

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 905
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HOUSE PRINCIPAL CLERK

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HOUSE DRH40304-LG-78 (03/16)

Short Title: Merge Cemetery Comm./Funeral Service Board. (Public)

Sponsors: Representatives Boles, Alexander, and Hunter (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MERGE THE NORTH CAROLINA CEMETERY COMMISSION WITH THE
3 NORTH CAROLINA BOARD OF FUNERAL SERVICE AND TO TRANSFER THE
4 DUTIES AND POWERS OF THE NORTH CAROLINA CEMETERY COMMISSION
5 TO THE NORTH CAROLINA BOARD OF FUNERAL SERVICE; RENAME THE
6 NORTH CAROLINA BOARD OF FUNERAL SERVICE; AND MAKE CONFORMING
7 CHANGES.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Effective December 31, 2015, the North Carolina Cemetery
10 Commission is abolished and the authority, powers, duties, and functions vested in the North
11 Carolina Cemetery Commission are transferred to the North Carolina Board of Funeral Service,
12 which shall be renamed the North Carolina Funeral Service and Cemetery Board. All records,
13 property, and unexpended balances of funds of the North Carolina Cemetery Commission are
14 transferred in their entirety to the North Carolina Funeral Service and Cemetery Board.

15 SECTION 2. G.S. 65-46, G.S. 65-48 through G.S. 65-53.1, and G.S. 90-210.20 are
16 repealed.

17 SECTION 3. Chapter 90 of the General Statutes is amended by adding the
18 following new Article to read:

19 "Article 13G.

20 "Funeral and Cemetery Services."

21 SECTION 4.(a) Article 13G of Chapter 90 of the General Statutes, as enacted in
22 Section 3 of this act, is amended by adding a new Part to read:

23 "Part 1. General Provisions."

24 SECTION 4.(b) G.S. 65-47 is recodified as G.S. 90-210.142 under Part 1 of
25 Article 13G of Chapter 90 of the General Statutes, as enacted by subsection (a) of this section.

26 SECTION 5. Part 1 of Article 13G of Chapter 90 of the General Statutes, as
27 enacted in Section 4(a) of this act, reads as rewritten:

28 "Part 1. General Provisions.

29 "§ 90-210.140. Definitions.

30 Unless the context requires otherwise, the following definitions apply in this Article:

31 (1) Advertisement. – The publication, dissemination, circulation, or placing
32 before the public or causing directly or indirectly to be made, published,
33 disseminated, or placed before the public any announcement or statement in
34 a newspaper, magazine, or other publication, or in the form of a book,
35 notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card,
36 label, or tag or over any radio, television station, or electronic medium.



- 1 (2) Bank of belowground crypts. – Any construction unit of belowground crypts
2 acceptable to the Board which a cemetery uses to initiate its belowground
3 crypt program or to add to existing belowground crypt structures.
- 4 (3) Belowground crypts. – An interment space consisting of preplaced
5 chambers, either side by side or multiple depth, covered by earth and sod
6 and are also known as lawn crypts, westminsters, or turf top crypts.
- 7 (4) Board. – The North Carolina Funeral Service and Cemetery Board.
- 8 (5) Burial. – Interment in any form, cremation, and the transportation of the
9 dead human body as necessary therefor.
- 10 (6) Cemetery. – Any one or a combination of more than one of the following in
11 a place used or to be used and dedicated or designated for cemetery
12 purposes:
- 13 a. A burial park for earth interment.
14 b. A mausoleum.
15 c. A columbarium.
- 16 (7) Cemetery broker. – A legal entity engaged in the business of arranging sales
17 of cemetery products between legal entities and which sale does not involve
18 a cemetery company, but does not mean funeral establishments or funeral
19 directors operating under G.S. 90-210.155, when dealing between legal
20 entities wherein one of the entities shall be members of the family of a
21 deceased person or other persons authorized by law to arrange for the burial
22 and funeral of such deceased human being. This Article shall not apply to
23 any cemetery broker selling less than five grave spaces per year.
- 24 (8) Cemetery company. – Any legal entity that owns or controls cemetery lands
25 or property and conducts the business of a cemetery, including all cemeteries
26 owned and operated by governmental agencies, churches, and fraternal
27 organizations or their corporate agents for the duration of any sales and
28 management contracts entered into with cemetery sales organizations or
29 cemetery management organizations for cemetery purposes, or with any
30 other legal entity other than direct employees of said governmental agency,
31 church, or fraternal organization.
- 32 (9) Cemetery management organization. – Any legal entity contracting as an
33 independent contractor with a cemetery company to manage a cemetery, but
34 does not mean individual managers employed by and contracting directly
35 with cemetery companies operating under this Article.
- 36 (10) Cemetery sales organization. – Any legal entity contracting with a cemetery
37 which is exempt or not exempt under this Article to conduct sales of
38 cemetery products, but does not mean individual salesmen or sales managers
39 employed by and contracting directly with cemetery companies operating
40 under this Article.
- 41 (11) Chapel. – A chapel or other facility separate from the funeral establishment
42 premises for the primary purpose of reposing of dead human bodies,
43 visitation, or funeral ceremony that is owned, operated, or maintained by a
44 funeral establishment under this Article and that does not use the word
45 "funeral" in its name, on a sign, in a directory, in advertising, or in any other
46 manner; in which or on the premises of which there is not displayed any
47 caskets or other funeral merchandise; in which or on the premises of which
48 there is not located any preparation room; and of which no owner, operator,
49 employee, or agent thereof represents the chapel to be a funeral
50 establishment.

- 1 (12) Columbarium. – A structure or building substantially exposed aboveground
2 intended to be used for the interment of the cremated remains of a deceased
3 person.
- 4 (13) Dead human bodies. – The bodies of deceased humans, including fetuses
5 beyond the second trimester and the ashes from cremated bodies.
- 6 (14) Embalmer. – Any person engaged in the practice of embalming.
- 7 (15) Embalming. – The preservation and disinfection or attempted preservation
8 and disinfection of dead human bodies by application of chemicals
9 externally, internally, or both and the practice of restorative art including the
10 restoration or attempted restoration of the appearance of a dead human body.
11 Embalming shall not include the washing or use of soap and water to cleanse
12 or prepare a dead human body for disposition by the authorized agents,
13 family, or friends of the deceased who do so privately without pay or as part
14 of the ritual washing and preparation of dead human bodies prescribed by
15 religious practices; provided, that no dead human body shall be handled in a
16 manner inconsistent with G.S. 130A-395.
- 17 (16) Funeral directing. – Engaging in the practice of funeral service except
18 embalming.
- 19 (17) Funeral director. – Any person engaged in the practice of funeral directing.
- 20 (18) Funeral establishment. – Every place or premises devoted to or used in the
21 care, arrangement, and preparation for the funeral and final disposition of
22 dead human bodies, maintained for the convenience of the public in
23 connection with dead human bodies, or as the place for carrying on the
24 practice of funeral service.
- 25 (19) Funeral service. – The aggregate of all funeral service licensees and their
26 duties and responsibilities in connection with the funeral as an organized,
27 purposeful, time-limited, flexible, group-centered response to death.
- 28 (20) Funeral service licensee. – A person who is duly licensed and engaged in the
29 practice of funeral service.
- 30 (21) Grave space. – A space of ground in a cemetery intended to be used for the
31 interment in the ground of the remains of a deceased person.
- 32 (22) Human remains or remains. – The bodies of deceased persons, including the
33 bodies in any stage of decomposition and cremated remains.
- 34 (23) Mausoleum. – A structure or building substantially exposed aboveground
35 intended to be used for the entombment of remains of a deceased person.
- 36 (24) Mausoleum section. – Any construction unit of a mausoleum acceptable to
37 the Board which a cemetery uses to initiate its mausoleum program or to add
38 to its existing mausoleum structures.
- 39 (25) Person. – An individual, corporation, partnership, joint venture, or
40 association as it relates to the operation of a cemetery.
- 41 (26) Practice of funeral service. – Engaging in the care or disposition of dead
42 human bodies or in the practice of disinfecting and preparing, by embalming
43 or otherwise, dead human bodies for the funeral service, transportation,
44 burial, or cremation, or in the practice of funeral directing or embalming as
45 presently known, whether under these titles, designations, or otherwise.
46 "Practice of funeral service" also means engaging in making arrangements
47 for funeral service, selling funeral supplies to the public, or making financial
48 arrangements for the rendering of the services or the sale of the supplies.
- 49 (27) Resident trainee. – A person who is engaged in preparing to become licensed
50 for the practice of funeral directing, embalming, or funeral service under the
51 personal supervision and instruction of a person duly licensed for the

1 practice of funeral directing, embalming, or funeral service in the State of
 2 North Carolina under the provisions of this Chapter and who is duly
 3 registered as a resident trainee with the Board.

4 (28) Vault. – A crypt or underground receptacle which is used for interment in
 5 the ground and which is designed to encase and protect caskets or similar
 6 burial devices. For the purposes of this Article, a vault is a pre-need item
 7 until delivery to the purchaser.

8 **"§ 90-210.141. License required for funeral service or cemetery operation.**

9 (a) An individual shall not engage in the practice of funeral directing, embalming, or
 10 funeral service as defined in G.S. 90-210.140 unless the individual is licensed in accordance
 11 with Part 3 of this Article.

12 (b) A person shall not operate as a cemetery company or sell pre-need grave space
 13 without first receiving a license to conduct the business in accordance with Part 4 of this
 14 Article.

15 **"§ 90-210.142. Scope.Application of Article.**

16 (a) The provisions of this Article shall apply to all persons engaged in the practice of
 17 funeral service and the business of operating a cemetery as defined herein, except cemeteries in
 18 this Article. Cemeteries owned and operated by governmental agencies or churches churches
 19 shall be exempt from this Article.

20 (b) Any cemetery beneficially owned and operated by a fraternal organization or its
 21 corporate agent for at least 50 years prior to September 1, 1975, shall be exempt from the
 22 provisions of Article 9 of this Chapter Article.

23 ...

24 (e) A columbarium built in compliance with the requirements of former subsection (d)
 25 of this section is not subject to the provisions of Article 9 of this Chapter this Article on or after
 26 January 23, 2015, as long as the columbarium (i) continues to exist on the grounds of a private,
 27 self-contained retirement community and (ii) continues to be reserved exclusively for the
 28 residents of that community."

29 **SECTION 6.(a)** Article 13G of Chapter 90 of the General Statutes, as enacted by
 30 Section 3 of this act, is amended by adding a new Part to read:

31 "Part 2. Funeral Service and Cemetery Board."

