

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 395
Department or Agency: Alabama Board of Funeral Service
Rule No.: 395-X-1-.01
Rule Title: Organization
Intended Action: Amend

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? No

To what degree?: N/A

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

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

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? 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 41-22-23, 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 Services Agency.

Signature of certifying officer

Charles M. Perine
Charles Perine

Date

Thursday, November 16, 2023

REC'D & FILED
NOV 16, 2023

LEGISLATIVE SVC AGENCY

ALABAMA BOARD OF FUNERAL SERVICE

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Funeral Service

RULE NO. & TITLE: 395-X-1-.01 Organization

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Due to the passage of SB131 (Act No. 2023-94 effective 10/1/2023) the board's composition changed to increase the board to 14 members(11 professional and 3 consumers)and forming a funeral division and preneed division of the board. 7 professional members and 2 consumers on for the funeral division and 4 professional members and 1 consumer for the preneed division. This rule is being amended to clarify the board's make up and set forth the procedure for the presiding officer for each division. This rule amendment protects the public's health, safety, and welfare by ensuring the orderly functioning of the board tasked with the protection of the public's health, safety, and welfare due to legislative changes to the statute.

TIME, PLACE AND 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, 20  
Place: 4276 Lomac Street, Montgomery, AL 36106  
Email: Charles.perine@fsb.alabama.gov  
Phone: 334-242-4049

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, January 4, 2024

CONTACT PERSON AT AGENCY:

Charles M. Perine

*Charles M. Perine*

---

Charles Perine

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

Organization.

~~The Alabama Board of Funeral Service is made up of seven professional members appointed by the Governor, one from each U.S. Congressional District of the state. The term of a member shall be four years and no person may serve more than two consecutive terms. Four (4) of the members shall have been practicing and licensed embalmers in Alabama for the ten (10) consecutive years immediately preceding their appointment and shall be licensed as embalmers and funeral directors during their terms. Three (3) of the members shall have been actively engaged in funeral directing in Alabama for ten (10) consecutive years, immediately preceding their appointment, and shall be licensed as funeral directors and shall be operators of a funeral establishment in this state at the time of their appointment. Commencing January 1, 2019, the board shall be reconstituted to consist of seven professional members and two consumer members. Should a member, for any reason, become ineligible to serve on the Board, the position shall become vacant and a new person, properly qualified, shall be appointed by the appointing authority to fill the vacancy and said person shall complete the remainder of such term.~~

Services is made up of fourteen total members, eleven of whom are professional members appointed by the Governor and three of whom are consumer members appointed by the Lieutenant Governor or Speaker of the House. The Board consists of two divisions, a Funeral Division (composed of seven professional members who hold licenses as funeral directors or embalmers and two consumer members) and a Preneed Division (composed of four professional members who hold licenses as preneed sales agents and one consumer member).

(2) The Board officers consist of chair, vice chair, treasurer, and secretary. These positions shall be filled by the Board during the first meeting immediately following the appointment each year.

(a) A Board officer shall preside over any meeting of the Board or of a Division of the Board in order of precedence listed above.

(b) If a Division of the Board does not include an officer of the Board among its membership, then that Division may select a presiding member from its own membership.

**Author:** Charles M. ~~Perrine~~Perine

**Statutory Authority:** Code of Ala. 1975, §§34-13-20, 34-13-21, 34-13-23, 34-13-26, 34-13-27.

**History:** **Amended:** Filed August 9, 1985. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed

September 12, 2017; effective October 27, 2017. Amended: Filed  
November 16, 2023;

APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 395
Department or Agency: Alabama Board of Funeral Service
Rule No.: 395-X-1-.02
Rule Title: Nomination And Appointment
Intended Action: Amend

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? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? No

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

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? 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 41-22-23, 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 Services Agency.

