

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: ALABAMA BOARD OF FUNERAL SERVICE

Rule No.: 395-X-4-.01

Rule Title: Original Inspection of Funeral Establishments

_____ New X Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

_____ YES _____

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

_____ NO _____

Is there another, less restrictive method of regulation available that could adequately protect the public?

_____ NO _____

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

It is possible that some funeral establishment may pass the increase in fees on to the consumer, but it is the board's opinion that the increase in fees are not substantial enough to necessitate the funeral home passing the increase on to the consumer.

_____ YES _____

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

_____ NO _____

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

_____ NO _____

Does the proposed rule have an economic impact?

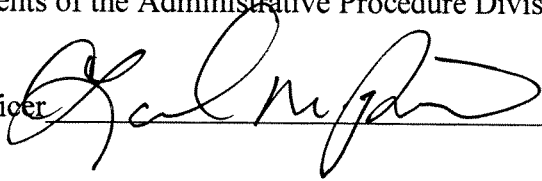
_____ NO _____

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 412223, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer _____



Date 11/17/11

(DATE FILED)
(STAMP)

Alabama Board of Funeral Service

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Funeral Service

RULE NO. & TITLE: 395-X-4-.01 Original Inspection of Funeral Establishments
395-X-4-.02 Annual Inspections of Funeral Establishments
395-X-4-.03 Complaints and Investigations

INTENDED ACTION: The Alabama Board of Funeral Service proposes to amend Rule No. 395-X-4-.01, Rule No. 395-X-4-.02, and Rule No. 395-X-4-.03

SUBSTANCE OF PROPOSED ACTION: The Board proposes to increase inspection fees, add a late penalty fee for inspection fees that are not paid to the Board within the 45 day time period allotted, and add specific direction on the how the Board office will handle complaints.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written, verbal or electronic mail comments will be accepted by the Board until:

Time: 4:30 p.m., Wednesday, January 4, 2012
Place: 11 South Union Street, Montgomery, AL 36104
Email: Charles.perine@fsb.alabama.gov
Phone: 334-242-4049

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Wednesday, January 4, 2012

CONTACT PERSON AT AGENCY:

Charles M. Perine
Associate Executive Secretary
11 South Union Street
Montgomery, AL 366104
(334)242-4049



Charles M. Perine
Associate Executive Secretary
Alabama Board of Funeral Service

ALABAMA BOARD OF FUNERAL SERVICE
ADMINISTRATIVE CODE

CHAPTER 395-X-4
INVESTIGATIONS AND INSPECTIONS

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395-X-4.01 Original Inspection of Funeral Establishments. Before a funeral establishment may open for business, an inspection of the premises must be made by one of the Board's staff or its members to verify that the establishment is in compliance with all rules and laws. The Board shall charge a fee of ~~thirty-five (35) dollars~~ one hundred fifty (150) dollars for the first inspection and ~~seventy-five (75) dollars~~ one hundred fifty (150) dollars for any re-inspection necessitated by failure to meet minimum requirements in the first inspection.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, § 34-13-26, 34-13-11.

History: Amended: Filed August 8, 1986. Amended: Filed November 17, 2011

395-X-4.02 Annual Inspections of Funeral Establishments. The Board shall inspect each funeral establishment at least once annually to ensure sufficient operation of the establishments. The Board shall charge a fee of ~~thirty-five (35)~~ seventy-five (75) dollars for each inspection conducted as provided in Code of Ala. 1975, §34-13-111(b). Said fees shall be submitted to the Board within forty-five (45) days of the inspection. Inspection fees that are not received by the Board within forty-five (45) days will be charged a late fee penalty of one hundred fifty (150) dollars. Should an establishment be found to be noncompliant of state funeral service laws or regulations, the inspector may give the establishment a specified period of time, to be set by the inspector, to correct the violations. Following the duration of such period, said establishment will be re-inspected. Should the same violations remain; the establishment operator will be notified to appear before the Board to answer charges of violating state funeral service laws or regulations. It is hereby declared to be the intent of the Board that such period of compliance and re-inspection is left completely to the discretion of the investigator and should violations or inadequacies found on the initial inspection pose serious consequences, the investigator may request the establishment operator to appear before the Board for such violations without providing period of compliance on re-inspection.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, § 34-13-26, 34-13-111.

History: Amended: Filed August 8, 1986. Amended: Filed November 17, 2011

395-X-4-.03 Complaints And Investigations. Any person who feels that a licensee has committed an act which is in violation of state laws or regulations relating to funeral service may make a complaint to the Board. The Board will only accept formal written complaints unless in the discretion of the Board representative receiving the complaint, there is sufficient information supplied by an oral complaint to warrant further investigation. After a complaint is received and reviewed, the Board staff shall send a copy of the complaint to the affected licensee by certified mail. The licensee shall answer the complaint in writing within twenty (20) days . After receipt of the response from the licensee or lapse of 20 days, the Board may conduct an investigation into the charges. If an investigation is initiated, upon its completion, the investigator, along with one Board member and/or legal counsel, shall review the evidence obtained to decide if an administrative hearing by the Board is necessary. If such hearing takes place, the Board and its staff shall inform the accused licensee and meet any other requirements as set forth in Title 34, Chapter 13, and Title 41, Chapter 22, Code of Ala. 1975, relating to administrative hearings. Should a Board member be involved in the investigation or in deciding the necessity of a hearing, said member shall not participate in hearing the merits of the case or the final decision process of the hearing.

Author: Charles M. Perine

Statutory Authority: Code of Ala. 1975, § 34-13-26.

History: Filed August 8, 1986. Amended: Filed November 17, 2011