

# **Texas Department of Banking**

## **Press Release**

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### **Retail Casket Store Can Be Exempt From Regulation**

Date: October 8, 1998

Texas Banking Commissioner Catherine A. Ghiglieri today announced that the Department of Banking has adopted a new rule [7 TAC §25.8], effective October 5, 1998, to exempt retail casket stores from regulation. The department regulates the sale of prepaid funeral services and merchandise under statutes that generally require sellers to be licensed, to deposit sales proceeds in trust pending the death of the benefited party, and to submit to regulatory examination and reporting requirements applicable to the trust.

According to Commissioner Ghiglieri, the purpose of state regulation is the protection of funds paid for funeral services to be performed in the future, and to assure that the funds will be available to pay for the funeral at the time the services are needed. "The purpose of state regulation is not served by regulating casket sales unconnected with a prepaid funeral service. This business practice directly benefits consumers through increased price competition," Commissioner Ghiglieri stated.

For casket sellers to remain exempt from statutory preneed regulations, the rule requires the casket to actually be delivered to the purchaser. Storage options under the control of the seller or an affiliate of the seller may not be offered. The casket must be completely unconnected to a prepaid funeral service sold by the seller or an affiliate of the seller. While a casket sale may be financed, possessory security interests are prohibited. Finally, records must be maintained by the seller adequate to support the availability of the exemption.

Commissioner Ghiglieri stated, "We have no desire to infringe on any legitimate retail casket sales business. Our only goal is to protect consumers' interests in preneed acquisitions of funeral goods and services."