Signature of certifying officer

Charles M. Perine
Charles Perine

Date

Thursday, November 16, 2023

REC'D & FILED
NOV 16, 2023
LEGISLATIVE SVC AGENCY

ALABAMA BOARD OF FUNERAL SERVICE

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Funeral Service

RULE NO. & TITLE: 395-X-1-.02 Nomination And Appointment

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Due to the passage of SB131 (Act No. 2023-94 effective 10/1/2023) the board's composition changed to increase the board to 14 members (11 professional and 3 consumer) and forming a funeral division and preneed division of the board. 7 professional members and 2 consumer members for the funeral division and 4 professional members and 1 consumer member for the preneed division. This rule is being amended to implement legislative changes to the procedure for nominating 3 individuals to be submitted to the Governor for consideration of appointment to the board and the procedure for filling vacancies on the board. This rule amendment protects the public's health, safety, and welfare by ensuring the orderly functioning of the board tasked with the protection of the public's health, safety, and welfare due to legislative changes to the statute.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Written, verbal or electronic mail comments will be accepted by the Board until:  
Time: 4:30 p.m., Thursday, January 4, 2024  
Place: 4276 Lomac Street, Montgomery, AL 36106  
Email: Charles.perine@fsb.alabama.gov  
Phone: 334-242-4049

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, January 4, 2024

CONTACT PERSON AT AGENCY:

Charles M. Perine

*Charles Perine*

---

Charles Perine

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

**Nomination And Appointment.**

## (1) Professional Members.

(a) In October of each year in which the term of a professional member of the Board is scheduled to expire, a meeting shall be held in Montgomery for the purpose of nominating eligible candidates to serve on the Board as a professional member. ~~Nominations are taken for Districts One (1), Two (2), and Five (5) on even numbered years and Districts Three (3), Four (4), Six (6), and Seven (7) on odd numbered years. Three nominees from each district~~Three nominees for each position shall be selected and their names submitted to the Governor.

- i. At each meeting, only one licensed funeral director or licensed embalmer employed by each funeral establishment may vote to nominate candidates to serve as a professional member of the Board for the Funeral Division, ~~who shall appoint one person from each district.~~
- ii. At each meeting, only one licensed preneed sales agent employed by each certificate of authority holder may vote to nominate candidates to serve as a professional member of the Board for the Preneed Division.
- iii. For each position to be voted upon, no licensee can vote on behalf of more than one funeral establishment or certificate of authority holder, or otherwise vote more than once.

## (2) Consumer Members

(a) ~~One consumer member shall be appointed by the Lieutenant Governor and one consumer shall be appointed by the Speaker of the House using their own discretion. Consumer members' terms shall run concurrent with Districts One (1), Two (2), and Five (5).~~Two consumer members shall be appointed by the Lieutenant Governor and one consumer member shall be appointed by the Speaker of the House using their own discretion.

(b) ~~Consumer members may not reside in the same congressional district~~No consumer member may reside in the same district created by Ala. Code § 34-13-21 as any other consumer member.

(3) ~~New members are sworn in at the first regular meeting following December 31 of the respective year~~Members appointed to

fill a vacancy that will be created by an expiring term are sworn in at the first regular meeting following December 31 of the year in which the previous term expires. If an appointment is not made before the expiration of the term of a board member, then the board member may continue to serve until a successor has been appointed.

(4) A vacancy on the Board in any unexpired term may be filled by appointment of the appointing authority for the remainder of such unexpired term.

**Author:** Charles M. ~~Perrine~~Perine

**Statutory Authority:** Code of Ala. 1975, §§34-13-20, 34-13-21, 34-13-26, 34-13-27.

**History:** **Amended:** Filed August 9, 1985. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed June 6, 2014; effective July 11, 2014. **Amended:** Filed September 12, 2017; effective October 27, 2017. **Amended:** Filed November 16, 2023;



APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control: 395
Department or Agency: Alabama Board of Funeral Service
Rule No.: 395-X-2-.01
Rule Title: Application For License
Intended Action: Amend

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? No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule? No

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

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? 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 41-22-23, 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 Services Agency.

