

RULE REVIEW

Department of State

REVIEW PURSUANT TO STATE ADMINISTRATIVE PROCEDURE ACT SECTION 207 OF RULES ADOPTED BY THE DEPARTMENT OF STATE IN CALENDAR YEAR 2000

Pursuant to Section 207(4) of the State Administrative Procedure Act (SAPA), the Department of State hereby gives notice that it has reviewed the following rules which were adopted during 2000. A summary of each of these rules was published in the Rule Review section of the May 4, 2005 edition of the State Register. The Department of State did not receive any comment from the public regarding any of these rules.

For further information about any of these rules, contact: Nathan A. Hamm, Office of Counsel, Department of State, 41 State Street, Albany, New York 12231, (518) 474-6740.

(1) DOS-09-99-00001 Cosmetology License

This rule added section 162.4 to Title 19 NYCRR to establish qualifying education requirements for a cosmetology license. The statutory basis for this rule is General Business Law, section 404.

This rule will be continued without modification because the rule continues to be needed to address the requirement found in Article 27 of the General Business Law that cosmetologists meet certain minimum standards of training and competence in order to ensure the health, safety, and welfare of the public. This rule addresses this requirement by requiring new applicants to complete a 1000 hour curriculum in order to qualify for a cosmetology license.

(2) DOS-15-99-00005 Games of Chance

This rule repealed sections 132.1 and 132.2, and added sections 132.1, 132.2, 132.4, and 132.5 to Title 19 NYCRR to clarify and modernize the rules dealing with the use of games of chance to sell commodities. The statutory authority for this rule is General Business Law, section 369-e and Executive Law, section 91.

This rule will be continued without modification because it is necessary to implement the requirements of General Business Law section 369-e. General Business Law section 369-e requires that persons, firms, and corporations which use games of chance to sell commodities must make a filing with the Department of State if the total announced value of prizes offered is in excess of five thousand dollars. The rule clarifies when a filing must be made with the Department of State under General Business Law section 369-e and also advances the legislative objective of this section to decrease the likelihood of prizes not being awarded to prizewinners.

(3) DOS-05-00-00007 Boxer-Promoter Contracts, Special Rules for Professional Boxing Championship Bouts, and the Standing Eight Count

This rule amended Parts 205, 208, 212, 215, and 216 of Title 19 NYCRR concerning boxer-promoter contracts, special rules for professional boxing championship bouts, and the standing eight count.

The statutory authority for this rule is Unconsolidated Laws, section 8901.

This rule will be continued without modification because the standards which it established concerning the process for selection, licensing, and compensation of judges in professional boxing championship bouts and concerning disclosure requirements for organizations sanctioning professional boxing championships continue to be needed. In addition, the rule protects boxers by imposing additional requirements on boxer-promoter contracts and contains provisions which safeguard the health and safety of boxers.

(4) DOS-07-00-00013 Information Posting by Public Not-for-Profit Cemeteries

This rule repealed existing section 201.7 and added a new section 201.7 to Title 19 NYCRR concerning information required to be posted by public not-for-profit cemeteries regulated by the State Cemetery Board. The statutory authority for this rule is Not-for-Profit Corporation Law, section 1504(c)(1).

This rule will be continued without modification because it helps to ensure that individuals responsible for the operation of public not-for-profit cemeteries which do not have their main offices on or adjacent to cemetery premises will be made aware of instances of vandalism and other issues affecting the operation of these cemeteries. The rule accomplishes this goal by requiring these cemeteries to post a notice at the main cemetery entrance which states the name, title, and office telephone number of the superintendent or other person with primary responsibility for cemetery operation.

(5) DOS-12-00-00008 Cease and Desist Zones

This rule amended section 175.17(c)(2) of Title 19 NYCRR and established a cease and desist zone in the community districts 9, 10, 11, and 12 of the Bronx. The statutory authority for this rule is Real Property Law, section 442-h(3).

This rule will be continued without modification because it provides relief to homeowners in the above mentioned Bronx communities from intense pressure and repeated solicitations from real estate brokers and salespersons. The rule authorizes homeowners in the designated communities to file an "owner's statement" with the Department of State which indicates a desire not be solicited. These filings are published by the Department of State in cease-and-desist lists which provide these homeowners with an effective and practical means of notifying real estate brokers and salespersons that they do not wish to be contacted.

(6) DOS-12-00-00011 Cease and Desist Zones

This rule amended section 175.17(c)(2) of Title 19 NYCRR and established a cease and desist zone in the County of Queens. The statutory authority for this rule is Real Property Law, section 442-h(3).

This rule will be continued without modification because it provides relief to homeowners in the County of Queens from intense pressure and repeated solicitations from real estate brokers and salespersons. The rule authorizes homeowners in the designated

communities to file an "owner's statement" with the Department of State which indicates a desire not be solicited. These filings are published by the Department of State in cease-and-desist lists which provide these homeowners with an effective and practical means of notifying real estate brokers and salespersons that they do not wish to be contacted.

(7) DOS-20-00-00003 Definitions in Relation to Security and Fire Alarm Systems

This rule amended section 195.1 of Title 19 NYCRR to clarify the meaning of terms in relation to security and fire alarm systems and to add a new definition to this section. The statutory authority for this rule is General Business Law, section 69-n(5).

This rule will be continued without modification because the clarification of several of the terms found in Article 6-D of the General Business Law provided by the rule continues to be needed to ensure proper understanding and compliance with the provisions of Article 6-D by regulated parties.

(8) DOS-22-00-00008 State Cemetery and Restoration Fund

This rule repealed section 200.11 and added a new section 200.11 to Title 19 NYCRR. The rule simplified and clarified regulatory provisions concerning the State Cemetery Vandalism Restoration and Administration Fund. The statutory authority for the rule is Not-for-Profit Corporation Law, section 1507(h).

This rule will be continued without modification because it brought section 200.11 of Title 19 NYCRR closer to the intent of Not-for-Profit corporation Law section 1507(h). This was accomplished by adopting a new section 200.11 which established procedures for making payments into a cemetery vandalism fund, submitting initial reports of vandalism, making applications for payment for repair of vandalism damage and for maintenance of abandoned cemeteries, using disbursements from the fund for making repairs to vandalized property and repair or removal of dilapidated monuments, and submission of reports concerning these matters.