32 **SECTION 6.(b)** The following sections of Article 13A of Chapter 90 of the
 33 General Statutes are recodified under Part 2 of Article 13G of Chapter 90 of the General
 34 Statutes, as enacted by subsection (a) of this section:

- 35 (1) G.S. 90-210.18A is recodified as G.S. 90-210.145.
- 36 (2) G.S. 90-210.19 is recodified as G.S. 90-210.146.
- 37 (3) G.S. 90-210.22 is recodified as G.S. 90-210.147.
- 38 (4) G.S. 90-210.23 is recodified as G.S. 90-210.148.
- 39 (5) G.S. 90-210.24 is recodified as G.S. 90-210.149.

40 **SECTION 7.** Part 2 of Article 13G of Chapter 90 of the General Statutes, as
 41 enacted by Section 6(a) of this act, reads as rewritten:

42 "Part 2. Funeral Service and Cemetery Board.

43 **"§ 90-210.145. Board of Funeral Service and Cemetery Board created; qualifications;**
 44 **vacancies; removal.**

45 (a) Purpose. – The General Assembly declares that the practice of funeral service
 46 affects and the operation of cemeteries affect the public health, safety, and welfare and is are
 47 subject to regulation and control in the public interest. The public interest requires that only
 48 qualified persons be permitted to practice funeral service and operate cemeteries in North
 49 Carolina and that the profession these professions merit the confidence of the public. This
 50 Article shall be liberally construed to accomplish these ends.

1 (b) Board Created. – The North Carolina ~~Board of Funeral Service and Cemetery Board~~
2 is created and shall regulate the practice of funeral service and the operation of cemeteries in
3 this State. The Board shall have ~~nine~~ 12 members as follows:

4 (1) ~~Four~~ Two members appointed by the Governor from nominees
5 recommended by the North Carolina Funeral Directors Association, Inc.
6 These members shall be persons licensed under this Article.

7 (2) Two members appointed by the Governor from nominees recommended by
8 the Funeral Directors & Morticians Association of North Carolina, Inc.
9 These members shall be persons licensed under this Article.

10 (3) ~~One member~~ Two members appointed by the Governor who ~~is licensed~~
11 ~~under this Article and who is~~ are not affiliated with any funeral service trade
12 ~~association~~ association or cemetery operation.

13 (4) Two members appointed by the Governor from a list of six nominees
14 recommended by the North Carolina Cemetery Association.

15 ~~(4)~~ (5) ~~One member~~ Two members appointed by the General Assembly, upon the
16 recommendation of the President Pro Tempore of the Senate. ~~This One~~
17 ~~member shall be a person who is not licensed under this Article or employed~~
18 ~~by a person who is licensed under this Article.~~ Article and one member shall
19 be a person who owns or manages a cemetery located in North Carolina.

20 ~~(5)~~ (6) ~~One member~~ Two members appointed by the General Assembly, upon the
21 recommendation of the Speaker of the House of Representatives. ~~This One~~
22 ~~member shall be a person who is not licensed under this Article or employed~~
23 ~~by a person who is licensed under this Article.~~ Article and one member shall
24 be a person who owns or manages a cemetery located in North Carolina.

25 (c) Terms. – Members of the Board shall serve staggered three-year terms, ending on
26 December 31 of the last year of the term or when a successor has been duly appointed,
27 whichever is later. No member may serve more than two complete consecutive terms.

28 ~~(e)~~ (d) Vacancies. – A vacancy shall be filled in the same manner as the original
29 appointment, except that all unexpired terms of Board members appointed by the General
30 Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall
31 serve the remainder of the unexpired term and until their successors have been duly appointed
32 and qualified.

33 ~~(d)~~ (e) Removal. – The Board may remove any of its members for neglect of duty,
34 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a
35 licensee shall be disqualified from participating in the official business of the Board until the
36 charges have been resolved.

37 ...

38 **"§ 90-210.147. Required meetings of the Board.**

39 The Board shall hold at least four meetings in each year. In addition, the Board may meet as
40 often as the proper and efficient discharge of its duties shall require. ~~Five~~ Seven members shall
41 constitute a quorum.

42 **"§ 90-210.148. Powers and duties of the Board.**

43 (a) The Board is authorized to adopt and promulgate ~~such~~ the rules and regulations for
44 transaction of its ~~business~~ business, specifications for the minimum quality of any product sold,
45 and for the carrying out and enforcement of the provisions of this Article as may be necessary
46 and as are consistent with the laws of this State and of the United States.

47 (b) The Board shall elect from its members a president, a vice-president and a secretary,
48 no two offices to be held by the same person. The president and vice-president and secretary
49 shall serve for one year and until their successors shall be elected and qualified. The Board
50 shall have authority to engage adequate staff as deemed necessary to perform its duties.

1 (c) The members of the Board shall serve without compensation provided that ~~such the~~
2 members shall be reimbursed for their necessary traveling expenses and the necessary expenses
3 incident to their attendance upon the business of the Board, and in addition thereto they shall
4 receive per diem and expense reimbursement as provided in G.S. 93B-5 for every day actually
5 spent by ~~such the~~ member upon the business of the Board. All expenses, salaries and per diem
6 provided for in this Article shall be paid from funds received under the provisions of this
7 Article and shall in no manner be an expense to the State.

8 (d) Every person licensed by the Board and every resident trainee shall furnish all
9 information required by the Board reasonably relevant to the practice of the profession or
10 business for which the person is a licensee or resident trainee. Every funeral service
11 establishment and its ~~records and records;~~ every place of business where the practice of funeral
12 service or embalming is carried on and its ~~records-records;~~ and every cemetery, cemetery
13 broker, cemetery company, cemetery management organization, and cemetery sales
14 organization and their records shall be subject to inspection by the Board during normal hours
15 of operation and periods shortly before or after normal hours of operation and shall furnish all
16 information required by the Board reasonably relevant to the business therein conducted. Every
17 licensee, resident trainee, embalming facility, ~~and funeral service establishment-establishment,~~
18 cemetery, cemetery broker, cemetery company, cemetery management organization, and
19 cemetery sales organization shall provide the Board with a current post-office address which
20 shall be placed on the appropriate register and all notices required by law or by any rule or
21 regulation of the Board to be mailed to any licensee, resident trainee, embalming facility, ~~or~~
22 funeral service ~~establishment-establishment,~~ cemetery, cemetery broker, cemetery company,
23 cemetery management organization, or cemetery sales organization shall be validly given when
24 mailed to the address so provided.

25 ~~(d)~~(e) The Board is empowered to hold hearings in accordance with the provisions of this
26 Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive the
27 affirmation of witnesses before the Board.

28 In any show cause hearing before the Board held under the authority of Chapter 150B of the
29 General Statutes where the Board imposes discipline against a licensee, the Board may recover
30 the costs, other than attorneys' fees, of holding the hearing against all respondents jointly, not to
31 exceed two thousand five hundred dollars (\$2,500).

32 ~~(e)~~(f) The Board is empowered to regulate and inspect, according to law, funeral service
33 establishments ~~and establishments,~~ embalming facilities, ~~facilities,~~ cemeteries, cemetery
34 brokers, cemetery companies, cemetery management organizations, and cemetery sales
35 organizations, their operation, and the licenses under which they are operated, and to enforce as
36 provided by law the rules, regulations, and requirements of the Division of Health Services and
37 of the city, town, or county in which the funeral service establishment or embalming facility is
38 maintained and operated. Any funeral ~~establishment or establishment,~~ embalming facility
39 facility, cemetery, cemetery broker, cemetery company, cemetery management organization, or
40 cemetery sales organization that, upon inspection, is found not to meet all of the requirements
41 of this Article shall pay a reinspection fee to the Board for each additional inspection that is
42 made to ascertain that the deficiency or other violation has been corrected. The Board is also
43 empowered to enforce compliance with the standards set forth in Funeral Industry Practices, 16
44 C.F.R. 453 (1984), as amended from time to time.

45 (g) When the Board finds that failure by a licensee to maintain a cemetery properly has
46 caused that cemetery to be a public nuisance or a health or safety hazard, the Board may bring
47 an action for injunctive relief against the responsible licensee in the superior court of the county
48 in which the cemetery or any part thereof is located.

49 (h) The Board may apply to the courts in its own name for injunctive relief to prevent
50 violations of this Article or violations of any rules adopted pursuant to this Article. Any court
51 may grant injunctive relief regardless of whether criminal prosecution or any other action is

1 instituted as a result of the violation. A single violation is sufficient to invoke the injunctive
2 relief under this subdivision. In any of these actions, an order or judgment may be entered
3 awarding a temporary or permanent injunction as may be deemed proper; provided, that before
4 any of these actions is brought, the Board shall give the cemetery at least 20 days' notice in
5 writing, stating the alleged violation and giving the cemetery an opportunity within the 20-day
6 period to cure the violation. In addition to all other means provided by law for the enforcement
7 of a temporary restraining order, temporary injunction, or permanent injunction, the court shall
8 have the power and jurisdiction to impound and to appoint a receiver for the property and
9 business of the defendant, including books, papers, documents, and records appertaining
10 thereto or so much thereof as the court may deem reasonably necessary to prevent further
11 violation of this Article through or by means of the use of said property and business. The
12 Board may institute proceedings against the cemetery or its officers, where after an
13 examination pursuant to this Article a shortage in the care and maintenance trust fund,
14 merchandise trust fund, or mausoleum and belowground crypts preconstruction trust fund is
15 discovered, to recover the shortage.

16 (i) To examine a cemetery company's records when a person applies for a change of
17 control of the company.

18 (j) The Board may investigate, upon its own initiative or upon a verified complaint in
19 writing, the actions of any person engaged in the business or acting in the capacity of a licensee
20 under this Article. The license of a licensee may be revoked or suspended for a period not
21 exceeding two years, or until compliance with a lawful order imposed in the final order of
22 suspension, or both, where the licensee in performing or attempting to perform any of the acts
23 specified in this Article has been guilty of any of the following:

24 (1) Failing to pay the fees required herein.

25 (2) Failing to make any reports required by this Article.

26 (3) Failing to remit to the care and maintenance trust fund, merchandise trust
27 fund, or preconstruction trust fund the required amounts.

28 (4) Making any substantial misrepresentation.

29 (5) Making any false statement of a character likely to influence or persuade.

30 (6) A continued and flagrant course of misrepresentation or making of false
31 promises through cemetery agents or salesmen.

32 (7) Violating any provision of this Article or rule promulgated by the Board.

33 (8) Any other conduct, whether of the same or a different character than
34 specified in this section, which constitutes fraud or dishonest dealing.

