

TITLE 22 EXAMINING BOARDS

Part 10 Texas Funeral Service Commission

Chapter 203 Licensing and Enforcement - Specific Substantive Rules

Subchapter B. Duties of a Funeral Establishment/Licensee

Proposal to Amend Title 22 Texas Administrative Code <*> 203.26 – Presentation of Consumer Brochure.

The Texas Funeral Service Commission (Commission) proposes to amend of Title 22 Texas Administrative Code <*> 203.26 – Presentation of Consumer Brochure. The rule currently requires funeral establishments to display and offer consumer brochures promulgated under <*>201.7 of the title. The rule states only the Commission may print the brochure and authorizes the Commission to charge a fee for the brochures.

Many entities, especially pre-need trust and insurance funded companies are starting to move to an online only presence. With the Commission’s current rule, the entity is required to mail a copy of the brochure to the pre-need purchaser.

The Commission was asked to provide a mechanism to allow for the digital transmission of the consumer brochure. This rule amendment provides the Commission can sell a digital “license” to an entity to allow it to provide the consumer brochure in digital form. The rule maintains the requirement that a Commission printed brochure is required for any in-person arrangements, whether pre-need or at-need.

Janice McCoy, Executive Director, has determined that for the first five-year period the amendment is in effect there will be no fiscal implication for state or local governments, or local economies.

Ms. McCoy has determined there will be no adverse economic effect on small businesses or micro-businesses required to comply with the amendment, as proposed.

There is no anticipated economic cost to individuals who are required to comply with the amendment, as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. McCoy has determined for the first five-year period the amendment is in effect, the public benefit anticipated as a result of the amendment will be to ensure the public receives the consumer brochure in the manner requested.

The Commission has determined Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the Commission is not required to complete a takings impact assessment regarding this proposal.

Comments on the proposal may be submitted in writing to Mr. Kyle Smith at PO Box 12217, Capitol Station, Austin, Texas 78711-1440, 512-479-5064 (fax) or electronically to info@tfsc.texas.gov. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Occupations Code <*> 651.152, which authorizes the Texas Funeral Service Commission to adopt rules considered necessary for carrying out the Commission's work, and Texas Government Code, <*> 2001.039, which requires state agencies to review their rules and readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule under this section.

No other statutes, articles, or codes are affected by this section.

<*> 203.26 – Presentation of Consumer Brochure

- (a) Consumer brochures as promulgated under §201.7 of this title shall be prominently displayed in the public view, offered free of charge for keeping to any person, and presented at the beginning of the arrangement conference for the disposition of a dead body.
- (b) Consumer brochures are designed and printed by the Commission and may be copied only when the Commission is unable to furnish the funeral establishment with an ordered supply.
- (c) The Commission determines the minimum order size and the fees for the brochures.
- (d) The Commission may authorize an entity to annually purchase the right to provide the consumer brochure in a digital format. The Commission determines the annual fee for the digital brochure. Each digital consumer brochure shall be label with the entity's name and effective date. In-person arrangements still require presentation of a paper copy of the consumer brochure.

The agency certifies legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.