

Chapter 0780-05-09
Cemeteries
Amendments

Rule 0780-05-09-.03(1) Bureau of Labor Statistics CPI-U Annual Average is amended by deleting the paragraph in its entirety and adding the following language so that, as amended, Paragraph (1) shall read:

- (1) The Bureau of Labor Statistics CPI-U annual averages can be accessed at the [Bureau of Labor Statistics](http://stats.bls.gov/cpi) web site <http://stats.bls.gov/cpi>. ~~The following tables contain the annual averages and percentage changes in annual averages for computation of consumer price index adjustments to the installation and memorial care fees:~~ The updated computation will also be posted to the Program's web site each year.

~~Base Period 1967 = 100~~

~~Annual Percentage Change in~~

~~1980 246.8~~

~~1981 272.4 10.4%~~

~~1982 289.1 6.1%~~

~~1983 298.4 3.2%~~

~~1984 311.1 4.3%~~

~~1985 322.2 3.6%~~

~~1986 328.4 1.9%~~

~~1987 340.4 4.7%~~

~~Base Period 1982-84 = 100~~

~~1987 113.6~~

~~1988 118.3 4.1%~~

~~1989 124.0 4.8%~~

~~1990 130.7 5.4%~~

~~1991 136.2 4.2%~~

~~1992 140.3 3.0%~~

~~1993 144.5 3.0%~~

~~1994 148.2 2.6%~~

~~1995 152.4 2.8%~~

~~1996 156.9 3.0%~~

~~1997 160.5 2.3%~~

~~1998 163.0 1.6%~~

~~1999 166.6 2.2%~~

~~2000 172.2 3.4%~~

~~2001 177.1 2.8%~~

~~2002 179.9 1.6%~~

~~2003 184.0 2.3%~~

~~2004 188.9 2.7%~~

~~2005 195.3 3.4%~~

~~2006 201.6 3.2%~~

Authority: T.C.A. §§ 46-1-204(c), 46-1-206, 46-1-207(e)(1), 46-1-301(b) and 46-2-101(b)(2).

Rule 0780-05-09-.05 Fees is amended by deleting the following language “LexisNexis© Tennessee Funeral Laws. . . \$20.00” so that, as amended, the rule shall read:

The following fees are hereby established by the Commissioner.

New registration	\$1,000.00
Renewal of registration	
Cemeteries with improvement care trust fund(s) less than \$200,000.00...	\$500.00
Cemeteries with improvement care trust fund(s) of \$200,000.00 or greater.....	\$1,000.00
Additional fee for each moth (or fraction thereof) after expiration.....	\$250.00
Reinstatement.....	\$3,500.00
Change of ownership.....	\$1,000.00
Database update.....	\$60.00
Duplicate registration certificate.....	\$60.00
LexisNexis© Tennessee Funeral Laws.....	\$20.00
Merchandise and services report late fee (for each month or fraction thereof that the report is late).....	\$100.00
Improvement care report late fee (for each month or fraction thereof that the report is late).....	\$100.00

Authority: T.C.A. §§ 10-7-506, 46-1-103(c)(1), 46-1-104(b), (c), and (d), 46-1-214(c), 46-1-215(c) and 46-1-301(b).

Rule 0780-05-09-.14 Community Cemeteries – Request for Exemption is amended by deleting the language “in typewritten form on 8 ½ x 11 inch paper” so that, as amended, the rule shall read:

A cemetery may submit a written request for exemption as a community cemetery ~~in typewritten form on 8 ½ x 11 inch paper~~ which shall contain the following information:

- (1) The name and address of the cemetery, or description of its location if it has no street address;
- (2) The name, address, and telephone number of the person in responsible charge of the cemetery who is submitting the application on behalf of the cemetery;

- (3) A description of the historic nature of the cemetery and/or its environs, if applicable;
- (4) The area remaining for future use and (if different) the area remaining for future sales;
- (5) The sale of lots, by number of lots sold per year, over the preceding ten (10) years and the price or prices at which the lots sold; and
- (6) The population of the community normally served by the cemetery.

Authority: T.C.A. §§ 46-1-106(b) and 46-1-301(b).

