



26 cemeteries; authorizing certain entities to acquire  
 27 conservation easements to preserve certain cemeteries;  
 28 amending s. 704.08, F.S.; providing an easement to the  
 29 state for certain purposes; providing for an  
 30 appropriation; providing an effective date.

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

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

36 267.21 Historic Cemeteries Program.—

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

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

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

49 (c) Serve as an interagency governmental liaison to  
 50 municipalities, planning departments, colleges and universities,

51 and community organizations to facilitate collaboration and the  
52 sharing of information relating to abandoned and historic  
53 cemeteries.

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

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

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

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

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

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

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

76 entities:

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

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

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

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

89 267.22 Historic Cemeteries Program Advisory Council.—

90 (1) The Historic Cemeteries Program Advisory Council, an  
 91 advisory council as defined in s. 20.03(7), is created within  
 92 the division and shall consist of members appointed by the  
 93 Secretary of State after considering the recommendations of the  
 94 director of the division. The council must be composed of an  
 95 inclusive group of members who are regionally distributed and  
 96 representative of communities throughout this state. Members  
 97 shall serve 4-year staggered terms. As soon as practicable after  
 98 July 1, 2022, the council shall meet to elect a chair from its  
 99 membership. Except as otherwise provided in this section, the  
 100 council shall operate in a manner consistent with s. 20.052.

101        (2) The council shall provide guidance and recommendations  
 102 to the division regarding the duties and responsibilities of the  
 103 Historic Cemeteries Program created under s. 267.21.

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

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

109        497.005 Definitions.—As used in this chapter, the term:

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

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

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

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

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

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

131

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

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151 Section 4. Subsections (1) and (3) of section 704.06,  
152 Florida Statutes, are amended to read:

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

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

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

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

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

174 (d) Excavation, dredging, or removal of loam, peat,  
175 gravel, soil, rock, or other material substance in such manner

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176 as to affect the surface.

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

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

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

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

189 (3) Conservation easements may be acquired by any  
190 governmental body or agency or by a charitable corporation or  
191 trust whose purposes include protecting natural, scenic, or open  
192 space values of real property, assuring its availability for  
193 agricultural, forest, recreational, or open space use,  
194 protecting natural resources, maintaining or enhancing air or  
195 water quality, or preserving sites or properties of historical,  
196 architectural, archaeological, or cultural significance, including abandoned and neglected cemeteries that are at least  
197 50 years old.

199 Section 5. Section 704.08, Florida Statutes, is amended to  
200 read:



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201 704.08 Cemeteries; right of ingress and egress for  
 202 visiting or maintenance.—

203 (1) The relatives and descendants of any person buried in  
 204 a cemetery shall have an easement for ingress and egress for the  
 205 purpose of visiting the cemetery at reasonable times and in a  
 206 reasonable manner. The owner of the land may designate the  
 207 easement. If the cemetery is abandoned or otherwise not being  
 208 maintained, such relatives and descendants may request the owner  
 209 to provide for reasonable maintenance of the cemetery, and, if  
 210 the owner refuses or fails to maintain the cemetery, the  
 211 relatives and descendants shall have the right to maintain the  
 212 cemetery.

213 (2) If credible evidence supports a determination that  
 214 there is an abandoned cemetery located on, underneath, or  
 215 adjacent to land owned by a private owner, the state must have  
 216 an easement for ingress and egress for the purpose of  
 217 maintaining and conducting research and noninvasive searches at  
 218 such cemetery at reasonable times and in a reasonable manner  
 219 after providing the owner with reasonable notice.

220 Section 6. The Legislature shall appropriate funds for the  
 221 purpose of including abandoned African-American cemeteries in  
 222 this state in the University of South Florida's Black Cemetery  
 223 Network.

224 Section 7. This act shall take effect July 1, 2022.