

TITLE 22 EXAMINING BOARDS
Part 10 Texas Funeral Service Commission
Chapter 204 Fees

Proposal to add Title 22 Texas Administrative Code, Part 10, Chapter 204 – Fees.

The Texas Funeral Service Commission (Commission) proposes to add Title 22 Texas Administrative Code Part 10 Chapter 204 – Fees.

The agency currently adopts and enacts fees authorized by Tex. Occ. Code Chapter 651 through Commission action. The history of these fee increases can only be found by reviewing minutes of the agency's minutes.

The agency has determined it is necessary to formalize its fee schedule by placing it in its administrative rules. Doing so provides clear transparency to license holders and other stakeholders.

This rule proposal makes no changes to the agency's current fee schedule. No fee is increased or decreased as a result of this new Chapter.

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

PUBLIC BENEFIT/COST NOTE. Ms. McCoy has determined that, for each year of the first five years the proposed new chapter will be in effect, the public benefit is the transparency of all fees collected by the Agency. There will not be any economic cost to any individuals required to comply with the proposed new chapter and there is no anticipated negative impact on local employment because the rule only codifies an existing fee schedule.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES. The agency has determined that there will be no economic effect on small or micro-businesses or rural communities because the rule only codifies an existing fee schedule.

GOVERNMENT GROWTH IMPACT STATEMENT. Ms. McCoy also has determined that, for the first five years a rule would be in effect: 1. The proposed rule does not create or eliminate a government program; 2. The proposed rule will not require a change in the number of employees of the Agency; 3. The proposed rule will not require additional future legislative appropriations; 4. The proposed rule will not require an increase in fees paid to the Agency; 5. The proposed rule will not create a new regulation; 6. The proposed rule will not expand, limit, or repeal an existing regulation; 7. The proposed rule will not increase or decrease the number of individuals subject to the rule's applicability; and 8. The proposed rule will neither positively nor negatively affect this state's economy because no new fees are imposed. This rule codifies and existing fee schedule.

ONE-FOR-ONE REQUIREMENT FOR RULES WITH A FISCAL IMPACT. Under Government Code §2001.0045, a state agency may not adopt a proposed rule if the fiscal note states that the

rule imposes a cost on regulated persons, including another state agency, a special district, or a local government, unless the state agency: (a) repeals a rule that imposes a total cost on regulated persons that is equal to or greater than the total cost imposed on regulated persons by the proposed rule; or (b) amends a rule to decrease the total cost imposed on regulated persons by an amount that is equal to or greater than the cost imposed on the persons by the rule. There are exceptions for certain types of rules under §2001.0045(c). The proposed new Chapter does not have a fiscal note that imposes a cost on regulated persons, including another state agency, a special district, or a local government because no new fees are imposed. This rule only codifies an existing fee schedule. Therefore, the agency is not required to take any further action under Government Code §2001.0045(c).

The Agency has determined Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the Agency 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 Occupations Code <*> 651.154, which authorizes the agency to adopt fees to administer the chapter.

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

Chapter 204 – Fees

§204.1 Individual License Fees (Not Refundable)

(a) Generally Applicable License Fees:

(1) Funeral Director -- \$175.

(2) Embalmer -- \$175.

(3) All license fees shall be prorated if the initial license period is less than two years.

(b) Reciprocal License Fees:

(1) Funeral Director -- \$310 (Includes a \$5 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$5 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(2) Embalmer -- \$310 (Includes a \$5 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$5 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(3) Funeral Director and Embalmer (Dual) - \$610 (Includes a \$5 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$5 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

§204.2 Individual Application Fees (Not Refundable)

(a) Generally Applicable Application Fees:

(1) Provisional Funeral Director -- \$95 (Includes a \$5 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$5 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(2) Provisional Embalmer -- --\$95 (Includes a \$5 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$5 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(3) Individual Funeral Director License -- --\$95 (Includes a \$5 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$5 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(4) Individual Embalmer License -- --\$95 (Includes a \$5 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$5 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(b) All license application fees payable to the Commission are waived for the following individuals:

(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and

(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.

§204.3 Individual Examination Fees (Not Refundable)

(a) Mortuary Law Examination--\$89 (\$55 being attributable to the Commission and \$34 being attributable to the third-party vendor administering the examination).

(b) The fee for the Mortuary Law Examination shall be waived for the following individuals:

(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and

(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.

