

January 29, 2009

S 18. AMEND CEMETERY ACT. Filed 1/29/09. *TO AMEND THE NORTH CAROLINA CEMETERY ACT BY MODIFYING THE MEMBERSHIP OF THE CEMETERY COMMISSION, CHANGING THE INVESTMENTS OPTIONS FOR PERPETUAL CARE TRUST FUNDS, AND ELIMINATING THE ABILITY TO POST BONDS IN LIEU OF DEPOSITS TO TRUST ACCOUNTS.*

Amends GS 65-50(a) to clarify that General Assembly appointments to the Cemetery Commission (Commission) must not have financial interest or be involved in the management of a cemetery. Changes the composition of the members appointed by the Governor to the Commission as follows: (1) two (was, three) members are selected from six nominees submitted by the North Carolina Cemetery Association and (2) three (was, two) are public members that have no financial interest or are involved in the management of any cemetery or funeral-related business. Retains the appointment of two members who own or manage cemeteries in the state. Amends GS 65-60.1 (Trustees; qualifications; examinations of records; enforcement) by creating a new subsection (f), which specifies that the statute does not apply to a trustee of a perpetual trust fund described in GS 65-64. Also makes a technical change. Amends GS 65-64(a) to specify that all deposits made to a perpetual care fund must be made in a bank located within and authorized to do business in the state. Requires that care and maintenance trust funds be invested and reinvested by the trustee in *certificates of deposit and money market funds* (was, the same manner as investment of other trust funds made by the superior court clerk). Makes technical changes and reflects recodification of relevant statutes throughout GS 65-64. Amends GS 65-66 to require the Commission, in addition to its existing rules and regulations governing withdrawals of trust accounts, to promulgate rules and regulations concerning payments that will be made with withdrawals. Removes language in subsection (g), which allows a cemetery company or other entity to post a performance bond with the Commission in lieu of deposits required under subsection (b). Makes technical changes throughout. Makes a conforming change and stylistic changes to GS 65-70. Effective July 1, 2010, and applies to appointments and investments made on or after that date.

Intro. by Goss.

GS 65

May 12, 2009

S 18. AMEND CEMETERY ACT. Filed 1/29/09. Senate committee substitute makes the following changes to 1st edition. Deletes amendments to GS 65-50(a) that modified the membership of the Cemetery Commission (Commission). Reorganizes amendments to GS 65-60.1, incorporating proposed new subsection (f) into existing subsection (e).

Amends GS 65-69 to prohibit the Commission from approving any change of control of an existing cemetery company until the applicant for the change of control has provided sufficient evidence that any trust account required under GS 65-66(b) and GS 65-70(b) is maintained and funded in the required amount. Provides that if the cemetery company posted a performance bond instead of the required trust account before October 1, 2009, then the Commission must not approve any change of control until the applicant has provided sufficient evidence that the performance bond is being appropriately maintained in a sufficient amount. Amends GS 65-64 to require that the care and maintenance trust fund be invested and reinvested by the trustee in accordance with GS 32-71 (was, invested and reinvested in certificates of deposits and money market funds). Deletes the requirement that all deposits must be made in a bank located within and authorized to do business in the state. Enacts a new GS 65-66(n) to provide that a cemetery company cannot require the purchaser of a grave space, mausoleum, or mausoleum section to purchase a vault from the cemetery company of any particular seller of vaults as a condition to the purchase or use of a grave space. Limits a cemetery to charging a reasonable fee not to exceed \$20 for the inspection or delivery of vaults purchased from a person other than a cemetery company. Amends in GS 65-70 the time period for which the Commission may grant extensions for completion of construction of mausoleums and below ground crypts to three years (was, one year). Effective October 1, 2009.

Creates the 10-member Legislative Study Commission on the North Carolina Cemetery Act (LSC) to study issues related to the regulation of cemeteries under the Act. Specifies the issues

to be studied by the LSC and provides for the LSC to study any other matters that it deems appropriate. Provides additional guidelines regarding duties, staffing, and appointment of members to the LSC. Directs the LSC to report the results of its study and its recommendations to the 2010 Regular Session of the 2009 General Assembly upon its convening. Provides that the LSC is to terminate upon the filing of its report.