35 (k) Whenever any special additional audit or examination of a licensee's premises,
36 facilities, books, or records is necessary because of the failure of the licensee to comply with
37 the requirements imposed in this Article or by the rules and regulations of the Board, to charge
38 a fee based on the cost of the special examination or audit, taking into consideration the salary
39 of any employees involved in the special audit or examination and any expenses incurred.

40 ~~(l)~~ (l) The Board may establish, supervise, regulate and control programs for the resident
41 trainee. It may approve schools of mortuary science or funeral service, graduation from which
42 is required by this Article as a qualification for the granting of any license, and may establish
43 essential requirements and standards for such approval of mortuary science or funeral service
44 schools.

45 ~~(m)~~ (m) Schools for teaching mortuary science which are approved by the Board shall have
46 extended to them the same privileges as to the use of bodies for dissecting while teaching as
47 those granted in this State to medical colleges, but such the bodies shall be obtained through the
48 same agencies which provide bodies for medical colleges.

49 ~~(n)~~ (n) The Board shall adopt a common seal.

50 ~~(o)~~ (o) The Board shall have the power to acquire, hold, rent, encumber, alienate, and
51 otherwise deal with real property in the same manner as a private person or corporation, subject

1 only to approval of the Governor and the Council of State. Collateral pledged by the Board for
2 an encumbrance is limited to the assets, income, and revenues of the Board.

3 ~~(h2)(p)~~ The Board may employ legal counsel and clerical and technical assistance, and fix
4 the compensation therefor, and incur ~~such any~~ other expenses as may be deemed necessary in
5 the performance of its duties and the enforcement of the provisions of this Article or as
6 otherwise required by law and as may be necessary to carry out the powers herein conferred.

7 ~~(i)(q)~~ The Board may perform ~~such any~~ other acts and exercise ~~such any~~ other powers and
8 duties as may be provided elsewhere in this Article or otherwise by law and as may be
9 necessary to carry out the powers herein conferred.

10 "**§ 90-210.149. ~~Inspector.~~Inspectors; compliance with Article.**

11 (a) The Board ~~may shall~~ appoint ~~one or more~~ agents who shall serve at the pleasure of
12 the Board and who shall have the title "Inspector of the North Carolina ~~Board of Funeral~~
13 ~~Service.~~ Service and Cemetery Board." No person is eligible for appointment as inspector
14 unless at the time of the appointment the person is licensed under this ~~Article as a funeral~~
15 ~~service licensee.~~ Article.

16 (b) To determine compliance with the provisions of this Article and regulations
17 promulgated under this Article, inspectors may do any of the following:

18 (1) Enter the office, establishment or place of business of any funeral service
19 licensee, funeral director or embalmer in North Carolina, and any office,
20 establishment or place in North Carolina where the practice of funeral
21 service or embalming is carried on, or where that practice is advertised as
22 being carried on, or where a funeral is being conducted or a body is being
23 embalmed, to inspect the records, office, establishment, or facility, or to
24 inspect the practice being carried on or license or registration of any licensee
25 and any resident trainee operating ~~therein;~~ therein.

26 (2) Enter any hospital, nursing home, or other institution from which a dead
27 human body has been removed by any person licensed under this Article or
28 their designated representative to inspect records pertaining to the removal
29 and its ~~authorization;~~ authorization.

30 (3) May inspect criminal and probation records of licensees and applicants for
31 licenses under this Article to obtain evidence of their character.

32 (4) Enter the office, establishment, or place of business in North Carolina of any
33 cemetery broker, cemetery company, cemetery management organization,
34 cemetery sales organization, or pre-need sales licensee to inspect the records,
35 office, establishment, or facility or to inspect the practice conducted or
36 license of any licensee.

37 (5) ~~Inspectors may~~ May serve papers and subpoenas issued by the Board or any
38 office or member thereof under authority of this Article, and shall perform
39 other duties prescribed or ordered by the Board.

40 (c) Upon request by the Board, the Attorney General of North Carolina shall provide
41 the inspectors with appropriate identification cards, signed by the Attorney General or his
42 designated agent.

43 (d) The Board may prescribe an inspection form to be used by the inspectors in
44 performing their duties."

45 **SECTION 8.(a)** Article 13G of Chapter 90 of the General Statutes, as enacted by
46 Section 3 of this act, is amended by adding a new Part to read:

47 "Part 3. Funeral Service License."

48 **SECTION 8.(b)** The following sections of Article 13A of Chapter 90 of the
49 General Statutes are recodified under Part 3 of Article 13G of Chapter 90 of the General
50 Statutes, as enacted by subsection (a) of this section:

51 (1) G.S. 90-210.25 is recodified as G.S. 90-210.155.

- 1 (2) G.S. 90-210.26 is recodified as G.S. 90-210.156.
 2 (3) G.S. 90-210.25B is recodified as G.S. 90-210.157.
 3 (4) G.S. 90-210.28 is recodified as G.S. 90-210.158.
 4 (5) G.S. 90-210.29 is recodified as G.S. 90-210.159.
 5 (6) G.S. 90-210.29B is recodified as G.S. 90-210.160.
 6 (7) G.S. 90-210.27A is recodified as G.S. 90-210.161.
 7 (8) G.S. 90-210.29A is recodified as G.S. 90-210.162.
 8 (9) G.S. 90-210.25C is recodified as G.S. 90-210.163.

9 **SECTION 8.(c)** Part 3 of Article 13G of Chapter 90 of the General Statutes, as
 10 enacted by subsection (b) of this section, reads as rewritten:

11 "Part 3. Funeral Service License.

12 **"§ 90-210.155. Licensing.**

13 (a) Qualifications, Examinations, Resident Traineeship and Licensure. –

- 14 (1) To be licensed for the practice of funeral directing under this ~~Article, Part,~~ a
 15 person must:

16 ...

17 e. Have passed an oral or written funeral director examination on the
 18 following subjects:

19 1. Psychology, sociology, pathology, funeral directing, business
 20 law, funeral law, funeral management, and accounting.

21 ~~3.2.~~ Laws of North Carolina and rules of the Board and other
 22 agencies dealing with the care, transportation and disposition
 23 of dead human bodies.

- 24 (2) To be licensed for the practice of embalming under this ~~Article, Part,~~ a
 25 person must:

26 ...

27 e. Have passed an oral or written embalmer examination on the
 28 following subjects:

29 1. Embalming, restorative arts, chemistry, pathology,
 30 microbiology, and anatomy.

31 ~~3.2.~~ Laws of North Carolina and rules of the Board and other
 32 agencies dealing with the care, transportation and disposition
 33 of dead human bodies.

- 34 (3) To be licensed for the practice of funeral service under this ~~Article, Part,~~ a
 35 person must:

36 ...

37 e. Have passed an oral or written funeral service examination on the
 38 following subjects:

39 1. Psychology, sociology, funeral directing, business law,
 40 funeral law, funeral management, and accounting.

41 2. Embalming, restorative arts, chemistry, pathology,
 42 microbiology, and anatomy.

43 ~~4.3.~~ Laws of North Carolina and rules of the Board and other
 44 agencies dealing with the care, transportation and disposition
 45 of dead human bodies.

- 46 (4) a. A person desiring to become a resident trainee shall apply to the
 47 Board on a form provided by the Board. The application shall state
 48 that the applicant is not less than 18 years of age, of good moral
 49 character, and is the graduate of a high school or the equivalent
 50 thereof, and shall indicate the licensee under whom the applicant
 51 expects to train. A person training to become an embalmer may serve

under either a licensed embalmer or a funeral service licensee. A person training to become a funeral director may serve under either a licensed funeral director or a funeral service licensee. A person training to become a funeral service licensee shall serve under a funeral service licensee. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.

...
f. To meet the resident traineeship requirements of ~~G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3)~~ subdivisions (1) through (3) of subsection (a) of this section the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:

1. That the funeral director trainee has, under supervision, assisted in directing at least 25 funerals during the resident traineeship,
2. That the embalmer trainee has, under supervision, assisted in embalming at least 25 bodies during the resident traineeship,
3. That the funeral service trainee has, under supervision, assisted in directing at least 25 funerals and, under supervision, assisted in embalming at least 25 bodies during the resident traineeship.

g. The Board may suspend or revoke a certificate of resident traineeship for violation of any provision of this ~~Article~~Part.

...
~~h.~~j. The Board shall register no more than one resident trainee at a funeral establishment that served 100 or fewer families during the 12 months immediately preceding the date of the application, and shall register no more than one resident trainee for each additional 100 families served at the funeral establishment during the 12 months immediately preceding the date of the application.

(5) The Board by regulation may recognize other examinations that the Board deems equivalent to its own.

...
f. The Board shall cause to be established and offered to the licensees, each calendar year, at least eight hours of continuing education courses. The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this ~~Article~~Part.

g. Any person who having been previously licensed by the Board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this ~~Article~~Part. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an

1 embalmer may upon application therefor receive a license as a
2 funeral service licensee.

3 ...

4 ~~(a1)~~(b) Inactive Licenses. – Any person holding a license issued by the Board for funeral
5 directing, for embalming, or for the practice of funeral service may apply for an inactive license
6 in the same category as the active license held. The inactive license is renewable annually.
7 Continuing education is not required for the renewal of an inactive license. The holder of an
8 inactive license may not engage in any activity requiring an active license. The holder of an
9 inactive license may apply for an active license in the same category, and the Board shall issue
10 an active license if the applicant has completed a total number of hours of accredited
11 continuing education equal to five times the number of years the applicant held the inactive
12 license. No application fee is required for the reinstatement of an active license pursuant to this
13 subsection. The holder of an inactive license who returns to active status shall surrender the
14 inactive license to the Board.

15 ~~(a2)~~(c) In order to engage in the practice of funeral directing or funeral service, such a
16 licensee must own, be employed by, or otherwise be an agent of a licensed funeral
17 establishment; except that such a licensee may practice funeral directing or funeral service if:

18 ...

19 ~~(b)~~(d) Persons Licensed under the Laws of Other Jurisdictions. –

20 ...

21 (3) The Board may issue special permits, to be known as courtesy cards,
22 permitting nonresident funeral directors, embalmers and funeral service
23 licensees to remove bodies from and to arrange and direct funerals and
24 embalm bodies in this State, but these privileges shall not include the right to
25 establish a place of business in or engage generally in the business of funeral
26 directing and embalming in this State. Except for special permits issued by
27 the Board for teaching continuing education programs and for work in
28 connection with disasters, no special permits may be issued to nonresident
29 funeral directors, embalmers, and funeral service licensees from states that
30 do not issue similar courtesy cards to persons licensed in North Carolina
31 pursuant to this ~~Article-Part~~.

