

39 Sec. 77. Section 32-1399, Arizona Revised Statutes, is amended to 40 read:

32-1399. Crematories: rules: standards of practice

42 The **board** DEPARTMENT shall adopt rules that establish standards 43 equivalent to section 32-1307, subsection A, paragraph 5-4 for regulating crematories and cremation and that include the following: 44

1 1. A crematory shall develop, implement and maintain a written 2 procedure for the identification of IDENTIFYING human remains that ensures 3 that remains can be identified from the time that a crematory accepts the 4 delivery of the remains until the cremated remains are released to the 5 authorizing agent. The identification procedures shall require the 6 crematory to comply with the requirements of this section. The crematory 7 shall not open a container containing human remains, except under the personal supervision of a licensed funeral director or embalmer or a 8 9 responsible cremationist licensed pursuant to this article and trained in 10 crematory operations to manage the daily operation of the crematory. 11 After taking custody of human remains, a crematory shall immediately 12 verify the identification attached to the casket or cremation container 13 and assign an identification number. The crematory shall not accept 14 unidentified caskets or cremation containers. The identification shall include the name and address of the deceased, the name and relationship of 15 16 the authorizing agent, the name of the person or entity engaging the 17 crematory services, a valid cremation permit issued by a government agency 18 and a metal cremation disk containing the identification number. The disk 19 shall be placed with the deceased during cremation.

20 2. If a crematory is unable to cremate the human remains 21 immediately after taking custody, the crematory shall store the remains in 22 a holding facility that is secure from access by anyone other than 23 employees of the crematory and public officials in the performance of 24 their duty and that complies with applicable public health laws, preserves 25 the dignity of the human remains and protects the health of employees of 26 the crematory.

27 3. A crematory shall not accept a casket or cremation container from which there is evidence of leakage of body fluids from the human 28 29 remains and shall not hold human remains for cremation unless they are 30 contained in an individual, closed casket or rigid cremation container of 31 combustible material that preserves the dignity of the human remains and 32 that protects the health of employees of the crematory. Human remains that are not embalmed shall be held by the crematory in a refrigerated 33 34 holding facility that maintains human remains at or below thirty-eight 35 degrees fahrenheit or in compliance with applicable public health laws.

4. All body prostheses, bridgework or similar items removed from
 the cremated remains shall be disposed of by the crematory unless an
 alternative disposition is agreed to in the authorization to cremate.

39 5. After cremation, the crematory as far as practicable shall 40 remove visible parts of the residual of the cremation process from the 41 retort, shall not combine the cremated or processed remains with other 42 cremated or processed remains and shall attach the identification of the 43 cremated or processed remains to the temporary container or urn into which 44 the remains are placed. 6. The crematory shall place cremated or processed remains in a temporary container or urn. Extra space may be filled with clean packing material that will not combine with the cremated or processed remains. The lid or top shall be securely closed. Any cremated or processed remains that do not fit in the temporary container or urn shall be returned in a separate container or, with permission of the authorizing agent, disposed of by the crematory.

8 7. A crematory may dispose of cremated or processed remains in any 9 legal manner directed by a document prepared pursuant to section 32-1365.01 or agreed to by the authorizing agent. If the authorizing 10 11 agent agrees to take possession and does not take possession of the 12 remains within thirty days after cremation or on an agreed date, the 13 crematory shall send written notice to the last known address of the 14 authorizing agent to take possession. Ninety days after the notification is sent or delivered, the crematory may dispose of the cremated or 15 16 processed remains in any legal manner.

17 8. Unless the deceased has prepared a document pursuant to section 18 32-1365.01, the crematory shall obtain an authorization to cremate from 19 the authorizing agent that shall contain a provision holding the crematory 20 harmless for the disposition of unclaimed cremated or processed remains.

9. All employees of the crematory who handle dead human bodies shall use universal precautions and shall otherwise exercise reasonable care to minimize the risk of transmitting any communicable disease from a dead human body.

10. Unless the deceased has prepared a document pursuant to section 25 26 32-1365.01, employees of the crematory shall not remove a dead human body from the container in which it is delivered to the crematory without the 27 28 express written consent of the authorizing agent. If, after accepting a 29 dead human body for cremation, employees of a crematory discover that a 30 mechanical or radioactive device is implanted in the body, an embalmer 31 licensed pursuant to article 2 of this chapter shall remove the device 32 from the body before cremation takes place.

11. A crematory shall keep an accurate record of all cremations performed, including dispositions of cremated and processed remains, for not fewer than five years after the cremation.

