

NOTICE OF IMPORTANT CHANGES
REGARDING FUNERAL DIRECTOR-IN-CHARGE
OF A FUNERAL ESTABLISHMENT

The Florida legislature recently made a change to a statute that is of special significance to funeral establishments in Florida, and to licensed funeral directors in charge at those establishments. The statutory change referred to is to section 497.380(7), Florida Statutes, and was made by section 22 of Senate Bill 1152, in the 2010 regular session of the Florida legislature.

Under the new statutory provision, effective October 1, 2010, every funeral establishment (FE) must have as its funeral director in charge (FDIC) a person who holds a valid Florida license as a combination funeral director & embalmer (FDE).

However, the legislature provided a limited exception that will allow some persons holding only funeral director licensure, who are currently acting as FDIC at an FE, to continue in that capacity at the FE where they are currently working. We refer herein to this exception as "the Exception." To qualify for the Exception, all three of the following conditions must be met:

1. The funeral establishment and the funeral director in charge must both have active, valid licenses as of 9-30-2010.
2. The funeral director seeking to be covered by the Exception must actually be employed as funeral director in charge at the funeral establishment, as of 9-30-2010.
3. The funeral director seeking to be covered by the Exception, must be shown as the funeral director in charge for that funeral establishment, in the records of the Division of Funeral, Cemetery, and Consumer Services, as of 9-30-2010.

If you want to get the benefit of the Exception, it is your responsibility to make sure, prior to 9-30-2010, that you satisfy all three conditions. Be advised that at each annual inspection of the FE after 10-1-2010, the Division inspector will be checking to see if the FDIC at the FE is a combination funeral director & embalmer, and if not, whether the FD acting as FDIC qualifies under the Exception. If the FDIC is not a combination funeral director & embalmer, and does not qualify under the Exception, the FDIC and the FE will be subject to disciplinary action for violation of 497.380(7), Florida Statutes.

SOME QUESTIONS AND ANSWERS

How is Condition 3, above, complied with? There are two ways to satisfy condition 3 above:

- 1) The original application form for a FE license has a blank space where the applicant fills-in the name of the FD who will act as FDIC if the FE license application is approved. If the FD acting as FDIC at the FE as of 9-30-2010, is the same person named as FDIC on that FE's original license application, then that FD meets Condition 3; or
- 2) If the FDIC at the FE is not the same person named on the FE's original license application, but prior to 9-30-10 the FE has filed with the Division a properly completed form DFS-N1-1743 "Change of Funeral Director/Funeral Director In Charge," and the FD named on that Change form as the new FDIC is the FDIC as of 9-30-2010, then that FD named on that "Change" form meets Condition 3.

I am the current but not the original FDIC at this FE, and I am not sure if an FDIC Change form naming me was ever filed with the Division. What should I do?

If you want to qualify under the Exception, and you have any doubt as to whether the Division's records currently show you as the FDIC at the FE, the Division suggests that, just to be safe, prior to 9-30-2010 you fill out and file with the Division a completed form DFS-N1-1743 "Change of Funeral Director/Funeral director In Charge" in which you are named as the new funeral director in charge. We attach a copy of the Change form. Make sure you mail it in time for the Division to get it before the deadline of 9-30-10.

The Division suggests that you send the change form by certified mail to the Division, return receipt requested. Keep your certified mail receipt, and a copy of what you sent, as proof. Address the mail to:

Division of Funeral, Cemetery, and Consumer Services
Attn: Jasmin Richardson
200 East Gaines Street
Tallahassee FL 32399-0361

Alternatively you may send the Change form to the Division by regular mail, or fax it (850-413-4087), or scan it into PDF format after filling it out and then email it to the Division (Jasmin.Richardson@MyFloridaCFO.com). However, these three methods do not provide you with as strong a proof of sending it as does certified mail, return receipt requested. For example, if you say you sent it but you have no proof, and the Division has no record of receiving it, you may not qualify for the Exception. To protect yourself from this scenario, the Division suggests that you send it by certified mail, return receipt requested, and keep the certified mail records.

If a FE gets its current FDIC qualified under the Exception, and after 10-1-2010 that FD stops acting as FDIC, may the FE hire another FD-only to act as FDIC?

No. The FE must at that point employ a person licensed as a combination funeral director & embalmer.

If a FE gets its current FDIC qualified under the Exception, and after 10-1-2010 that FD ceases employment there and goes to work at a different FE, may that FD-only act as FDIC at that second FE?

No. The Exception is good only at the FE where the FD met all three conditions as of 9-30-2010.

If a FE gets its current FDIC qualified under the Exception, and after 10-1-2010 that FD quits acting as FDIC at that FE, but later wants to resume acting as FDIC at that FE, may they do so?

No. The Exception permanently terminates as soon as you cease to act as FDIC.

MORE QUESTIONS? Contact Jasmin Richardson, Division of Funeral, Cemetery, and Consumer Services, at 850-413-4076.

Also, at least weekly visit the Division's website, and check the "Announcements" and "Hot Topics" columns, for more information and subsequent developments. Our webpage address is:
<http://www.myfloridacfo.com/funeralcemetery>.