

1 A bill to be entitled
2 An act relating to abandoned and historic cemeteries;
3 creating s. 267.21, F.S.; creating the Historic
4 Cemeteries Program within the Division of Historical
5 Resources of the Department of State; designating the
6 State Historic Preservation Officer as the program's
7 director and requiring him or her to hire employees,
8 subject to legislative appropriation; providing the
9 duties and responsibilities of the program; requiring
10 the program to provide grants, subject to legislative
11 appropriation, to certain entities for certain
12 purposes; authorizing the division to adopt rules;
13 creating s. 267.22, F.S.; creating the Historic
14 Cemeteries Program Advisory Council within the
15 division; providing for membership, terms, and duties
16 of the council; providing that members shall serve
17 without compensation but may receive per diem and
18 reimbursement for travel expenses; amending s.
19 497.005, F.S.; revising the definition of the term
20 "legally authorized person" to include a member of a
21 representative community organization; amending s.
22 704.06, F.S.; revising the definition of the term
23 "conservation easement" to include a right or interest
24 in real property which is appropriate to retaining the
25 structural integrity or physical appearance of certain

26 cemeteries; authorizing certain entities to acquire
 27 conservation easements to preserve certain cemeteries;
 28 providing appropriations and authorizing positions;
 29 providing an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

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33 Section 1. Section 267.21, Florida Statutes, is created to
 34 read:

35 267.21 Historic Cemeteries Program.-

36 (1) The Historic Cemeteries Program is created within the
 37 division. The State Historic Preservation Officer shall serve as
 38 the director of the program and shall, subject to legislative
 39 appropriation, employ three full-time employees to operate the
 40 program. The program shall have the following duties and
 41 responsibilities:

42 (a) Serve as the organizational center for recording and
 43 updating in the Florida Master Site File records of cemeteries
 44 in this state established at least 50 years ago.

45 (b) Develop guidelines for use by state agencies, local
 46 governments, and developers in the identification, location, and
 47 maintenance of abandoned and historic cemeteries.

48 (c) Serve as an interagency governmental liaison to
 49 municipalities, planning departments, colleges and universities,
 50 and community organizations to facilitate collaboration and the

51 sharing of information relating to abandoned and historic
52 cemeteries.

53 (d) Coordinate with the University of South Florida's
54 Black Cemetery Network to facilitate the inclusion of abandoned
55 African-American cemeteries in the Black Cemetery Network.

56 (e) Research, identify, and record abandoned cemeteries,
57 with an emphasis on abandoned African-American cemeteries.

58 (f) When abandoned cemeteries are located, provide
59 notification and guidance to relevant persons and assist with
60 efforts to identify relatives and descendants, funeral
61 directors, religious organizations, qualified nonprofit
62 organizations, and property owners.

63 (g) Assist constituents, descendant communities, state and
64 federal agencies, local governments, and other stakeholders with
65 inquiries relating to abandoned cemeteries.

66 (h) In coordination with the Department of Education,
67 develop a curriculum relating to abandoned and historic
68 cemeteries, with a focus on citizenship, social responsibility,
69 and history.

70 (i) Establish a priority for the placement of historical
71 markers for erased, forgotten, lost, or abandoned African-
72 American cemeteries.

73 (2) The Historic Cemeteries Program shall, subject to
74 legislative appropriation, provide grants to the following
75 entities:

76 (a) Research institutions, colleges and universities, and
 77 qualified nonprofit organizations, for the purpose of conducting
 78 genealogical and historical research necessary to identify and
 79 contact the relatives and descendants of persons buried in
 80 abandoned African-American cemeteries.

81 (b) Local governments and qualified nonprofit
 82 organizations, for the purposes of repairing, restoring, and
 83 maintaining abandoned African-American cemeteries.

84 (3) The division may adopt rules to implement this
 85 section.

86 Section 2. Section 267.22, Florida Statutes, is created to
 87 read:

88 267.22 Historic Cemeteries Program Advisory Council.—

89 (1) The Historic Cemeteries Program Advisory Council, an
 90 advisory council as defined in s. 20.03(7), is created within
 91 the division and shall consist of members appointed by the
 92 Secretary of State after considering the recommendations of the
 93 director of the division. The council must be composed of an
 94 inclusive group of members who are regionally distributed and
 95 representative of communities throughout this state. Members
 96 shall serve 4-year staggered terms. As soon as practicable after
 97 July 1, 2023, the council shall meet to elect a chair from its
 98 membership. Except as otherwise provided in this section, the
 99 council shall operate in a manner consistent with s. 20.052.

100 (2) The council shall provide guidance and recommendations

101 to the division regarding the duties and responsibilities of the
 102 Historic Cemeteries Program created under s. 267.21.

103 (3) Members of the council shall serve without
 104 compensation but may receive per diem and reimbursement for
 105 travel expenses pursuant to s. 112.061.