32 ~~(e)~~(e) Registration, Filing and Transportation. –

33 (1) The holder of any license granted by this State for those within the funeral
34 service profession or renewal thereof provided for in this ~~Article-Part~~ shall
35 cause registration to be filed in the office of the board of health of the county
36 or city in which he practices his profession, or if there be no board of health
37 in such county or city, at the office of the clerk of the superior court of such
38 county. All such licenses, certificates, duplicates and renewals thereof shall
39 be displayed in a conspicuous place in the funeral establishment where the
40 holder renders service.

41 ...

42 (5) The following persons shall be exempt from the permit requirements of this
43 section but shall otherwise be subject to subdivision (9) of this subsection
44 and any rules relating to the proper handling, care, removal, or transportation
45 of a dead human body:

46 a. Licensees under this ~~Article-Part~~ and their employees.

47 b. Employees of common carriers.

48 c. Except as provided in sub-subdivision (6)c. of this section,
49 employees of the State and its agencies and employees of local
50 governments and their agencies.

51 d. Funeral directors licensed in another state and their employees.

1 ~~(d)~~(f) Establishment Permit. –

2 (1) No person, firm or corporation shall conduct, maintain, manage or operate a
3 funeral establishment unless a permit for that establishment has been issued
4 by the Board and is conspicuously displayed in the establishment. Each
5 funeral establishment at a specific location shall be deemed to be a separate
6 entity and shall require a separate permit and compliance with the
7 requirements of this ~~Article~~Part.

8 (2) A permit shall be issued when:

9 a. It is shown that the funeral establishment has in charge a person,
10 known as a manager, licensed for the practice of funeral directing or
11 funeral service, who shall not be permitted to manage more than one
12 funeral establishment. The manager shall be charged with overseeing
13 the daily operation of the funeral establishment. If the manager
14 leaves the employment of the funeral establishment and is the only
15 licensee employed who is eligible to serve as manager, the funeral
16 establishment may operate without a manager for a period not to
17 exceed 30 days so long as: (i) the funeral establishment retains one or
18 more licensees to perform all services requiring a license under this
19 ~~Article~~Part; (ii) the licensees are not practicing under the exception
20 authorized by ~~G.S. 90-210.25(a2)~~G.S. 90-210.155 and would
21 otherwise be eligible to serve as manager; and (iii) the funeral
22 establishment registers the name of the licensees with the Board.

23 b. The Board receives a list of the names of all part-time and full-time
24 licensees employed by the establishment.

25 c. It is shown that the funeral establishment satisfies the requirements
26 of ~~G.S. 90-210.27A~~G.S. 90-210.161.

27 d. The Board receives payment of the permit fee.

28 ...

29 (4) The Board may place on probation, refuse to issue or renew, suspend, or
30 revoke a permit when an owner, partner, manager, member, operator, or
31 officer of the funeral establishment violates any provision of this ~~Article~~Part
32 or any regulations of the Board, or when any agent or employee of the
33 funeral establishment, with the consent of any person, firm or corporation
34 operating the funeral establishment, violates any of those provisions, rules or
35 regulations. In any case in which the Board is entitled to place a funeral
36 establishment permittee on a term of probation, the Board may also impose a
37 penalty of not more than five thousand dollars (\$5,000) in conjunction with
38 the probation. In any case in which the Board is entitled to suspend, revoke,
39 or refuse to renew a permit, the Board may accept from the funeral
40 establishment permittee an offer to pay a penalty of not more than five
41 thousand dollars (\$5,000). The Board may either accept a penalty or revoke
42 or refuse to renew a license, but not both. Any penalty under this subdivision
43 may be in addition to any penalty assessed against one or more licensed
44 individuals employed by the funeral establishment.

45 ...

46 ~~(d1)~~(g) Embalming Outside Establishment. – An embalmer who engages in embalming in a
47 facility other than a funeral establishment or in the residence of the deceased person shall, no
48 later than January 1 of each year, register the facility with the Board on forms provided by the
49 Board.

50 ~~(e)~~(h) Revocation; Suspension; Compromise; Disclosure. –

1 (1) Whenever the Board finds that an applicant for a license or a person to
2 whom a license has been issued by the Board is guilty of any of the
3 following acts or omissions and the Board also finds that the person has
4 thereby become unfit to practice, the Board may suspend or revoke the
5 license or refuse to issue or renew the license, in accordance with the
6 procedures set out in Chapter 150B of the General Statutes:

7 ...
8 h. Aiding or abetting an unlicensed person to perform services under
9 this ~~Article-Part~~, including the use of a picture or name in connection
10 with advertisements or other written material published or caused to
11 be published by the licensee.

12 ...
13 j. Violating or cooperating with others to violate any of the provisions
14 of this ~~Article-Part~~ or Articles 13D, 13E, or 13F of Chapter 90 of the
15 General Statutes, any rules and regulations of the Board, or the
16 standards set forth in Funeral Industry Practices, 16 C.F.R. 453
17 (1984), as amended from time to time.

18 ...

19 No person licensed under this ~~Article-Part~~ shall remove or cause to be embalmed a dead
20 human body when he or she has information indicating crime or violence of any sort in
21 connection with the cause of death, nor shall a dead human body be cremated, until permission
22 of the State or county medical examiner has first been obtained. However, nothing in this
23 ~~Article-Part~~ shall be construed to alter the duties and authority now vested in the office of the
24 coroner.

25 No funeral service establishment shall accept a dead human body from any public officer
26 (excluding the State or county medical examiner or his agent), or employee or from the official
27 of any institution, hospital or nursing home, or from a physician or any person having a
28 professional relationship with a decedent, without having first made due inquiry as to the
29 desires of the persons who have the legal authority to direct the disposition of the decedent's
30 body. If any persons are found, their authority and directions shall govern the disposal of the
31 remains of the decedent. Any funeral service establishment receiving the remains in violation
32 of this subsection shall make no charge for any service in connection with the remains prior to
33 delivery of the remains as stipulated by the persons having legal authority to direct the
34 disposition of the body. This section shall not prevent any funeral service establishment from
35 charging and being reimbursed for services rendered in connection with the removal of the
36 remains of any deceased person in case of accidental or violent death, and rendering necessary
37 professional services required until the persons having legal authority to direct the disposition
38 of the body have been notified.

39 When and where a licensee presents a selection of funeral merchandise to the public to be
40 used in connection with the service to be provided by the licensee or an establishment as
41 licensed under this ~~Article-Part~~, a card or brochure shall be directly associated with each item
42 of merchandise setting forth the price of the service using said merchandise and listing the
43 services and other merchandise included in the price, if any. When there are separate prices for
44 the merchandise and services, such cards or brochures shall indicate the price of the
45 merchandise and of the items separately priced.

46 At the time funeral arrangements are made and prior to the time of rendering the service
47 and providing the merchandise, a funeral director or funeral service licensee shall give or cause
48 to be given to the person or persons making such arrangements a written statement duly signed
49 by a licensee of said funeral establishment showing the price of the service as selected and what
50 services are included therein, the price of each of the supplemental items of services or
51 merchandise requested, and the amounts involved for each of the items for which the funeral

1 establishment will advance moneys as an accommodation to the person making arrangements,
2 insofar as any of the above items can be specified at that time. If fees charged by a finance
3 company for expediting payment of life insurance proceeds to the establishment will be passed
4 on to the person or persons responsible for payment of the funeral expenses, information
5 regarding the fees, including the total dollar amount of the fee, shall be disclosed in writing.
6 The statement shall have printed, typed or stamped on the face thereof: "This statement of
7 disclosure is provided under the requirements of North Carolina ~~G.S. 90-210.25(e).~~"
8 G.S. 90-210.155(h)." The Board may prescribe other disclosures that a licensee shall give to
9 consumers upon finding that the disclosure is necessary to protect public health, safety, and
10 welfare.

11 ~~(e)1~~(i) The taking or recovery of human tissue at a funeral establishment by any person is
12 prohibited. The prohibition does not apply to any of the following:

- 13 (1) A licensee under this ~~Article-Part~~ that performs embalming or otherwise
14 prepares a dead human body in the ordinary course of business.

15 ...

16 ~~(f)~~(j) Unlawful Practices. – If any person shall practice or hold himself or herself out as
17 practicing the profession or art of embalming, funeral directing or practice of funeral service or
18 operating a funeral establishment without having complied with the provisions of this ~~Article,~~
19 Part, the person shall be guilty of a Class 2 misdemeanor.

20 ~~(g)~~(k) Whenever it shall appear to the Board that any person, firm or corporation has
21 violated, threatens to violate or is violating any provisions of this ~~Article-Part,~~ the Board may
22 apply to the courts of the State for a restraining order and injunction to restrain these practices.
23 If upon application the court finds that any provision of this ~~Article-Part~~ is being violated, or a
24 violation is threatened, the court shall issue an order restraining and enjoining the violations,
25 and this relief may be granted regardless of whether criminal prosecution is instituted under the
26 provisions of this subsection. The venue for actions brought under this subsection shall be the
27 superior court of any county in which the acts are alleged to have been committed or in the
28 county where the defendant in the action resides.

29 ...

30 "**§ 90-210.157. Persons who shall not be licensed under this ~~Article-Part.~~**"

31 (a) The board shall not issue or renew any licensure, permit, or registration to any
32 person or entity who has been convicted of a sexual offense against a minor.

33 (b) For purposes of this ~~Article-Part,~~ the term "sexual offense against a minor" means a
34 conviction of any of the following offenses: G.S. 14-27.4A(a) (sex offense with a child; adult
35 offender), G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years
36 old where the defendant is at least six years older), G.S. 14-190.16 (first-degree sexual
37 exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor),
38 G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting
39 prostitution of a minor), G.S. 14-190.19 (participating in prostitution of a minor), G.S. 14-202.1
40 (taking indecent liberties with children), G.S. 14-202.3 (solicitation of child by computer or
41 certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking
42 indecent liberties with a student), G.S. 14-318.4(a1) (parent or caretaker commit or permit act
43 of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual
44 act upon a juvenile by parent or guardian). The term shall also include a conviction of the
45 following: any attempt, solicitation, or conspiracy to commit any of these offenses or any
46 aiding and abetting any of these offenses. The term shall also include a conviction in another
47 jurisdiction for an offense which if committed in this State has the same or substantially similar
48 elements to an offense against a minor as defined by this section.

49 ...

