

NOTICE OF PROPOSED RULE

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.:

RULE TITLE:

69K-1.005

Licensure Application Procedures

PURPOSE AND EFFECT: Section 497.103(2), F.S., gives the Department the authority to prescribe the forms and procedures to be used by applicants in submitting applications for licensure pursuant to Chapter 497, F.S.

SUMMARY: The proposed rule sets forth the Department's procedure for processing applications of persons and entities who apply for the following licenses under Chapter 497, Florida Statutes: burial rights broker; centralized embalming facility; cinerator facility; concurrent intern (funeral director & embalmer); direct disposal establishment; direct disposer; embalmer apprentice; embalmer intern; embalmer; funeral director and embalmer; funeral director intern; funeral director; funeral establishment; monument establishment; refrigeration facility; and removal service.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 497.103(2), (5)(b), 497.141(12)(g) FS

LAW IMPLEMENTED: 120.60, 497.103(2), 497.141, 497.167(9), (13) FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: September 8, 2009 @ 2:00 P.M.

PLACE: Alexander Building, 2020 Capital Circle, S.E., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting Doug Shropshire at (850) 413-3039 or Doug.Shropshire@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Doug Shropshire, Director, Division of Funeral, Cemetery, and Consumer Services, Alexander Building, 2020 Capital Circle S.E., Tallahassee, Florida 32399-0361 (850) 413-3039.

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-1.005 Licensure Application Procedures.

(1) (a) This rule sets forth the Department's procedure for processing applications of persons and entities who apply for the following licenses under Chapter 497, Florida Statutes.

1. Broker of burial rights;

2. Centralized embalming facility;

3. Cinerator facility;

4. Concurrent intern (funeral director & embalmer);

5. Direct disposal establishment;
6. Direct disposer;
7. Embalmer apprentice;
8. Embalmer intern;
9. Embalmer;
10. Funeral director and embalmer;
11. Funeral director intern;
12. Funeral director;
13. Funeral establishment;
14. Monument establishment;
15. Refrigeration facility;
16. Removal service.

(b) The provisions of this rule do not apply to persons or entities submitting applications for the following licenses under Chapter 497, F.S.

1. Cemetery;
2. Monument establishment sales agent;
3. Preneed sales agent;
4. Preneed sales business (main and branch office).

(2) For purposes of this rule, the following definitions shall apply.

(a) "Application form" means the Department form adopted by Rule 69K-1.001, F.A.C., to be used for applying for a particular license under Chapter 497, F.S. Forms can be obtained on the Department's website (www.myfloridacfo.com/FuneralCemetery) or by mail from the Department of Financial Services, Division of Funeral, Cemetery,

and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361.

(b) "Complete application" means an application form which the applicant submits to the Department, upon which the applicant has furnished all correct information, including any additional or accompanying documentation, required by Chapter 497, F.S., or Chapter 69K, F.A.C. An application which contains errors, omissions, or which requires additional or clarifying information is not considered a complete application and shall be referred to in this rule as an "incomplete application".

(c) "Deficiency notice" means a notice by the Department to an applicant that the applicant's application is incomplete and which informs the applicant of what is required to cure the deficiency.

(3) Within thirty (30) days of receipt of an application, the Department shall review the application to determine if it is a complete or an incomplete application.

(4) Pursuant to Section 497.167(9), F.S., any application which must be reviewed and acted upon by the Board shall be acted upon by the Board at a regularly scheduled Board meeting. Such application must be complete at least 25 days in advance of a regularly scheduled Board meeting to be considered by the Board at such Board meeting. The time for approval of completed applications under Section 120.60, F.S., shall be deemed tolled between the date the application is complete and the next regularly scheduled Board meeting at which the application may be considered by the Board.

(5) If the Department determines that the application is complete, the application shall be presented to the Board at the next regularly scheduled Board meeting subject to the requirements in subsection (4) of this rule.

(6) If the Department determines that the application is incomplete, it shall send a deficiency notice to the applicant within thirty (30) days of receipt of the application.

(7) The applicant shall have forty-five (45) days from the date of the deficiency notice, unless that time is extended pursuant to an agreement with the Department, to:

(a) Furnish the requested information; or

(b) Show cause in writing why such information cannot be supplied.

(8) If the information requested in the deficiency notice is not timely submitted or if the applicant does not show why the requested information cannot be supplied, the application shall be considered an incomplete application. No additional deficiency notice shall be sent by the Department. Since the Department is not required to approve or deny an incomplete application, the Department's file on the incomplete application shall be closed. Any applicant whose application file has been closed by the Department pursuant to this rule shall submit a new complete application, with the appropriate fees, if the applicant wishes to apply again for licensure with the Department.

(9) If the applicant submits a timely response indicating that the information or corrections requested in the deficiency notice cannot be supplied, the Department shall present the application to the Board based on the information currently contained in the application file.

(10) If all of the requested information in the deficiency notice is timely submitted, the application shall be presented to the Board at the next regularly scheduled Board meeting subject to the requirements in subsection (4) of this rule.

Rulemaking Authority 497.103(2), (5)(b), 497.141(12)(g) FS. Law Implemented 120.60,

497.103(2), 497.141, 497.167(9), (13) FS. History - New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Doug Shropshire, Director,
Division of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink,
Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 12,
2009