36 Sec. 78. Section 32-2194.03, Arizona Revised Statutes, is amended 37 to read:

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32-2194.03. <u>Issuance or denial of certificate of authority;</u> voidable sale; order prohibiting sale; investigations by commissioner; public hearings; summary orders

42 A. After examination of a cemetery application, the commissioner, 43 unless there are grounds for denial, shall issue a certificate of 44 authority authorizing the sale in this state of cemetery plots within the 45 cemetery. The commissioner shall notify the state board of funeral 1 directors and embalmers DEPARTMENT OF HEALTH SERVICES when the 2 commissioner issues a certificate of authority pursuant to this section.

B. The commissioner may deny issuance of a certificate of authorityon any of the following grounds:

5 1. Failure THE APPLICANT FAILS to comply with any of the provisions 6 of this article or the rules of the commissioner pertaining to this 7 article.

8 2. The sale of plots within the cemetery would constitute 9 misrepresentation to or deceit or fraud of the purchasers.

10 3. The applicant has procured or attempted to procure a certificate 11 of authority under the provisions of this chapter for itself or another by 12 fraud, misrepresentation or deceit or by filing an original or renewal 13 application which is false or misleading.

14 4. Inability THE APPLICANT IS UNABLE to deliver title or other 15 interest contracted for.

16 5. Inability THE APPLICANT IS UNABLE to demonstrate that adequate 17 financial or other arrangements acceptable to the commissioner have been 18 made for installation of all off-site and other cemetery facilities.

19 6. Failure THE APPLICANT FAILS to make a showing SHOW that the 20 plots can be used for the purpose for which they are offered.

7. Failure THE APPLICANT FAILS to provide in the contract or other
 writing the use or uses for which the plots are offered, together with any
 covenants or conditions relative to such plots.

24 8. Failure THE APPLICANT FAILS to include in the contract the 25 disclosure provisions required as provided by section 32-2194.04.

9. The owner, THE agent, AN officer, A director or partner, A trust beneficiary holding ten per cent PERCENT or more beneficial interest or, if a corporation, any stockholder owning ten per cent PERCENT or more of the stock in such corporation has:

30 (a) Been convicted of a felony or misdemeanor involving fraud or
 31 dishonesty or involving conduct of any business or a transaction in real
 32 estate, cemetery property, time-share TIMESHARE intervals or membership
 33 camping campgrounds or contracts.

(b) Been permanently or temporarily enjoined by order, judgment or 34 35 decree from engaging in or continuing any conduct or practice in 36 connection with the sale or purchase of real estate or cemetery property, 37 time-share TIMESHARE intervals, membership camping contracts or 38 campgrounds, or securities or involving consumer fraud or the racketeering 39 laws of this state.

40 (c) Had an administrative order entered against the applicant by a 41 real estate regulatory agency or security regulatory agency.

42 (d) Had an adverse decision or judgment entered against the
43 applicant involving fraud or dishonesty or involving the conduct of any
44 business in or a transaction in real estate, cemetery property, time-share
45 TIMESHARE intervals or membership camping campgrounds or contracts.

1 (e) Disregarded or violated any of the provisions of this chapter or the rules of the commissioner pertaining to this chapter.

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(f) Participated in, operated or held an interest in any entity to which subdivision (b), (c), (d) or (e) OF THIS PARAGRAPH applies.

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5 10. Failure THE APPLICANT FAILS to satisfy the commissioner that 6 sufficient land has been dedicated for the operation of the cemetery to 7 make it financially secure with respect to the trust fund requirements of 8 this article.

9 C. A cemetery owner or operator shall not sell or offer for sale any plots without first obtaining a certificate of authority as provided 10 11 in this section. Any sale of plots before the issuance of the certificate 12 of authority is voidable by the purchaser. An action by the purchaser to 13 void such A transaction shall be brought within three years σf AFTER the date of execution of the purchase agreement by the purchaser. In any such 14 15 action, the prevailing party is entitled to reasonable attorney fees as 16 determined by the court.

17 D. An applicant objecting to the denial of a certificate of 18 authority by the commissioner, within thirty days after receipt of the order of denial, may file a written request for a hearing. 19 The 20 commissioner shall hold the hearing within twenty-five days after the 21 request unless the party requesting the hearing requests a postponement. 22 If the hearing is not held within twenty-five days after the request for a hearing is received, plus the period of any such postponement, or if a 23 24 proposed decision is not rendered within forty-five days after submission, 25 the order of denial shall be rescinded and a certificate of authority 26 shall be issued.