Rule 0780-05-09-.24 Trustee Civil Penalties is amended by deleting the rule in its entirety and replacing it with the following language so that, as amended, the rule shall read:

- (1) With respect to any trustee required to comply with the provisions of T.C.A. Title 46, or rules promulgated thereunder, the Commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties against such trustee for each separate violation of a statute, rule or order ~~pertaining to such provisions in~~ the amount of \$1,000.00 - \$10,000.00. ~~accordance with the following schedule:~~

Violation	Penalty
T.C.A. § 46-1-204(e)(4)(C)	Not more than \$10,000.00 Nor less than \$1,000.00
T.C.A. § 46-1-207(d)	Not more than \$10,000.00 Nor less than \$1,000.00
T.C.A. § 46-1-208	Not more than \$10,000.00 Nor less than \$1,000.00
T.C.A. § 46-1-214(b)	Not more than \$10,000.00 Nor less than \$1,000.00
T.C.A. § 46-1-215(b)	Not more than \$10,000.00 Nor less than \$1,000.00
T.C.A. § 46-1-302(a)	Not more than \$10,000.00 Nor less than \$1,000.00
T.C.A. § 46-1-306(a)(10)	Not more than \$10,000.00 Nor less than \$1,000.00
T.C.A. § 46-1-306(e)	Not more than \$10,000.00 Nor less than \$1,000.00
T.C.A. § 46-1-306(e)	Not more than \$10,000.00 Nor less than \$1,000.00

- (2) Each day of continued violation shall constitute a separate violation.
- (3) In determining the amount of any civil penalty to be assessed pursuant to this rule, the Commissioner may consider such factors as the following:
 - (a) whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) the circumstances leading to the violation;
 - (c) the severity of the violation and the risk of harm to the public;
 - (d) the economic benefits gained by the violator as a result of noncompliance; and
 - (e) the interest of the public.

Authority: T.C.A. §§ 46-1-301 and 46-1-306(c).

Rule 0780-05-09-.25 Civil Penalties is amended by deleting the rule in its entirety and replacing it with the following language so that, as amended, the rule shall read:

- (1) With respect to any person required to comply with the provisions of T.C.A. Title 46, or rules promulgated thereunder, or granted an exemption under T.C.A. § 46-1-106(b), the Commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties against such person for each separate violation of a statute, rule or order ~~pertaining to such provisions~~ in the amount of \$500.00 - \$1,000.00 ~~accordance with the following schedule:~~

Violation	Penalty
T.C.A. § 46-1-103(a)	Not more than \$1,000.00 nor less than \$500.00
T.C.A. § 46-1-107(a)	Not more than \$1,000.00 nor less than \$500.00
T.C.A. § 46-1-108(b)	Not more than \$1,000.00 nor less than \$500.00
T.C.A. § 46-1-108(c)	Not more than \$1,000.00 nor less than \$500.00
T.C.A. § 46-1-109(b)	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-110	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-111	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-202	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-203	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-204	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-205	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-206	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-207	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-208	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-209(a)	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-209(c)	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-212	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-213	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-214(a)	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-214(f)	Not more than \$1,000.00 Nor less than \$500.00
T.C.A. § 46-1-215(a)	Not more than \$1,000.00

T.C.A. § 46-1-216	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-1-302(a)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-1-303(b)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-1-304(a)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-1-306(a)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-1-307(a)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-2-101(a)(3)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-2-101(b)(2)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-2-101(b)(3)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-2-101(b)(4)	Nor less than \$500.00 Not more than \$1,000.00
T.C.A. § 46-2-106(a)	Nor less than \$500.00 Not more than \$1,000.00

- (2) Each day of continued violation shall constitute a separate violation.
- (3) In determining the amount of any civil penalty to be assessed pursuant to this rule, the Commissioner may consider such factors as the following:
 - (a) whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) the circumstances leading to the violation;
 - (c) the severity of the violation and the risk of harm to the public;
 - (d) the economic benefits gained by the violator as a result of noncompliance; and
 - (e) the interest of the public.

Authority: T.C.A. §§ 46-1-301(b), 46-1-306(b) and 56-1-308.