Signature of certifying officer

Charles M. Perine
Charles Perine

Date

Thursday, November 16, 2023

REC'D & FILED
NOV 16, 2023
LEGISLATIVE SVC AGENCY

ALABAMA BOARD OF FUNERAL SERVICE

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Funeral Service  
RULE NO. & TITLE: 395-X-2-.01 Application For License  
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:

Due to the passage of SB131 (Act No. 2023-94 effective 10/1/2023) the board will begin regulating preneed funeral and cemetery services. The board will be charged with issuing certificates of authority to business entities desiring to sell preneed services. One of the statutory requirements for a license is to complete a criminal history background check on the applicant pursuant to §34-13-190(c). This emergency rule clarifies who must submit to the background check when applying for a certificate of authority on behalf of an entity. This rule amendment protects the public's health, safety, and welfare by ensuring the individuals selling preneed services and merchandise do not have any prior offenses that would make the individual(s) they have legal control over an entity ineligible to be granted a certificate of authority (and which would indicate they may pose some threat to consumers).

TIME, PLACE AND MANNER OF PRESENTING VIEWS:

Written, verbal or electronic mail comments will be accepted by the Board until:  
Time: 4:30 p.m., Thursday, January 4, 2024  
Place: 4276 Lomac Street, Montgomery, AL 36106  
Email: Charles.perine@fsb.alabama.gov  
Phone: 334-242-4049

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Thursday, January 4, 2024

CONTACT PERSON AT AGENCY:

Charles M. Perine

*Charles M. Perine*

---

Charles Perine

(Signature of officer authorized  
to promulgate and adopt  
rules or his or her deputy)

**Application For License.**

Anyone wishing to apply for any type of license, registration, or certification that is issued by the Board, must:

(1) Apply on a form supplied by the Board. Said applicant must meet and comply with all provisions of Title 34, Chapter 13, Code of Ala. 1975, relating to licensure and application thereof. No application is considered valid unless it is submitted to and received by the Board office.

(2) The passing score for any Board examination shall be either a scaled score of 75 or an average score of 75 percent, as determined by the scoring method used by the administering entity.

(3) The Board shall establish the beginning time of all examinations it administers. These examinations shall be completed within 210 minutes within said beginning time, as set by the Board, regardless of the length or number of sections of the examinations.

(4) In addition to the application fee, the Board shall charge each applicant an examination fee of \$100.00 for each funeral directing or embalming exam taken.

(5) Any application to the Board for a license, certificate, or registration made on behalf of a sole proprietorship, firm, corporation, partnership, joint venture, or limited liability company for a certificate of authority to sell preneed contracts shall be sworn to by each:

a. Owner, partner, member, shareholder, and/or other principal of such entity controlling a 10% or greater interest in the entity; and

b. Any other individual(s) or officer(s) as may be needed to legally bind the entity.

(6) All individuals identified in subsection (5) must also include the following information for each such individual with their application:

a. A form, prescribed by the board and sworn to by the applicant, that contains their:

i. Name

ii. Date of Birth

- iii. Social Security Number
- iv. Two complete sets of fingerprints

b. The information submitted in subsection (6) (a) will be used to complete a criminal history background check.

**Author:** Charles M. Perine

**Statutory Authority:** Code of Ala. 1975, §§34-13-26, 34-13-27, 34-13-73(c), 34-13-94(c), 34-13-113, 34-13-190(c) (2).

**History: Amended:** Filed August 9, 1985; August 8, 1986 (rule title changed from "Application of License" to "Application for License"); August 7, 1991. **Amended:** Filed August 10, 2004; effective September 14, 2004. **Amended:** Filed January 30, 2012; effective March 5, 2012. **Amended:** Filed September 12, 2017; effective October 27, 2017. **Amended:** Published July 29, 2022; effective September 12, 2022. **Amended:** Filed November 16, 2023;