50 "**§ 90-210.158. Fees.**"

51 The Board may set and collect fees, not to exceed the following amounts:

| | | |
|----|---|----------|
| 1 | Establishment permit | |
| 2 | Application | \$400.00 |
| 3 | Annual renewal | 250.00 |
| 4 | Late renewal | 150.00 |
| 5 | Establishment and embalming facility reinspection fee | 100.00 |
| 6 | Courtesy card | |
| 7 | Application | 100.00 |
| 8 | Annual renewal | 75.00 |
| 9 | Out-of-state licensee | |
| 10 | Application | 250.00 |
| 11 | Embalmer, funeral director, funeral service | |
| 12 | Application-North | |
| 13 | Carolina-Resident | 200.00 |
| 14 | -Non-Resident | 250.00 |
| 15 | Annual Renewal-embalmer or | |
| 16 | funeral director | 75.00 |
| 17 | Total fee, embalmer and funeral director | |
| 18 | when both are held by the same person | 100.00 |
| 19 | -funeral service | 100.00 |
| 20 | Inactive Status | 50.00 |
| 21 | Reinstatement fee | 50.00 |
| 22 | Resident trainee permit | |
| 23 | Application | 50.00 |
| 24 | Voluntary change in supervisor | 50.00 |
| 25 | Annual renewal | 35.00 |
| 26 | Late renewal | 25.00 |
| 27 | Duplicate license certificate | 25.00 |
| 28 | Chapel registration | |
| 29 | Application | 150.00 |
| 30 | Annual renewal | 100.00 |
| 31 | Late renewal | 75.00 |

32 The Board shall provide, without charge, one copy of the current statutes and regulations
 33 relating to Funeral Service to every person applying for and paying the appropriate fees for
 34 licensing pursuant to this ~~Article-Part~~. The Board may charge all others requesting copies of
 35 the current statutes and regulations, and the licensees or applicants requesting additional copies,
 36 a fee equal to the costs of production and distribution of the requested documents.

37 **"§ 90-210.159. Students.**

38 (a) Students who are enrolled in duly accredited mortuary science colleges in North
 39 Carolina may engage in the practices defined in this ~~Article-Part~~ if the practices are part of their
 40 academic training and if the practices are under the supervision of a licensed instructor of
 41 mortuary science or a licensee designated by the mortuary science college upon registration
 42 with the Board.

43 ...

44 **"§ 90-210.161. Funeral establishments.**

45 ...

46 (e)(d) If a funeral establishment is solely owned by a natural person, that person must be
 47 licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a
 48 partnership, at least one partner must be licensed by the Board as a funeral director or a funeral
 49 service licensee. If it is owned by a corporation, the president, vice-president, or the chairman
 50 of the board of directors must be licensed by the Board as a funeral director or a funeral service
 51 licensee. If it is owned by a limited liability company, at least one member must be licensed by

1 the Board as a funeral director or a funeral service licensee. The licensee required by this
2 subsection must be actively engaged in the operation of the funeral establishment.

3 ~~(f)~~(e) If a funeral establishment uses the name of a living person in the name under which
4 it does business, that person must be licensed by the Board as a funeral director or a funeral
5 service licensee.

6 ~~(g)~~(f) No funeral establishment shall own, operate, or maintain a chapel without first
7 having registered the name, location, and ownership thereof with the Board; own or maintain
8 more than two chapels, or own or maintain a chapel outside of a radius of 50 miles from the
9 funeral establishment. A duly licensed person may use a chapel for making arrangements for
10 funeral services, selling funeral merchandise to the public by photograph, video, or computer
11 based presentation, or making financial arrangements for the rendering of the service or sale of
12 supplies, provided that the uses are secondary and incidental to and do not interfere with the
13 reposing of dead human bodies, visitation, or funeral ceremony.

14 ~~(h)~~(g) All public health laws and rules apply to funeral establishments. In addition, all
15 funeral establishments must comply with all of the standards established by the rules adopted
16 by the Board.

17 ~~(i)~~(h) No funeral establishment shall use an unregistered or misleading name. Misleading
18 names include, but are not limited to, names in the plural form when there is only one funeral
19 establishment, the use of names of deceased individuals, unless the establishment is licensed
20 using the name at the time the new application is made, the use of names of individuals not
21 associated with the establishment, and the use of the word "crematory" or "crematorium" in the
22 name of a funeral establishment that does not own a crematory. If an owner of a funeral
23 establishment owns more than one funeral establishment, the owner may not use the word
24 "crematory" or "crematorium" in the name of more than one of its funeral establishments;
25 except that each funeral home having a crematory on the premises may contain the term
26 "crematory" or "crematorium" in its name.

27 ~~(j)~~(i) A funeral establishment will not use any name other than the name by which it is
28 properly registered with the Board.

29"

30 **SECTION 9.(a)** Article 13G of Chapter 90 of the General Statutes, as enacted by
31 Section 3 of this act, is amended by adding a new Part to read:

32 "Part 4. Cemetery License."

33 **SECTION 9.(b)** The following sections are recodified as Part 4 of Article 13G of
34 Chapter 90 of the General Statutes, as enacted by subsection (a) of this section:

35 (1) G.S. 65-54 through G.S. 65-56 are recodified as G.S. 90-210.170 through
36 G.S. 90-210.173.

37 (2) G.S. 65-73 and G.S. 65-57 through G.S. 65-60 are recodified as
38 G.S. 90-210.174 through G.S. 90-210.178.

39 (3) G.S. 65-72 and G.S. 65-60.1 through G.S. 65-71 are recodified as
40 G.S. 90-210.179 through G.S. 90-210.191.

41 **SECTION 10.** Part 4 of Article 13G of Chapter 90 of the General Statutes, as
42 enacted by Section 9(a) of this act, reads as rewritten:

43 "Part 4. Cemetery License."

44 "**§ 90-210.170. Annual ~~budget of Commission; cemetery and inspection fee; collection of~~**
45 **funds.**

46 ~~The Commission shall prepare an annual budget and shall collect the sums of money~~
47 ~~required for this budget from yearly fees and from any other sources provided in this Article.~~
48 On or before July 1 of each year, each licensed cemetery shall pay a license fee to be set by the
49 ~~Commission Board~~ in an amount not to exceed six hundred dollars (\$600.00). In addition, each
50 licensed cemetery shall pay to the ~~Commission Board~~ an inspection fee for each grave space,
51 niche, or mausoleum crypt when the certificate of interment right is issued and shall pay a fee

1 for each vault, belowground crypt, memorial, or opening and closing of a grave space that is
2 included in a preneed cemetery contract. The inspection fee for each grave space, niche, or
3 mausoleum crypt is payable when the certificate of interment right is issued and may not
4 exceed four dollars (\$4.00). The fee for each of the listed items that are included in a preneed
5 cemetery contract is payable when the contract is made and may not exceed ten dollars
6 (\$10.00).

7 **"§ 90-210.171. ~~Commission records~~ Records are confidential.**

8 Records, papers, and other documents containing information collected or compiled by the
9 ~~Commission, Board~~, its members, or employees as a result of a complaint, investigation,
10 inquiry, or interview in connection with an application for license, or in connection with a
11 license holder's professional ethics and conduct, shall not be considered public records within
12 the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges against
13 a license holder or applicant, or any notice to a license holder or applicant of a hearing to be
14 held by the ~~Commission, Board~~, is a public record even though it may contain information
15 collected and compiled as a result of a complaint, investigation, inquiry, or interview conducted
16 by the ~~Commission, Board~~. If any record, paper, or other document containing information
17 collected and compiled by the ~~Commission, Board~~ is admitted into evidence in a hearing held
18 by the ~~Commission, Board~~, it shall then be a public record within the meaning of Chapter 132
19 of the General Statutes.

20 **"§ 90-210.172. License; cemetery company.**

21 (a) No legal entity shall engage in the business of operating a cemetery company except
22 as authorized by this ~~Article~~ Part and without first obtaining a license from the
23 ~~Commission, Board~~.

24 (b) Any legal entity wishing to establish a cemetery shall file a written application for
25 authority with the ~~Commission, Board~~ on forms provided by the ~~Commission, Board~~.

26 (c) Upon receipt of the application and filing fee to be set by the ~~Commission, Board~~ in
27 an amount not to exceed one thousand six hundred dollars (\$1,600), the ~~Commission, Board~~
28 shall cause an investigation to be made to establish the following criteria for approval of the
29 application:

30 ...

31 (d) The ~~Commission, Board~~, after receipt of the investigating report, shall grant or
32 refuse to grant the authority to organize a cemetery based upon the criteria set forth in
33 ~~G.S. 65-55(e)~~ subsection (c) of this section.

34 (e) If the ~~Commission, Board~~ intends to deny an application, it shall give written notice
35 to the applicant of its intention to deny. The notice shall state a time and a place for a hearing
36 before the ~~Commission, Board~~ and a summary statement of the reasons for the proposed denial.
37 The notice of intent shall be mailed by certified mail to the applicant at the address stated in the
38 application at least 15 days prior to the scheduled hearing date. The applicant shall pay the
39 costs of this hearing as assessed by the ~~Commission, Board~~ unless the applicant notifies the
40 ~~Commission, Board~~ by certified mail at least five days prior to the scheduled hearing date that a
41 hearing is waived. Any appeals from the ~~Commission's, Board's~~ decision shall be to the court
42 having jurisdiction of the applicant or the ~~Commission, Board~~.

43 (f) If the ~~Commission, Board~~ intends to grant the authority, it shall give written notice
44 that the authority to organize a cemetery has been granted and that a license to operate will be
45 issued upon the completion of the following:

- 46 (1) Establishment of the care and maintenance trust fund and receipt by the
47 ~~Commission, Board~~ of a certificate from the trust company, certifying receipt
48 of the initial deposit required under this Article.
- 49 (2) Full development, ready for burial, of not less than two acres including a
50 completed paved road from a public roadway to said developed section,
51 certified by inspection of the ~~Commission, Board~~ or its representative.

1 ...
2 **"§ 90-210.173. Existing companies; effect of Article.**
3 Existing cemetery companies at the time of the adoption of this Chapter shall continue in
4 full force and effect and be granted a license but shall hereafter be operated in accordance with
5 the provisions of ~~Article 9 of this Chapter~~ this Part.

6 ...
7 **"§ 90-210.175. Licenses for sales organizations, management organizations and brokers.**

8 (a) No legal entity shall engage in the business of a cemetery sales organization, a
9 cemetery management organization or a cemetery broker except as authorized by this Article,
10 and without first obtaining a license from the ~~Commission~~ Board.

11 (b) Any legal entity wishing to establish and operate the business of a cemetery sales
12 organization, a cemetery management organization or a cemetery broker shall file a written
13 application for authority with the ~~Commission~~ Board on forms provided by the ~~Commission~~
14 Board which must contain such of the following documents and information as may be required
15 by the ~~Commission~~ Board:

16 (1) The appointment of a North Carolina resident to receive service of any
17 lawful process in any noncriminal proceedings arising under this ~~Chapter~~
18 Part against the applicant, its principal owners, principal stockholders,
19 directors and general manager or their personal representatives.

