AGENDA ITEM C (5)
Proposed Rule Changes for Discussion – Monument Establishments – Builders and Retailers

FLORIDA ADMINISTRATIVE CODE

69K-12.011 Annual Inspection Fees for Monument Establishments.
Each monument establishment shall pay an annual inspection fee of ~~$225~~ $300 that is payable upon application for licensure and upon each renewal of such license.

Rulemaking Authority 497.103(1)(bb), (5)(a), 497.553(1) FS. Law Implemented 497.103(1)(bb), 497.553(1) FS. History–New 5-16-07, Amended 5-19-09, 5-5-22.

FLORIDA STATUTES

497.553 Regulation of monument establishments.—

(1) The Department of Financial Services shall establish and implement an inspection program for all monument establishments in accordance with the requirements of this act. The board shall set by rule an annual inspection fee not to exceed $300, payable upon application for licensure and upon each renewal of such license.

(2) All retail sales by monument establishments shall be on a sales agreement form filed by the monument establishment with and approved by the licensing authority. Sales agreement forms must provide a complete description of any monument, marker, or related product to be delivered, and shall prominently and clearly specify the agreed date for delivery and installation. Procedures for submission and approval of such forms shall be established by rule.

(3) All monument establishments shall have written procedures for the receipt, investigation, and disposition of customer complaints, and shall ensure that their staff who receive or process such complaints are familiar with and follow such procedures.

(4) All monument establishments shall maintain for inspection by the department records of written complaints received by the monument establishment. Such complaint records shall include a chronological log of written complaints received, in which the name and address of each complainant and date of complaint is entered consecutively within 10 business days of receipt of each complaint. The licensing authority may by rule establish requirements regarding the format of complaint logs, including whether they may be maintained electronically or shall be maintained by pen and ink on paper; the licensing authority may by order direct a licensee to maintain complaint logs by pen and ink in writing. The original or complete copy of each written complaint received by a monument establishment, and all subsequent correspondence related to such complaint, shall be maintained by the monument establishment, for inspection by the department, for the longer of 24 months or 12 months after the most

recent department inspection during which the complaint was in the monument establishment's complaint records and available for the department's review.

(5) The failure of a monument establishment to deliver and install a purchased monument or marker by the date agreed in the sales agreement shall entitle the customer to a full refund of all amounts paid by the customer for the monument and its delivery and installation, unless the monument establishment has obtained a written agreement from the customer extending the delivery date. Such refund shall be made within 30 days after receipt by the monument establishment of the customer's written request for a refund. This subsection does not preclude the purchase and installation of a new monument from any other registered monument establishment or licensee.

(6)(a) A change in ownership shall be promptly reported using forms and procedures specified by rule and may require the relicensure of the licensee, including reinspection and payment of applicable fees, as required by rule.

(b) A change in location shall be promptly reported to the licensing authority pursuant to procedures established by rule. Operations by the licensee at a new location may not commence until an inspection by the licensing authority of the facilities, pursuant to rules of the licensing authority, has been conducted and passed at the new location.

History.—s. 121, ch. 2004-301; s. 43, ch. 2005-155; s. 75, ch. 2018-110.

497.550 Licensure of monument establishments required; procedures and criteria.—

(1) LICENSE REQUIRED.—No person shall conduct, maintain, manage, or operate a monument establishment in this state unless the monument establishment is licensed pursuant to this part.

(a) The two categories of monument establishment licensure available in this state are:

1. Monument builder.
2. Monument retailer.

(b) An applicant for licensure as a monument establishment shall designate on the application form the category of monument establishment licensure for which he or she is applying.

(c) Each monument establishment that is licensed under this chapter at 11:59 p.m. on September 30, 2005, is, on and after October 1, 2005, licensed as a monument retailer subject to the requirements of this chapter. A person who becomes licensed as a monument retailer by operation of this paragraph may apply to the board for licensure as a monument builder and, upon payment of applicable application fees and the granting of such application and licensure as a monument builder, such person's licensure as a monument retailer will expire.

(d) The requirements of this chapter apply to both monument retailers and monument builders, except as provided in this paragraph. Each monument establishment shall be a physical structure that is located at a specific street address, in compliance with zoning regulations of the appropriate local

government, and not located on property that is exempt from taxation, but a monument retailer may not otherwise be required to comply with s. 497.552(4).

(e) A monument establishment that is not licensed under the monument-builder category is not eligible for a preneed sales license.

(2) APPLICATION PROCEDURES.—A person seeking licensure as a monument establishment shall apply for such licensure using forms prescribed by rule.

(a) The application shall require the applicant's name and address, and the name and address of all principals of the applicant. The application shall require the applicant's social security number, or, if the applicant is an entity, its federal tax identification number.

(b) The application may require information as to the applicant's financial resources, and may require information as to the experience of the applicant and its principals in the monument establishment business or death care industry.

(c) The applicant shall be required to make disclosure of the applicant's criminal records, if any, as required by s. 497.142.

(d) The application shall require the applicant to disclose whether the applicant or any of its principals have ever had a license or the authority to practice a profession or occupation revoked, suspended, fined, denied, or otherwise acted against or disciplined by the licensing authority of any jurisdiction.

(e) The applicant shall submit fingerprints in accordance with s. 497.142.

(f) The applicant shall be a natural person at least 18 years of age, a corporation, a partnership, or a limited liability company.

(g) The applications shall require the applicant to demonstrate that the applicant has, or will have before commencing operations, the facilities required under this part.

(h) The application shall be signed in accordance with s. 497.141(12).

(i) The application shall be accompanied by an application fee as determined by licensing authority rule but not to exceed $500.

(j) Upon receipt of the application and application fee, the licensing authority shall inspect the proposed monument establishment facilities in accordance with rules of the licensing authority.

(3) ACTION CONCERNING APPLICATIONS.—A duly completed application for licensure as a monument establishment, accompanied by the required application fee, shall be approved unless there is shown by clear and convincing evidence that the applicant will not, before commencing operations, have the facilities required by this part or that issuance of the license would pose an unreasonable risk to the public because of one or more of the following factors:

(a) The applicant's lack of experience.

(b) The applicant's lack of financial resources.

(c) The criminal or disciplinary record of the applicant or its principals.

(d) A demonstrated history of violations of the laws of this state by the applicant or its principals regarding the funeral or cemetery business or other business activities.

(e) A demonstrated history of lack of trustworthiness or integrity on the part of the applicant or its principals.

(4) PROBATIONARY STATUS.—It is the policy of this state to encourage competition for the public benefit in the monument establishment business by, among other means, the entry of new licensees into the monument establishment business. To facilitate issuance of licenses concerning applications judged by the licensing authority to be borderline as to qualification for licensure, the licensing authority may issue new monument establishment licenses on a probationary basis, subject to conditions specified by the licensing authority on a case-by-case basis, which conditions may impose special monitoring, reporting, and restrictions on operations for up to the first 24 months of licensure, to ensure the licensee's responsibleness, competency, and financial stability. However, no such probationary license shall be issued unless the licensing authority determines that issuance would not pose an unreasonable risk to the public, and the licensing authority must within 24 months after issuance of the license either remove the probationary status or determine that the licensee is not qualified for licensure and institute proceedings for revocation of licensure.

(5) LICENSE NOT TRANSFERABLE OR ASSIGNABLE.—A monument establishment license shall not be transferable or assignable.

History.—s. 88, ch. 93-399; s. 18, ch. 96-400; s. 118, ch. 2004-301; s. 100, ch. 2005-2; s. 40, ch. 2005-155; s. 10, ch. 2007-55; s. 13, ch. 2021-113.

Note.—Former s. 497.361.