§204.4 Individual Renewal Fees (Not Refundable)

(a) Renewal Fees:

(1) Provisionally Licensed Funeral Director -- \$71 (includes a \$1 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$4 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(2) Provisionally Licensed Embalmer - \$71 (includes a \$1 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$5 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(3) Licensed Funeral Director --\$197 (includes a \$2 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$10 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(4) Licensed Embalmer --\$197 (includes a \$2 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$10 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(5) Licensed Funeral Director and Embalmer (Dual) – \$332 (includes a \$2 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$10 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(6) Licensed Funeral Director over the age of 65 or disabled status -- \$104.50 (includes a \$2 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$10 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(7) Licensed Embalmer over the age of 65 or disabled status -- \$104.50 (includes a \$2 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$10 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(8) Licensed Funeral Director and Embalmer (Dual) over the age of 65 or disabled status – \$172 (includes a \$2 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$10 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(9) Licensed Funeral Director and/or Embalmer – Inactive Status -- \$12 (includes a \$2 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$10 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).

(b) The renewal fee shall be waived for active military service members as the term is defined by Chapter 55, Occupations Code.

§204.5 Late Penalty Fees for Individual Renewals (Not Refundable)

(a) The following penalty will be added to the renewal fee assessed under Section 204.4 if the renewal is one day to ninety days late:

(1) Provisionally Licensed Funeral Director --\$66.

(2) Provisionally Licensed Embalmer - \$66.

(3) Licensed Funeral Director --\$92.50.

(4) Licensed Embalmer -- \$92.50.

(5) Licensed Funeral Director and Embalmer (Dual) – \$160.

(6) Licensed Funeral Director over the age of 65 or disabled status -- \$46.25.

(7) Licensed Embalmer over the age of 65 or disabled status -- \$46.25.

(8) Licensed Funeral Director and Embalmer (Dual) over the age of 65 or disabled status – \$80.

(b) The following penalty fee will be added to the renewal fee assessed under Section 204.4 if the renewal is ninety-one days to less than one year late:

(1) Licensed Funeral Director --\$185.

(2) Licensed Embalmer -- \$185.

(3) Licensed Funeral Director and Embalmer (Dual) – \$320.

(4) Licensed Funeral Director over the age of 65 or disabled status -- \$92.50.

(5) Licensed Embalmer over the age of 65 or disabled status -- \$92.50.

(6) Licensed Funeral Director and Embalmer (Dual) over the age of 65 or disabled status – \$160.

§204.6 Reinstatement Fee (Not Refundable)

The fee for a license which has been expired for longer than one year:

(1) Licensed Funeral Director -- \$370.

- (2) Licensed Embalmer -- \$370.
- (3) Licensed Funeral Director and Embalmer (Dual) -- \$640.
- (4) Licensed Funeral Director over the age of 65 or disabled status -- \$185.
- (5) Licensed Embalmer over the age of 65 or disabled status -- \$185.
- (6) Licensed Funeral Director and Embalmer (Dual) over the age of 65 or disabled status -- \$320.

§204.7 Establishment Fees for Funeral Homes, Commercial Embalming Facilities, and Crematories (Not refundable)

- (a) New Establishment License Fee -- \$462 (Includes a \$5 surcharge in accordance with Tex. Occ. Code Sec. 101.307).
- (b) Establishment Renewal Fee -- \$537 (includes a \$1 surcharge in accordance with Tex. Occ. Code Sec. 101.307 and a \$15 surcharge in accordance with Tex. Gov. Code Sec. 2054.252).
- (c) Establishment Late Penalty (added to renewal fee if more than one day late) -- \$521.

§204.8 Establishment Fees for Cemeteries

- (a) Initial Cemetery License Fee - \$100.
- (b) Cemetery Renewal Fee - \$101 (Includes a \$1 surcharge in accordance with Tex. Occ. Code Sec. 101.307).
- (c) Cemetery Late Penalty (added to renewal fee if more than one day late) - \$100.

§203.9 Miscellaneous Fees (Not Refundable)

- (a) Duplicate or Replacement License--\$5.
- (b) Preliminary Evaluation of Eligibility for Licensure of Person with Criminal Record--\$95.
- (c) Written Verification of License:
 - (1) Simple License Verification --\$30.
 - (2) Detailed License Verification --\$50.
- (d) Continuing Education:
 - (1) Annual Provider Fee -- \$250.
 - (2) Course Fee -- \$50.
 - (3) Individual Non-Approved Provider Fee -- \$25.

§203.10 Penalties

- (a) Continuing education noncompliance--\$300.
- (b) Disciplinary penalties (Refer to Commission Rule §203.43 of this title).

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

JUST FYI ...

The Office of Patient Protection fees are collected in accordance with Tex. Occ. Code Sec. 101.307 which states the initial licensing or registration fee charged by each licensing agency is increased by \$5 and the renewal fee charged by each licensing agency is increased by \$1 for each year for which the license or registration is renewed.

The Texas.gov fees are collected in accordance with Tex. Gov. Code Sec. 2054.252 which states each licensing entity shall increase the occupational license issuance or renewal fees imposed by the licensing entity by an amount sufficient to cover the cost of the subscription fee imposed on the licensing entity under Subsection (e) but not to exceed: \$5 for an annual occupational license or \$10 for a biennial occupational license.