20 ...
21 (c) The application shall be accompanied by an initial filing fee to be set by the
22 ~~Commission~~ Board in an amount not to exceed one thousand dollars (\$1,000) for cemetery
23 sales organization and cemetery management organization and an initial filing fee to be set by
24 the Commission in an amount not to exceed five hundred dollars (\$500.00) for a cemetery
25 broker. If ninety percent (90%) or more of the applicant is owned by an existing cemetery
26 company operating under ~~the North Carolina Cemetery Act, this Part~~, then the initial filing fee
27 shall be one half of the sums set out herein. On or before July 1 of each year, each licensed
28 cemetery sales organization, cemetery management organization, or cemetery broker shall pay
29 a license renewal fee to be set by the ~~Commission~~ Board in an amount not to exceed six
30 hundred dollars (\$600.00) per year.

31 (d) Upon receipt of the application and filing fee, the ~~Commission~~ Board shall cause an
32 investigation to be made of the legal entity to conduct the business applied for and the
33 qualification of said legal entity to do business in North Carolina.

34 (e) The ~~Commission~~ Board, after receipt of the investigation report, shall grant or
35 refuse to grant the authority to organize the organization applied for after it determines that the
36 applicant possesses good character and general fitness or, in the case of a business association,
37 employs and is directed by personnel of good character and general fitness.

38 (f) If the ~~Commission~~ Board intends to deny an application, it shall give written notice
39 to the applicant of its intention to deny. The notice shall state a time and a place for hearing
40 before the ~~Commission~~ Board and a summary statement of the reasons for the proposed denial.
41 The notice of intent shall be mailed by certified mail to the applicant at the address stated in the
42 application at least 15 days prior to the scheduled hearing date. Any appeals from the
43 ~~Commission's~~ Board's decision shall be to the court having jurisdiction of the applicant, or in
44 the event of an out-of-state applicant, then to the court having jurisdiction of the
45 ~~Commission~~ Board.

46 (g) If the ~~Commission~~ Board intends to grant the authority, it shall give written notice
47 that the authority to organize the business applied for has been granted and that a license to
48 operate will be issued upon presentment to the ~~Commission~~ Board of a statement of
49 employment between the applicant and the cemetery or cemeteries to be serviced thereby.

50 ...
51 **"§ 90-210.176. Licenses for persons selling preneed grave space.**

1 (a) No person shall offer to sell preneed grave spaces, mausoleum crypts, niches,
2 memorials, vaults or any other preneed cemetery merchandise or services under any plan
3 authorized for any cemetery, cemetery sales group, or cemetery management group, before
4 obtaining a license from the ~~Commission-Board~~.

5 (b) Persons wishing to obtain a license shall file a written application with the
6 Commission on forms provided by the ~~Commission-Board~~. The ~~Commission-Board~~ may
7 require such information and documents as it deems necessary to protect the public interest.

8 (c) The application shall be accompanied by a filing fee to be set by the ~~Commission~~
9 ~~Board~~ in an amount not to exceed one hundred dollars (\$100.00) to cover the expenses of
10 processing and investigation. After processing and investigation, the ~~Commission-Board~~ shall
11 grant, or refuse to grant, the license applied for. The license fee for a two-year term shall be set
12 by the ~~Commission-Board~~ but shall not exceed one hundred dollars (\$100.00).

13 (d) If the ~~Commission-Board~~ refuses to grant the license applied for, it shall give
14 written notice to the applicant. The notice shall state a time and a place for hearing before the
15 ~~Commission-Board~~, and a summary statement of the reasons for the refusal to grant the
16 license. The notice shall be mailed by registered mail or certified mail to the applicant at the
17 address stated in the application at least 30 days prior to the scheduled hearing date.

18 (e) If the ~~Commission-Board~~ intends to grant the license, it shall give written notice that
19 the license will be issued upon presentment to the ~~Commission-Board~~ of a duly executed
20 statement of employment between the applicant and the cemetery or cemeteries to be serviced
21 thereby.

22 (f) The provisions of Article 4 of Chapter 150B of the General Statutes of North
23 Carolina relating to "Judicial Review" shall apply to appeals or petitions for judicial review by
24 any person or persons aggrieved by an order or decision of the ~~Commission-Board~~.

25 **"§ 90-210.177. Application for a change of control; filing fee.**

26 A person who proposes to acquire control of an existing cemetery company, whether by
27 purchasing the capital stock of the company, purchasing an owner's interest in the company, or
28 otherwise acting to effectively change the control of the company, shall first make application
29 on a form supplied by the ~~Commission-Board~~ for a certificate of approval of the proposed
30 change of control. The application shall contain the name and address of each proposed new
31 owner. The ~~Commission-Board~~ shall issue a certificate of approval only after it determines that
32 the proposed new owners are qualified by character, experience, and financial responsibility to
33 control and operate the cemetery company in a legal and proper manner, and that the interest of
34 the public generally will not be jeopardized by the proposed change in control. An application
35 for approval of a change of control must be completed and accompanied by a filing fee to be set
36 by the ~~Commission-Board~~ in an amount not to exceed one thousand six hundred dollars
37 (\$1,600). The ~~Commission-Board~~ shall not approve any change of control until the applicant
38 has provided sufficient evidence that any trust account required under ~~G.S. 65-66(b) and~~
39 ~~G.S. 65-70(b)~~ G.S. 90-210.186(b) and G.S. 90-210.190(b) is maintained and funded in the
40 required amount. If the cemetery company posted a performance bond in lieu of any trust
41 account required under ~~G.S. 65-66(b) and G.S. 65-70(b)~~, G.S. 90-210.186(b) and
42 G.S. 90-210.190(b), then the ~~Commission-Board~~ shall not approve any change of control until
43 the applicant has provided sufficient evidence that the performance bond is being appropriately
44 maintained and in an amount sufficient to cover all payments made directly or indirectly by or
45 on account of purchasers who have not received the purchased property and services.

46 **"§ 90-210.178. Records.**

47 A record shall be kept of every burial in the cemetery of a cemetery company, showing the
48 date of burial, name of the person buried, together with lot, plot, and space in which such burial
49 was made therein. All sales, trust funds, accounting records, and all other records of the
50 licensee shall be available at the licensee's principal place of business in this State and shall be

1 readily available at all reasonable times for examination by an authorized representative of the
2 Commission Board.

3 ...

4 **"§ 90-210.180. Trustees; qualifications; examination of records; enforcement.**

5 (a) The term "corporate trustee" as used in this Article shall mean a bank, credit union,
6 or trust company authorized to do business in North Carolina under the supervision of the
7 Commissioner of Banks, Credit Union Administrator, or any other corporate entity; provided
8 that any corporate entity other than a bank, credit union, or trust company which acts as trustee
9 under this Article shall first be approved by the ~~Cemetery Commission Board~~ and shall be
10 subject to supervision by the ~~Cemetery Commission Board~~ as provided herein.

11 (b) Any corporate entity, other than a bank, credit union, or trust company, which
12 desires to act as trustee for cemetery funds under this Article shall make application to the
13 ~~Commission Board~~ for approval. The ~~Commission Board~~ shall approve the trustee when it has
14 become satisfied that:

15 ...

16 (c) Any trustee under this Article, other than a bank, credit union, or trust company
17 under the supervision of the Commissioner of Banks, shall maintain records relative to
18 cemetery trust funds as the ~~Commission Board~~ may by regulation prescribe. The records shall
19 be available at the trustee's place of business in North Carolina and shall be available at all
20 reasonable times for examination by a representative of the ~~Commission Board~~. The records
21 shall be audited annually, within 90 days from the end of the trust fund's fiscal year, by an
22 independent certified public accountant, and a copy of the audit report shall be promptly
23 forwarded to the ~~Commission Board~~.

24 (d) Whenever it appears that an officer, director, or employee of a trustee, other than a
25 bank, credit union, or trust company, is dishonest, incompetent, or reckless in the management
26 of a cemetery trust fund, the ~~Commission Board~~ may bring an action in the courts to remove
27 the trustee and to impound the property and business of the trustee as may be reasonably
28 necessary to protect the trust funds.

29 (e) Any trustee shall invest and reinvest cemetery trust funds in the same manner as
30 provided by law for the investment of trust funds by the clerk of the superior court; provided,
31 however, that this subsection does not apply to a perpetual trust fund described in ~~G.S. 65-64~~
32 G.S. 90-210.184 or cemetery trust funds held in a fund designated as Trust Fund "A" pursuant
33 to ~~G.S. 65-64(e)~~, G.S. 90-210.184(e), which may be invested and reinvested in accordance with
34 G.S. 32-71.

35 **"§ 90-210.181. Required trust fund for care and maintenance; remedy of ~~Commission~~
36 Board for noncompliance.**

37 No cemetery company shall be permitted to establish, or operate if already established, a
38 cemetery unless provision is made for the future care and maintenance of such cemetery by
39 establishing a trust fund and designating a corporate trustee to administer said fund in
40 accordance with a written trust agreement. If any cemetery company refuses or otherwise fails
41 to provide or maintain an adequate care and maintenance trust fund in accordance with the
42 provisions of this Article, ~~the Commission, Part, the Board~~, after reasonable notice, shall
43 proceed to enforce compliance under the powers vested in it under this ~~Article; Part~~; provided
44 any nonprofit cemetery corporation, incorporated and engaged in the cemetery business
45 continuously since and prior to 1915 and whose current trust assets exceed seven hundred fifty
46 thousand dollars (\$750,000) shall not be required to designate a corporate trustee. The trust
47 fund agreement shall contain and include the following: name, location, and address of both the
48 licensee and the trustee showing the date of agreement together with the amounts required
49 deposited as stated in this Article. No person shall withdraw or transfer any portion of the
50 corpus of the care and maintenance trust fund without first obtaining written consent from the
51 Commission Board.

1 ...