Amends the effective date for repealed GS 65-66(g) [permitting a cemetery company or other entity to post a performance bond in lieu of the required deposits under subsection (b) of GS 65-66] and repealed GS 65-70(f) (permitting a performance bond in lieu of the payments to the preconstruction account that the cemetery company may deliver to the Commission) to apply to receipts from sales of personal property or services and receipts from sales of preconstruction crypts that occur on or after October 1, 2009 (was, effective July 1, 2010).

Makes conforming changes to the title. Makes technical changes. Except as otherwise indicated, effective when it becomes law (was, effective July 1, 2010).

June 17, 2010

S 18. AMEND CEMETERY ACT. Filed 1/29/09. House committee substitute makes the following changes to 2nd edition.

Amends GS 65-59 to provide that if the cemetery company posted a performance bond (was, posted a performance bond prior to October 1, 2009) instead of the required trust account then the NC Cemetery Commission must not approve any change of control until the applicant has provided sufficient evidence that the performance bond is being appropriately maintained in a sufficient amount. Amends GS 65-60.1 to provide that the term *corporate trustee* includes a credit union in addition to a bank or trust company. Makes conforming changes to GS 65-66, GS 65-64, and GS 90-210.60(2). Above provisions are effective October 1, 2010 (was, October 1, 2009).

Deletes provisions repealing GS 65-66(g) (regarding the posting of a performance bond instead of a required deposit) and GS 65-70(f) (regarding posting of a performance bond instead of payments under a preconstruction trust account). Makes a conforming change to the title.

Specifies that at least one of the five Legislative Study Commission on the North Carolina Cemetery Act (Commission) members, appointed by the Speaker of the House, must represent the interests of consumers and have no vested interest in the death care industry. Also, at least one of the Speaker's appointees must reside in Western North Carolina. Specifies that at least one of the five Commission members, appointed by the President Pro Tempore of the Senate, must represent the interests of consumers and have no vested industry in the death care industry, and at least one appointee must reside in Eastern North Carolina. Expands the issues to be studied by the Commission.

Directs the Executive Director of the Cemetery Commission and the Executive Director of the NC Board of Funeral Service to assist the Commission with its work. Directs the Commission to report the results of its study and its recommendations to the 2011 General Assembly upon its convening (was, report to the 2010 Regular Session of the 2009 General Assembly upon its convening).

July 6, 2010

S 18. AMEND CEMETERY ACT. Filed 1/29/09. House amendment makes the following changes to 3rd edition. Expands the membership of the Legislative Study Commission on the North Carolina Cemetery Act to also include the Attorney General or the Attorney General's designee. Makes conforming changes.

July 28, 2010

SL 2010-102 (S 18). AMEND CEMETERY ACT. AN ACT TO AMEND THE NORTH CAROLINA CEMETERY ACT BY REQUIRING PROOF OF A SUFFICIENT TRUST FUND OR SURETY BOND PRIOR TO APPROVING A CHANGE OF CONTROL OF A CEMETERY COMPANY, CHANGING THE INVESTMENTS OPTIONS FOR PERPETUAL CARE TRUST FUNDS, REQUIRING CEMETERY COMPANIES TO LIST THE COST OF OPENING AND CLOSING A GRAVE SPACE AS PART OF THE CONTRACT, PROHIBITING A CEMETERY

COMPANY FROM REQUIRING A PURCHASER OF A GRAVE SPACE TO PURCHASE A VAULT FROM A PARTICULAR SELLER, INCREASING THE EXTENSION THAT MAY BE GIVEN TO A CEMETERY COMPANY FOR COMPLETION OF CONSTRUCTION OF MAUSOLEUMS, AND CREATING THE LEGISLATIVE STUDY COMMISSION ON THE NORTH CAROLINA CEMETERY ACT. Summarized in *Daily Bulletin* 1/29/09, 5/12/09, 6/17/10, and 7/6/10. Enacted July 20, 2010. Sections 1–6 are effective October 1, 2010. The remainder is effective July 20, 2010.