

OFFICE OF ATTORNEY GENERAL
Office of Consumer Protection
(Amendment)

40 KAR 2:150. Cremation forms and inspections.

RELATES TO: KRS 213.081, 213.098, 367.93103, 367.93105, 367.93115, 367.93117, 367.97501, 367.97504, 367.97507, 367.97511, 367.97514, 367.97517, 367.97521, 367.97524, 367.97527, 391.010

STATUTORY AUTHORITY: KRS 15.180, 367.150(4), 367.97501, 367.97504, 367.97534

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15.180 authorizes the Attorney General to promulgate administrative regulations that will facilitate performing the duties and exercising the authority vested in the Attorney General and the Department of Law. KRS 367.150(4) requires the Department of Law to recommend administrative regulations in the consumers' interest. KRS 367.97501 and 367.97504 require the Attorney General to promulgate an administrative regulation to establish an application for a crematory authority license and report forms. KRS 367.97524 requires crematory authorities to obtain signed cremation authorization forms before conducting any cremations. KRS 367.97534(5) authorizes the Attorney General to promulgate administrative regulations necessary to carry out the provisions of KRS 367.97501 to 367.97537, pertaining to crematory authorities. This administrative regulation prescribes the license application form, and other forms, to be used by crematory authorities. This administrative regulation establishes the records and information that shall be retained by crematory authorities and permits crematory inspections by the Attorney General.

Section 1. Crematory Authority License Application Form. An applicant for a crematory authority license shall complete and submit a Crematory Authority License Application Form to the Office of Attorney General before commencing business.

Section 2. Cremation Authorization Form. Licensed crematory authorities shall complete and keep a Cremation Authorization Form for every cremation of human remains performed by them.

Section 3. Crematory Annual Report Form. Licensed crematory authorities shall complete and submit a Crematory Annual Report Form for each calendar year beginning January 1 and ending December 31. The completed Crematory Annual Report Form shall be filed with the Attorney General's Office by March 31 of the year following the calendar year reported.

Section 4. Statement of Supervision Form. Licensed crematory authorities shall complete and submit a Statement of Supervision for Registered Crematory Retort Operators Form for each trained retort operator before permitting the trained operator to operate a retort..

Section 5. Required Records of the Crematory Authority. To comply with KRS 367.97504(5), a crematory authority shall keep and maintain the following records for all cremations occurring within the prior ten (10) years:

- (1) The original or a copy of the completed Cremation Authorization, Form CR-1;
- (2) Any discontinued Preneed Cremation Authorization, Form CR-3 completed and executed prior to July 15, 2016; and
- (3) Any Funeral Planning Declaration, Form FPD-1 as incorporated by reference in 40 KAR 2:145.

Section 6. Inspection of Crematory Authorities. The Attorney General may conduct announced and unannounced inspections of applicants' and licensed crematory authorities'

premises during normal business hours to review records and ensure compliance with KRS 367.97501 to 367.97537 and related regulations. Applicants and licensed crematory authorities shall permit such inspections and make all requested records readily available to the Attorney General upon request.

Section 7. Material Changes in Application and Reports. A licensed crematory authority shall notify the Attorney General within fourteen (14) days of any material change in the information provided in its applications or reports.

Section 8. Human Remains of Deceased Pregnant Mother. A licensed crematory may cremate the remains of a deceased pregnant woman together with the fetal remains of her unborn child(ren) within the same cremation chamber. Completion of a Cremation Authorization Form authorizing cremation of the deceased pregnant woman shall also authorize cremation of her unborn child(ren).

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Cremation Authorization", Form CR-1, Oct. 2022;
- (b) "Crematory Authority Annual Report", Form CR-2, Oct. 2022;
- (c) "Statement of Supervision for Registered Crematory Retort Operators", Form CR-4, Oct. 2022; and
- (d) "Crematory Authority License Application", Form CR-5, Oct. 2022.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Attorney General, Office of Consumer Protection, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the Office's Web site, <https://ag.ky.gov/Pages/default.aspx>.

PHILIP R. HELERINGER, Executive Director
DANIEL CAMERON, Attorney General

APPROVED BY AGENCY: October 13, 2022

FILED WITH LRC: October 13, 2022 at 2:00 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on December 29, 2022 at 10:00 a.m. Eastern Time at the Kentucky Office of Attorney General, Office of Consumer Protection, 1024 Capital Center Drive, Room A, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this Office in writing at least five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on December 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephen B. Humphress, Asst. Attorney General, Office of Consumer Protection, Kentucky Office of Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone 502-696-5408, fax (502) 573-8317, email steve.humphress@ky.gov.