2 **"§ 90-210.184. Deposits to perpetual care fund.**

3 (a) Deposits to the care and maintenance trust fund must be made by the cemetery
4 company holding title to the subject cemetery lands on or before the last day of the calendar
5 month following the calendar month in which final payment is received as provided herein;
6 however the entire amount required to be deposited into the fund shall be paid within four years
7 from the date of any contract requiring the payment regardless of whether all amounts have
8 been received by the cemetery company. If the cemetery company fails to make timely deposit,
9 the ~~Commission-Board~~ may levy and collect a late filing fee of one dollar (\$1.00) per day for
10 each day the deposit is delinquent on each grave space, niche or mausoleum crypt sold. The
11 care and maintenance trust fund shall be invested and reinvested by the trustee in accordance
12 with G.S. 32-71. Investments may be made through means of a common trust fund as described
13 in G.S. 53-163.5. Cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to
14 ~~G.S. 65-64(e)~~ G.S. 90-210.184(e) may be invested and reinvested in accordance with
15 G.S. 32-71. The fees and other expenses of the trust fund shall be paid by the trustee from the
16 net income thereof and may not be paid from the corpus. To the extent that the net income is
17 not sufficient to pay the fees and other expenses, the fees and other expenses shall be paid by
18 the cemetery company.

19 (b) When a municipal, church-owned or fraternal cemetery converts to a private
20 cemetery as defined in ~~G.S. 65-48~~, G.S. 90-210.140, then the cemetery shall establish and
21 maintain a care and maintenance trust fund pursuant to this section; provided, however, the
22 initial deposit for establishment of this trust fund shall be an amount equal to fifty dollars
23 (\$50.00) per space for all spaces either previously sold or contracted for sale in the cemetery at
24 the time of conversion or fifty thousand dollars (\$50,000), whichever sum is greater.

25 ~~(d)~~(c) In each sales contract, reservation or agreement wherein burial rights are priced
26 separately, the purchase price of the burial rights shall be the only item subject to care and
27 maintenance trust fund deposits; but if the burial rights are not priced separately therein, the full
28 amount of the contract, reservations or agreement shall be subject to care and maintenance trust
29 fund deposits as provided herein, unless the purchase price of the burial rights can be
30 determined from the accounting records of the cemetery company.

31 ~~(e)~~(d) When the amount deposited in the perpetual care fund required by this Article of
32 any cemetery company shall amount to one hundred fifty thousand dollars (\$150,000), anything
33 in this Article to the contrary notwithstanding, the cemetery company may make all deposits
34 thereafter either into the original perpetual care trust fund or into a separate fund established as
35 an irrevocable trust, designated as Perpetual Care Trust Fund "A," and invested by the trustee,
36 in accordance with G.S. 32-71. Funds in a trust fund designated as Trust Fund "A" may not be
37 invested in another cemetery company.

38 ~~(f)~~(e) For special endowments for a specific lot, grave, or a family mausoleum, memorial,
39 marker, or monument, the cemetery may set aside the full amounts received for this individual
40 special care in a separate trust or by a deposit to a savings account in a bank, credit union, or
41 savings and loan association located within and authorized to do business in the State;
42 provided, however, if the licensee does not set up a separate trust or savings account for the
43 special endowment the full amount thereof shall be deposited in Perpetual Care Trust Fund
44 "A."

45 **"§ 90-210.185. Trust fund; financial reports.**

46 Within 60 days after the end of the calendar or fiscal year of the cemetery company, the
47 trustee shall furnish adequate financial reports with respect to the care fund on forms provided
48 by the ~~Commission-Board~~. However, the ~~Commission-Board~~ may require the trustee to make
49 such additional financial reports as it may deem advisable.

50 **"§ 90-210.186. Receipts from sale of personal property or services; trust account;
51 penalties.**

1 ...
2 (b) Any cemetery company or other entity entering into a contract for the sale of
3 personal property or services, to be used in a cemetery in connection with disposing of, or
4 commemorating the memory of a deceased human being wherein the use of the personal
5 property or the furnishing of services is not immediately requested or required, shall comply
6 with the following requirements and conditions:

7 (1) The cemetery company or other entity shall deposit an amount equal to sixty
8 percent (60%) of all proceeds received on the contracts into a trust account,
9 either in the form of an account governed by a trust agreement and handled
10 by a corporate trustee or in the form of a passbook savings account,
11 certificates of deposit for time certificates, or money-market certificates with
12 a licensed and insured bank, credit union, or savings institution located in the
13 State of North Carolina until the amount deposited equals sixty percent
14 (60%) of the actual sale price of the property or services sold. The accounts
15 or deposits or both shall be in the name of the cemetery company or other
16 entity in a form which will permit withdrawals only with the participation
17 and consent of the ~~Cemetery Commission Board~~ as required by subdivision
18 (4) of this subsection.

19 ...
20 (4) Withdrawals from a trust account may be made by the depositor, but only
21 with the written approval of the Commission or officer or employee of the
22 ~~Commission Board~~ authorized to act for the ~~Commission Board~~.
23 Withdrawals may be made only upon delivery of the merchandise or
24 services for which the funds were deposited, cancellation of a contract, the
25 presence of excess funds in the trust account, or under other circumstances
26 deemed appropriate by the ~~Commission Board~~. The ~~Commission Board~~
27 shall promulgate rules and regulations governing withdrawals from trust
28 accounts, including time and frequency of withdrawals, payments that will
29 be made with the withdrawals, notice to the ~~Commission Board~~ prior to
30 withdrawals, the number and identity of persons other than the owner who
31 are authorized by the owner to make withdrawals, the officers and
32 employees of the ~~Commission Board~~ authorized to approve withdrawals, and
33 any other matters necessary to implement the provisions of this subdivision.
34 Withdrawals will not be allowed if the amount remaining in the trust account
35 would fall below sixty percent (60%) of all proceeds received on account of
36 contracts for the sale of the personal property or services.

37 ...
38 (6) Every year after September 1, 1975, the cemetery company, the trustee or
39 other entity shall within 75 days after the end of the calendar year, file a
40 financial report of the trust funds with the ~~Commission Board~~, setting forth
41 the principal thereof, the investments and payments made, the income earned
42 and disbursed; provided, however, that the ~~Commission Board~~ may require
43 the cemetery, trustee, or other entity to make the additional financial reports
44 as it may deem advisable.

45 ...
46 (g) In lieu of the deposits required under subsection (b) of this section, the cemetery
47 company or other entity may post with the ~~Commission Board~~ a good and sufficient
48 performance bond by surety company licensed to do business in North Carolina and in an
49 amount sufficient to cover all payments made directly or indirectly by or on account of
50 purchasers who have not received the purchased property and services. Money received from

1 the sale or assignment of notes entered into by the purchasers, or otherwise, shall be treated as
2 payments made by the purchasers.

3 (h) The ~~Commission-Board~~ shall have the power and is required from time to time as it
4 may deem necessary to examine the business of any cemetery company or other entity writing
5 contracts for the sale of the property or services as herein contemplated. The written report of
6 the examination shall be filed in the office of the ~~Commission-Board~~. Any person or entity
7 being examined shall produce the records of the company needed for the examination.

8 ...

9 ~~(k)(j)~~ Nothing in this section shall apply to persons or legal entities holding licenses under
10 Article 13D of Chapter 90 of the General Statutes when engaging in activities for which a
11 license is required under that Article.

12 ~~(k)~~(k) If any report is not received within the time stipulated by the ~~Commission-Board~~ or
13 herein, the ~~Commission-Board~~ may levy and collect a late filing fee of twenty-five dollars
14 (\$25.00) per month for each month of delinquency.

15 ~~(m)(l)~~ Within 30 days following the execution of a contract for the sale of personal
16 property or performance of services, a purchaser may cancel his contract by giving written
17 notice to the seller. The seller may cancel the contract, upon default by purchaser, by giving
18 written notice to the purchaser. Within 30 days of notice of cancellation, the cemetery company
19 or other entity shall refund to purchaser the principal amount on deposit in the trust account for
20 his benefit on any undelivered merchandise or services. This amount (no other obligations
21 owed the purchaser by the seller) shall constitute the purchaser's entire entitlements under the
22 contract. The seller may not terminate the contract without complying with this subsection.

23 ~~(n)(m)~~ A cemetery company shall not require the purchaser or consumer of a grave space,
24 mausoleum, or mausoleum section to purchase a vault from the cemetery company or from any
25 other particular seller of vaults as a condition to the purchase or use of a grave space,
26 mausoleum, or mausoleum section but may require that a casket be enclosed within a vault. A
27 cemetery company may charge a reasonable fee not to exceed twenty dollars (\$20.00) for
28 delivery of vaults or inspection of vaults that are purchased from a person other than the
29 cemetery company.

30 ...

31 **"§ 90-210.188. License not assignable or transferable.**

32 No license issued under ~~G.S. 65-67~~ G.S. 90-210.187 shall be transferable or assignable and
33 no licensee shall develop or operate any cemetery authorized by this Article under any name or
34 at any location other than that contained in the application for such license.

35 **"§ 90-210.189. Minimum acreage; sale or disposition of cemetery lands.**

36 ...

37 (c) Any licensee may convey and transfer to a municipality or county its real and
38 personal property together with moneys deposited with the trustee; provided said municipality
39 or county will accept responsibility for maintenance thereof and prior written approval of the
40 ~~Commission-Board~~ is first obtained.

41 (d) The provisions of subsections (a) and (b) relating to a requirement for minimum
42 acreage shall not apply to those cemeteries licensed by the ~~Commission-Board~~ on or before
43 July 1, 1967, which own or control a total of less than 30 acres of land; provided that such
44 cemeteries shall not dispose of any of such lands. A nongovernment lien or other interest in
45 land acquired in violation of this section is void.

46 **"§ 90-210.190. Construction of mausoleums and belowground crypts; trust fund for
47 receipts from sale of preconstruction crypts; compliance requirements.**

48 (a) A cemetery company shall be required to start construction of that section of a
49 mausoleum or bank of belowground crypts in which sales, contracts for sale, reservations for
50 sales or agreements for sales are being made, within 48 months after the date of the first sale.
51 The construction of the mausoleum section or bank of belowground crypts shall be completed

1 within five years after the date of the first sale made; provided, however, extensions for
2 completion, not to exceed three years, may be granted by the ~~Commission~~Board for good
3 reasons shown.

4 (b) A cemetery company which plans to offer for sale space in a section of a
5 mausoleum or bank of underground crypts prior to its construction shall establish a
6 preconstruction trust account. The trust account shall be administered and operated in the same
7 manner as the merchandise trust account provided for in ~~G.S. 65-66~~G.S. 90-210.186 and shall
8 be exclusive of the merchandise trust account or the other trust accounts or funds that may be
9 required by law. The personal representative of any purchaser of the space who dies before
10 completion of construction shall be entitled to a refund of all moneys paid for the space
11 including any income earned thereon.

12 ...
13 (d) The cemetery company shall be entitled to withdraw the funds from the
14 preconstruction trust account only after the ~~Commission~~Board has become satisfied that
15 construction has been completed; provided, however, that during construction of the
16 mausoleum or bank of belowground crypts the ~~Commission~~Board may, in its discretion,
17 authorize a specific percentage of the funds to be withdrawn when it appears that at least an
18 equivalent percentage of construction has been completed.