27 E. On the commissioner's own motion or if the commissioner has received a complaint and has satisfactory evidence that the cemetery owner 28 29 or agent is violating any provision of this article or the rules of the commissioner or has engaged in any unlawful practice as defined in section 30 31 44-1522 with respect to the sale of cemetery plots or deviated from the 32 conditions under which the certificate of authority was issued, the 33 commissioner may investigate the cemetery project and examine the books 34 records of the cemetery owner or agent. For the purpose of and examination, the cemetery owner or agent shall keep and maintain records 35 36 of all sales transactions and monies the cemetery owner or agent received at the broker's main office or at an off-site storage location in this 37 38 state if the owner or agent provides prior written notification of the 39 street address of the off-site storage location to the department. The 40 cemetery owner or agent shall make the records accessible to the 41 commissioner on reasonable notice and demand.

42 F. The commissioner On the commissioner's own motion or if the 43 commissioner has received a complaint and has satisfactory evidence that any of the grounds exist as provided in subsection B of this section or 44 45 that any person has engaged in any unlawful practice as defined in section

1 44-1522 with respect to the sale of cemetery plots or has deviated from 2 the conditions under which the certificate of authority was issued, before 3 or after the commissioner issues the certificate of authority as provided 4 in this section, THE COMMISSIONER may conduct an investigation of such 5 matter, issue a summary order as provided in section 32-2157, or hold a 6 public hearing and, after the hearing, may issue such order or orders as 7 the commissioner deems necessary to protect the public interest and ensure 8 compliance with the law, rules or certificate of authority, or the 9 commissioner may bring an action in any court of competent jurisdiction against the person to enjoin the person from continuing such A violation 10 11 or engaging in a violation or doing any act or acts in furtherance of a 12 violation. The court may make such orders or judgments, including the 13 appointment of a receiver, as THAT may be necessary to prevent the use or employment by a person of any unlawful practices or which THAT may be 14 15 necessary to restore to any person in interest any monies or property, 16 real or personal, which THAT may have been acquired by means of any 17 practice declared to be unlawful in this article.

G. If it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that such THE person is concealing assets or has made arrangements to conceal assets or is about to leave this state, the commissioner may apply to the superior court, without notice, for an order appointing a receiver of the assets of such THE person or for a writ of ne exeat, or both.

24 H. The court on receipt of an application for the appointment of a 25 receiver or for a writ of ne exeat, or both, shall examine the verified 26 application of the commissioner and such other evidence that the 27 commissioner may present to the court. If satisfied that the interests of 28 the public require the appointment of a receiver or the issuance of a writ 29 of ne exeat without notice, the court shall issue an order appointing the receiver or issue the writ, or both. If the court determines that the 30 31 interests of the public will not be harmed by the giving of notice, the court shall set a time for a hearing and require that such THE notice be 32 33 given as the court deems satisfactory.

34 I. If the court appoints a receiver without notice, the court shall 35 further direct that a copy of the order appointing a receiver be served on 36 the person engaged in or engaging in a practice declared to be unlawful 37 under this article by delivering such THE order to the last address of the 38 person which THAT is on file with the STATE real estate department. The order shall inform the person that the THE PERSON has the right to request 39 40 a hearing within ten days after the date of the order, and if requested, 41 the hearing shall be held within thirty days after the date of the order.

42 Sec. 79. Section 41–1092, Arizona Revised Statutes, is amended to 43 read:

44

41-1092. <u>Definitions</u>

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In this article, unless the context otherwise requires:

1 1. "Administrative law judge" means an individual or an agency 2 head, board or commission that sits as an administrative law judge, that 3 conducts administrative hearings in a contested case or an appealable 4 agency action and that makes decisions regarding the contested case or 5 appealable agency action.

6 2. "Administrative law judge decision" means the findings of fact, 7 conclusions of law and recommendations or decisions issued by an 8 administrative law judge.

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3. "Adversely affected party" means:

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(a) An individual who both:

(i) Provides evidence of an actual injury or economic damage that the individual has suffered or will suffer as a direct result of the action and not due to being a competitor or a general taxpayer.

(ii) Timely submits comments on the license application that
include, with sufficient specificity, the questions of law, if applicable,
that are the basis for the appeal.

(b) A group or association that identifies, by name and physical address in the notice of appeal, a member of the group or association who would be an adversely affected party in the individual's own right.

20 4. "Appealable agency action" means an action that determines the duties or privileges of a 21 rights, party, including the legal 22 administrative completeness of an application other than an application submitted to the department of water resources pursuant to title 45, and 23 24 that is not a contested case. Appealable agency actions do not include interim orders by self-supporting regulatory boards, rules, orders, 25 26 standards or statements of policy of general application issued by an 27 administrative agency to implement, interpret or make specific the 28 legislation enforced or administered by it or clarifications of 29 interpretation, nor does it mean or include rules concerning the internal management of the agency that do not affect private rights or interests. 30 31 For the purposes of this paragraph, administrative hearing does not 32 include a public hearing held for the purpose of receiving public comment 33 on a proposed agency action.