Chapter 0780-05-10
Pre-Need Funeral Service Contracts
Amendments

Rule 0780-05-10-.09 Deposit of Funds is amended by deleting the language “thirty (30)” and replacing it with “fifteen (15)” and is further amended by deleting its authority “62-5-405(a) and (b)” and replacing it with “62-5-407” and “62-5-413” so that, as amended, the rule shall read:

- (1) Contract sellers shall deposit all funds received on account of a pre-need contract as soon as possible after receipt, and in no event later than ~~thirty (30)~~ fifteen (15) days after receipt.
- (2) All deposits of funds with a trustee shall be in cash only pursuant to a trust instrument; provided. However, that, at any time, a contract seller may change the trustee of its trust

funds. In the event of such change of trustee, the requirements of Rule 0780-05-10-.08 shall be complied with.

Authority: T.C.A. §§ ~~62-5-405(a) and (b)~~ 62-5-407 and 62-5-413.

Rule 0780-05-10-.10 Investment of Trust Funds is amended by deleting the language “men” and replacing it with “persons” and is further amended by deleting “62-5-405(a) and (b)” from its authority and replacing it with “62-5-407” and “62-5-413” so that, as amended, the rule shall read:

- (1) A financial institution acting as trustee of trust funds under these rules shall invest such funds in accordance with applicable law. In so investing, such trustee shall exercise the judgement and care under the circumstances then prevailing, which ~~men~~ persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to the speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
- (2) An individual acting as a trustee of trust funds under these rules shall not, after depositing such funds with a financial institution, withdraw the trust funds for any purpose other than payment for funeral merchandise or service and refund of any balance remaining as provided by law. However, such individual trustee may, upon proper written authority, transfer trust funds to another financial institution or successor trustee.
- (3) Subject to contractual agreement between the parties, the trustee may receive a reasonable fee for services rendered as a trustee from the interest or earnings on the funds.

Authority: T.C.A. §§ 62-5-401, 62-5-402, 62-5-407 and ~~62-5-405(a) and (b)~~ 62-5-413.

Rule 0780-05-10-.16 Civil Penalties is amended by deleting the rule in its entirety and replacing it with the following language so that, as amended, the rule shall read:

- (1) With respect to any person, partnership, firm, association or corporation required to comply with the provisions of Tenn. Code Ann. Title 62, Chapter 5, Part 4, or rules promulgated thereunder, the Commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties against such person for each separate violation of a statute, rule or order ~~pertaining to such provisions~~ in the amount of \$250.00 - \$1,000.00. ~~accordance with the following schedule:~~

Violation	Penalty
Tenn. Code Ann. § 62-5-401	Not more than \$1,000.00 Nor less than \$25.00
Tenn. Code Ann. § 62-5-402(a)	Not more than \$1,000.00 Nor less than \$25.00
Tenn. Code Ann. § 62-5-402(b)	Not more than \$1,000.00 Nor less than \$25.00
Tenn. Code Ann. § 62-5-402(c)	Not more than \$1,000.00 Nor less than \$25.00
Tenn. Code Ann. § 62-5-403	Not more than \$1,000.00 Nor less than \$25.00
Tenn. Code Ann. § 62-5-404(b)	Not more than \$1,000.00 Nor less than \$25.00
Tenn. Code Ann. § 62-5-404(c)	Not more than \$1,000.00 Nor less than \$25.00
Rule 0780-05-10-.05(1)	Not more than \$1,000.00

Rule 0780-05-10-.05(2)(a)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.05(2)(b)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.05(3)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.06	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.07	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.08(2)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.09(1)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.09(2)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.10(1)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.10(2)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.11	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.13(1)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.13(2)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.13(3)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.13(4)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.13(5)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.14(1)	Nor less than \$25.00 Not more than \$1,000.00
Rule 0780-05-10-.15(3)	Nor less than \$25.00 Not more than \$1,000.00

- (2) Each day of continued violation shall constitute a separate violation.
- (3) In determining the amount of any civil penalty to be assessed pursuant to this rule, the Commissioner may consider such factors as the following:
 - (a) whether the amount imposed will be substantial economic deterrent to the violator;
 - (b) the circumstances leading to the violation;
 - (c) the severity of the violation and the risk of harm to the public;
 - (d) the economic benefits gained by the violator as a result of noncompliance; and
 - (e) the interest of the public.

Authority: T.C.A. §§ 56-1-308 and ~~62-5-405(a), (b), and (e)~~ [62-5-413](#).