19 (e) If a mausoleum section or bank of underground crypts is not completed within the
20 time limits set out in this section the corporate trustee, if any, shall contract for and cause the
21 project to be completed and paid therefor from the trust account funds deposited to the project's
22 account paying any balance, less cost and expenses, to the cemetery company. In the event
23 there is no corporate trustee, the ~~Commission~~Board shall appoint a committee to serve as
24 trustees to contract for and cause the project to be completed and paid therefor from the trust
25 account funds deposited to the project's account paying any balance, less cost and expenses, to
26 the cemetery company.

27 (f) In lieu of the payments outlined hereunder to the preconstruction trust account the
28 cemetery company may deliver to the ~~Commission~~Board a good and sufficient completion or
29 performance bond in an amount and by surety companies acceptable to the ~~Commission~~Board.
30 **"§ 90-210.191. Penalties.**

31 (a) Except as provided in this subsection, a person violating any provisions of this
32 ~~Article, Part,~~ of any order or rule promulgated under this ~~Article, Part,~~ or of any license issued
33 by the ~~Commission~~Board is guilty of a Class 1 misdemeanor. Each failure to deposit funds in a
34 trust fund in accordance with this ~~Article-Part~~ is a separate offense. A person who has failed to
35 deposit funds in a trust fund in accordance with this Article and whose delinquent deposits
36 equal or exceed twenty thousand dollars (\$20,000) is guilty of a Class I felony.

37 (b) The officers and directors or persons occupying similar status or performing similar
38 functions of any cemetery company, cemetery sales organization, cemetery management
39 organization or cemetery broker, as defined in ~~this Chapter,~~G.S. 90-210.140, failing to make
40 required contributions to the care and maintenance trust fund and any other trust fund or escrow
41 account shall be liable for any offense based on the failure and upon conviction for the offense
42 shall be punished in the manner prescribed by law."

43 **SECTION 11.** G.S. 58-58-97 reads as rewritten:

44 **"§ 58-58-97. Provision of life insurance information upon notification of insured's death.**

45 (a) Any person licensed to practice funeral directing or any employee of a funeral
46 establishment licensed under the provisions of Article ~~13A-13G~~ of Chapter 90 of the General
47 Statutes providing funeral service, as that term is defined in ~~G.S. 90-210.20,~~
48 G.S. 90-210.140(20), for a deceased person insured or believed to be insured under a contract
49 of life insurance or under a group life insurance policy may request information regarding the
50 deceased person's life insurance contracts by providing an insurer with (i) a copy of a
51 notification of death filed pursuant to G.S. 130A-112, (ii) written authorization from the person

1 or persons with legal authority to direct disposition of the deceased's body as prescribed under
2 G.S. 90-210.124 or G.S. 130A-420, and (iii) in the case of a person covered or believed to be
3 covered under a group life insurance policy, the affiliation of the deceased entitling them to
4 coverage under the group life insurance policy. As soon as possible after receipt of the request,
5 the life insurance company shall inform the person authorized by this section to make an
6 inquiry of the following:

- 7 (1) The existence of any contract insuring the life of the deceased person.
- 8 (2) Any beneficiaries on record under any life insurance contract insuring the
9 life of the deceased person.
- 10 (3) The amount of any liens or loans outstanding on the policy.
- 11 (4) The amount of benefits payable to the beneficiaries.
- 12 (5) Whether the policy has been reinstated within the last 24 months.

13 The insurer shall provide a claim form to any person or assignee making the request.

14"

15 **SECTION 12.** G.S. 65-106 reads as rewritten:

16 **"§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate**
17 **filed; reinterment expenses; due care required.**

18 ...

19 (f) The party effecting the disinterment, removal, and reinterment of a decedent's
20 remains under the provisions of this Part shall ensure that the site in which reinterment is
21 accomplished shall be of such suitable dimensions to accommodate the remains of that
22 decedent only and that such site shall be reasonably accessible to all relatives of that decedent,
23 provided that the remains may be reinterred in a common grave where written consent is
24 obtained from the next of kin. If under the authority of this Part, disinterment, removal, and
25 reinterment are effected by the State of North Carolina or any of its agencies, public
26 institutions, or political subdivisions, the United States of America or any agency thereof, any
27 electric power or lighting company, then such disinterment, removal, and reinterment shall be
28 performed by a funeral director duly licensed as a "funeral director" or a "funeral service
29 licensee" under the provisions of Article ~~13A-13G~~ of Chapter 90 of the General Statutes.

30"

31 **SECTION 13.** G.S. 90-210.60 reads as rewritten:

32 **"§ 90-210.60. Definitions.**

33 As used in this Article, unless the context requires otherwise:

- 34 (1) "Board" means the North Carolina ~~Board of Funeral Service and Cemetery~~
35 Board as created pursuant to Article ~~13A-13G~~ of Chapter 90 of the General
36 Statutes;

37"

38 **SECTION 14.** G.S. 90-210.67 reads as rewritten:

39 **"§ 90-210.67. Application for license.**

40 (a) No person may offer or sell preneed funeral contracts or offer to make or make any
41 funded funeral prearrangements without first securing a license from the Board.
42 Notwithstanding any other provision of law, any person who offers to sell or sells a casket, to
43 be furnished or delivered at a time determinable by the death of the person whose body is to be
44 disposed of in the casket, shall first comply with the provisions of this Article. There shall be
45 two types of licenses: a preneed funeral establishment license and a preneed sales license. Only
46 funeral establishments holding a valid establishment permit pursuant to ~~G.S. 90-210.25(d)~~
47 G.S. 90-210.155(f) shall be eligible for a preneed funeral establishment license. Employees and
48 agents of such entities, upon meeting the qualifications to engage in preneed funeral planning
49 as established by the Board, shall be eligible for a preneed sales license. The Board shall
50 establish the preneed funeral planning activities that are permitted under a preneed sales
51 license. The Board shall adopt rules establishing such qualifications and activities no later than

1 12 months following the ratification of this act [Session Laws 1991 (Reg. Sess., 1992), c. 901,
2 s. 2]. Preneed sales licensees may sell preneed funeral contracts, prearrangement insurance
3 policies, and make funded funeral prearrangements only on behalf of one preneed funeral
4 establishment licensee; provided, however, they may sell preneed funeral contracts,
5 prearrangement insurance policies, and make funeral prearrangements for any number of
6 licensed preneed funeral establishments that are wholly owned by or affiliated with, through
7 common ownership or contract, the same entity; provided further, in the event they engage in
8 selling prearrangement insurance policies, they shall meet the licensing requirements of the
9 Commissioner of Insurance. Every preneed funeral contract shall be signed by a person
10 licensed as a funeral director or funeral service licensee pursuant to Article ~~13A~~13G of
11 Chapter 90 of the General Statutes.

12 Application for a license shall be in writing, signed by the applicant and duly verified on
13 forms furnished by the Board. Each application shall contain at least the following: the full
14 names and addresses (both residence and place of business) of the applicant, and every partner,
15 member, officer and director thereof if the applicant is a partnership, limited liability company,
16 association, or corporation and any other information as the Board shall deem necessary. A
17 preneed funeral establishment license shall be valid only at the address stated in the application
18 or at a new address approved by the Board.

19"

20 **SECTION 15.** G.S. 130A-33.31 reads as rewritten:

21 "**§ 130A-33.31. Commission of Anatomy – Members; selection; term; chairman; quorum;**
22 **meetings.**

23 (a) The Commission of Anatomy shall consist of five members, one representative from
24 the field of mortuary science, and one each from The University of North Carolina School of
25 Medicine, East Carolina University School of Medicine, Duke University School of Medicine,
26 and Bowman Gray School of Medicine. The dean of each school shall make recommendations
27 and the Secretary shall appoint from such recommendations a member to the Commission. The
28 president of the ~~State Board of Funeral Service~~North Carolina Funeral Service and Cemetery
29 Board shall appoint the representative from the field of mortuary science to the Commission.
30 The members shall serve terms of four years except two of the original members shall serve a
31 term of one year, one shall serve a term of two years, one shall serve a term of three years, and
32 one shall serve a term of four years. The Secretary shall determine the terms of the original
33 members.

34"

35 **SECTION 16.(a)** The terms of members appointed to the North Carolina Funeral
36 Service and Cemetery Board and serving as of July 1, 2015, shall expire on December 31,
37 2015.

38 **SECTION 16.(b)** Notwithstanding any other provision of law, the terms of the two
39 of the members appointed to the North Carolina Funeral Service and Cemetery Board by the
40 Governor pursuant to G.S. 90-210.145(b)(1), as amended by this act, shall expire December 31,
41 2015.

42 **SECTION 16.(c)** Notwithstanding the provisions of G.S. 90-210.145, as enacted
43 by Section 6 of this act, to establish staggered terms for the three members appointed to the
44 North Carolina Funeral Service and Cemetery Board (Board) pursuant to this act, appointments
45 to the Board shall be as follows:

46 (1) The members appointed by the Governor pursuant to
47 G.S. 90-210.145(b)(3a), as enacted by Section 7 of this act, shall be
48 appointed for two-year terms to commence January 1, 2016, and expire
49 December 31, 2017.

50 (2) The member appointed by the General Assembly upon the recommendation
51 of the President Pro Tempore of the Senate, who owns or manages a

1 cemetery in North Carolina pursuant to G.S. 90-210.145(b)(4), as enacted by
2 Section 7 of this act, shall be appointed for a one-year term to commence
3 January 1, 2016, and to expire December 31, 2016.

4 (3) The member appointed by the General Assembly upon the recommendation
5 of the Speaker of the House of Representatives, who owns or manages a
6 cemetery in North Carolina pursuant to G.S. 90-210.145(b)(5), as enacted by
7 Section 7 of this act, shall be appointed for a three-year term to commence
8 January 1, 2016, and to expire December 31, 2018.

9 Members described in this section shall serve for the terms for which they were appointed and
10 until their successors are appointed and qualified.

11 **SECTION 17.** The Revisor of Statutes shall change the phrase "Board of Funeral
12 Service" or "State Board of Funeral Service" with the phrase "Funeral Service and Cemetery
13 Board" wherever it appears in Articles 13E and 13F of Chapter 90 of the General Statutes.

14 **SECTION 18.** The Revisor of Statutes shall, on or after the effective date of this
15 act, correct any reference or citation in the General Statutes that is amended by this act by
16 deleting the incorrect references and substituting correct references.

17 **SECTION 19.** Unless otherwise provided, this act becomes effective December 31,
18 2015.