34 5. "Director" means the director of the office of administrative 35 hearings.

6. "Final administrative decision" means a decision by an agency that is subject to judicial review pursuant to title 12, chapter 7, article 6.

39 7. "Licensee":

40 (a) Means any individual or business entity that has been issued a 41 license by a state agency to engage in any business or activity in this 42 state and that is subject to a licensing decision.

(b) Includes any individual or business entity that has applied for
such a license and that appeals a licensing decision pursuant to section
41-1092.08 or 41-1092.12.

1 8. "Office" means the office of administrative hearings. 2 9. "Self-supporting regulatory board" means any one of the 3 following: 4 (a) The Arizona state board of accountancy. 5 (b) The barbering and cosmetology board. (c) The board of behavioral health examiners. 6 7 (d) The Arizona state boxing and mixed martial arts commission. 8 (e) The state board of chiropractic examiners. 9 (f) The state board of dental examiners. 10 (\mathbf{q}) The state board of funeral directors and embalmers. 11 (g) The Arizona game and fish commission. (h)12 (i) (h) The board of homeopathic and integrated medicine 13 examiners. The Arizona medical board. 14 (j) (i) 15 (t) The naturopathic physicians medical board. 16 (1)(k) The Arizona state board of nursing. 17 (m) (1) The board of examiners of nursing care institution 18 administrators and assisted living facility managers. 19 (π) (m) The board of occupational therapy examiners. 20 $(\mathbf{0})$ The state board of dispensing opticians. (n) 21 (प) (0) The state board of optometry. 22 (q) (p) The Arizona board of osteopathic examiners in medicine and 23 surgery. 24 (q) The Arizona peace officer standards and training board. (r)25 (s) (r) The Arizona state board of pharmacy. 26 (t) (s) The board of physical therapy. 27 (t) The state board of podiatry examiners. 28 (\mathbf{v}) (u) The state board for private postsecondary education. 29 (w) The state board of psychologist examiners. 30 (x) (w) The board of respiratory care examiners. 31 (y) (x) The state board of technical registration. 32 (z) (y) The Arizona state veterinary medical examining board. 33 (aa) (z) The acupuncture board of examiners. 34 (bb) (aa) The Arizona regulatory board of physician assistants. 35 (cc)(bb) The board of athletic training. 36 (dd) (cc) The board of massage therapy. 37 Sec. 80. Repeal 38 Section 41-3023.17, Arizona Revised Statutes, is repealed. Sec. 81. Section 41-3028.03, Arizona Revised Statutes, is amended 39 40 to read: 41 41-3028.03. Department of health services; termination July 42 1. 2028 43 The department of health services terminates on July 1, 2028. Α.

1 B. The provisions of title 36 relating to the department of health 2 services and its divisions, TITLE 32, CHAPTER 12 and this section are 3 repealed on January 1, 2029.

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Sec. 82. <u>Succession</u>

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A. As provided by this act, the department of health services 6 succeeds to the authority, powers, duties and responsibilities of the 7 state board of funeral directors and embalmers.

B. This act does not alter the effect of any actions that were 8 9 taken or impair the valid obligations of the state board of funeral 10 directors and embalmers in existence before the effective date of this 11 act.

12 C. Administrative rules and orders that were adopted by the state 13 board of funeral directors and embalmers continue in effect until superseded by administrative action by the department of health services. 14

administrative matters, contracts and 15 D. All judicial and quasi-judicial actions, whether completed, pending or in process, of the 16 17 state board of funeral directors and embalmers on the effective date of 18 this act are transferred to and retain the same status with the department 19 of health services.

E. All certificates, licenses, registrations, permits and other 20 21 indicia of qualification and authority that were issued by the state board 22 of funeral directors and embalmers retain their validity for the duration 23 of their terms of validity as provided by law.

24 F. All equipment, records, furnishings and other property, all data 25 and investigative findings, all obligations and all appropriated monies 26 that remain unexpended and unencumbered on the effective date of this act 27 of the state board of funeral directors and embalmers are transferred to the department of health services. 28

29 G. All personnel who are under the state personnel system and 30 employed by the state board of funeral directors and embalmers are 31 transferred to comparable positions and pay classifications in the 32 respective administrative units of the department of health services on 33 the effective date of this act.

34 Sec. 83. <u>Retroactivity</u>

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This act applies retroactively to from and after March 31, 2023.

36 Sec. 84. Emergency

This act is an emergency measure that is necessary to preserve the 37 public peace, health or safety and is operative immediately as provided by 38 39 law.