

AGENT DESIGNATION CERTIFICATE

MAIL TO: Texas Department of Banking
Special Audits Division
2601 North Lamar Boulevard
Austin, Texas 78705-4294

UPON APPROVAL, THIS AGENT IS REPLACING:

(NAME OF AGENT TO BE REMOVED)

This document requests the designation of the individual named below as an agent who is responsible for the funds collected under contracts for prepaid funeral benefits under Section 154.160 of the Texas Finance Code. The designated agent will be further authorized to certify documents requesting approval of the Department of Banking for withdrawal of funds or release of benefits on deposit in prepaid funeral accounts, held on behalf of the contract beneficiary.

AGENT'S NAME: _____ PERMIT NUMBER: _____

PERMIT HOLDER NAME: _____

PERMIT HOLDER CITY: _____

OWNER/PRESIDENT SIGNATURE: _____

TYPED/PRINTED NAME AND TITLE OF OWNER/PRESIDENT: _____

I, _____, acknowledge appointment as an agent under the provisions of Section
(AGENTS NAME TYPED OR PRINTED)
154.160 of the Finance Code. I also certify that I have read page 2 of this form, and that I understand my responsibility as a fiduciary under Section 32.45 of the Texas Penal Code.

SIGNATURE OF AGENT

TITLE OF AGENT

STATE OF _____

COUNTY OF _____

Before me, a notary public, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing document, and, being by me first duly sworn, declared that he/she has read and understands the statements herein contained and agree to comply with all laws as they relate to the Finance Code.

Given under my hand and seal of office this _____ day of _____, A.D., _____.

NOTARY PUBLIC SIGNATURE

(SEAL)

NOTARY PUBLIC TYPED OR PRINTED NAME

My commission expires: _____

INSTRUCTIONS

The principal of each permit holder shall designate those persons he/she desires to act as agents. The principal must sign the certificate and the agent must sign the acknowledgement. A principal may designate him/herself by signing both the certificate and the acknowledgment.

Prepare in duplicate for each agent and forward both notarized copies to the Department of Banking for review and approval. Upon approval, a copy will be returned to the permit holder to be kept in the permanent file. A copy will also be maintained in the Department's permanent file.

The permit holder must advise the Department of changes in designations within 10 days before a change occurs and submit new designations as necessary. Approved designations must be provided to Department examiners on request.

SECTION 154.160 OF THE TEXAS FINANCE CODE provides in part:

“A seller shall designate one or more agents by name or title. The seller shall notify the Department of the designation no later than the 10th day after the date the seller becomes subject to this chapter; and any change in the designation not later than the 10th day after the date of the change. An agent designated under this section is considered a fiduciary for purposes of Section 32.45, Penal Code; and responsible for the deposit of money collected under prepaid funeral benefits contracts.”

SECTION 154.404 OF THE TEXAS FINANCE CODE provides in part:

“A seller or person acting on behalf of a seller commits an offense if the seller or person collects money under a prepaid funeral benefits contract; and fails to deliver the money to a designated agent of the seller before the 31st day after the date it is collected. An offense under this section is punishable as if it were an offense under Section 32.45, Penal Code.”

SECTION 32.45, TEXAS PENAL CODE provides in part:

- “... (b) A person commits an offense if he intentionally, knowingly or recklessly misapplies properties he holds as a fiduciary or property of a financial institution in a manner that involves substantial risk of loss to the owner of the property or to a person for whose benefit the property is held.
- (c) An offense under this section is:
- (1) a Class A misdemeanor if the value of the property misapplied is less than \$200;
 - (2) a felony of the third degree if the value of the property is \$200 or more but less than \$10,000;
 - (3) a felony of the second degree if the value of the property is \$10,000 or more.”