106 Section 3. Subsection (43) of section 497.005, Florida
 107 Statutes, is amended to read:

108 497.005 Definitions.—As used in this chapter, the term:

109 (43) "Legally authorized person" means, in the priority
 110 listed:

111 (a) The decedent, when written inter vivos authorizations
 112 and directions are provided by the decedent;

113 (b) The person designated by the decedent as authorized to
 114 direct disposition pursuant to Pub. L. No. 109-163, s. 564, as
 115 listed on the decedent's United States Department of Defense
 116 Record of Emergency Data, DD Form 93, or its successor form, if
 117 the decedent died while in military service as described in 10
 118 U.S.C. s. 1481(a)(1)-(8) in any branch of the United States
 119 Armed Forces, United States Reserve Forces, or National Guard;

120 (c) The surviving spouse, unless the spouse has been
 121 arrested for committing against the deceased an act of domestic
 122 violence as defined in s. 741.28 that resulted in or contributed
 123 to the death of the deceased;

124 (d) A son or daughter who is 18 years of age or older;

125 (e) A parent;

- 126 (f) A brother or sister who is 18 years of age or older;
- 127 (g) A grandchild who is 18 years of age or older;
- 128 (h) A grandparent; or
- 129 (i) Any person in the next degree of kinship.

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131 In addition, the term may include, if no family member exists or
 132 is available, the guardian of the dead person at the time of
 133 death; the personal representative of the deceased; the attorney
 134 in fact of the dead person at the time of death; the health
 135 surrogate of the dead person at the time of death; a public
 136 health officer; the medical examiner, county commission, or
 137 administrator acting under part II of chapter 406 or other
 138 public administrator; a representative of a nursing home or
 139 other health care institution in charge of final disposition; or
 140 a friend or other person, including a member of a representative
 141 community organization, not listed in this subsection who is
 142 willing to assume the responsibility as the legally authorized
 143 person. Where there is a person in any priority class listed in
 144 this subsection, the funeral establishment shall rely upon the
 145 authorization of any one legally authorized person of that class
 146 if that person represents that she or he is not aware of any
 147 objection to the cremation of the deceased's human remains by
 148 others in the same class of the person making the representation
 149 or of any person in a higher priority class.

150 Section 4. Subsections (1) and (3) of section 704.06,

151 Florida Statutes, are amended to read:

152 704.06 Conservation easements; creation; acquisition;
 153 enforcement.—

154 (1) As used in this section, "conservation easement" means
 155 a right or interest in real property which is appropriate to
 156 retaining land or water areas predominantly in their natural,
 157 scenic, open, agricultural, or wooded condition; retaining such
 158 areas as suitable habitat for fish, plants, or wildlife;
 159 retaining the structural integrity or physical appearance of
 160 sites or properties of historical, architectural,
 161 archaeological, or cultural significance, including abandoned
 162 and neglected cemeteries that are 50 or more years old; or
 163 maintaining existing land uses and which prohibits or limits any
 164 or all of the following:

165 (a) Construction or placing of buildings, roads, signs,
 166 billboards or other advertising, utilities, or other structures
 167 on or above the ground.

168 (b) Dumping or placing of soil or other substance or
 169 material as landfill or dumping or placing of trash, waste, or
 170 unsightly or offensive materials.

171 (c) Removal or destruction of trees, shrubs, or other
 172 vegetation.

173 (d) Excavation, dredging, or removal of loam, peat,
 174 gravel, soil, rock, or other material substance in such manner
 175 as to affect the surface.

176 (e) Surface use except for purposes that permit the land
 177 or water area to remain predominantly in its natural condition.

178 (f) Activities detrimental to drainage, flood control,
 179 water conservation, erosion control, soil conservation, or fish
 180 and wildlife habitat preservation.

181 (g) Acts or uses detrimental to such retention of land or
 182 water areas.

183 (h) Acts or uses detrimental to the preservation of the
 184 structural integrity or physical appearance of sites or
 185 properties of historical, architectural, archaeological, or
 186 cultural significance, including abandoned and neglected
 187 cemeteries that are 50 or more years old.

188 (3) Conservation easements may be acquired by any
 189 governmental body or agency or by a charitable corporation or
 190 trust whose purposes include protecting natural, scenic, or open
 191 space values of real property, assuring its availability for
 192 agricultural, forest, recreational, or open space use,
 193 protecting natural resources, maintaining or enhancing air or
 194 water quality, or preserving sites or properties of historical,
 195 architectural, archaeological, or cultural significance, including abandoned and neglected cemeteries that are 50 or more
 196 years old.

198 Section 5. For the 2023-2024 fiscal year, three full-time
 199 equivalent positions with associated salary rate of 145,000 are
 200 authorized and the sums of \$242,433 in recurring funds and

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201 \$12,021 in nonrecurring funds from the General Revenue Fund are
202 appropriated to the Department of State to be used for the
203 Historic Cemeteries Program.

204 Section 6. For the 2023-2024 fiscal year, the sum of \$1
205 million in nonrecurring funds from the General Revenue Fund is
206 appropriated to the Department of State to be used for grants
207 for qualifying entities under the Historic Cemeteries Program.

208 Section 7. This act shall take effect July 1, 2023.