

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 485

Short Title: Funeral Establishments/AB.

(Public)

Sponsors: Representative Dockham.

Referred to: Judiciary I, if favorable, Finance.

March 10, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AMEND VARIOUS STATUTES RELATING TO THE PRACTICE OF
2 FUNERAL SERVICE, CREMATIONS, AND FUNERAL AND BURIAL TRUST
3 FUNDS.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 90-210.20(e1) reads as rewritten:

7 "(e1) 'Funeral chapel' means a chapel or other facility separate from the funeral
8 establishment premises for the reposing of dead human bodies, visitation or funeral
9 ceremony, which is owned, operated, or maintained by a funeral establishment,
10 establishment or other licensee under this Article, and which does not use the word
11 'funeral' in its name, on a sign, in a directory, in advertising or in any other manner; in
12 which or on the premises of which there is not displayed or offered for sale any caskets or
13 other funeral merchandise; in which or on the premises of which there is not located any
14 funeral business office or a preparation room; in which or on the premises of which no
15 funeral sales, financing, or arrangements are made; and which no owner, operator,
16 employee, or agent thereof represents the chapel to be a funeral establishment."

17 Section 2. G.S. 90-210.23(d) reads as rewritten:

18 "(d) Every person licensed by the Board and every resident trainee shall furnish all
19 information required by the Board reasonably relevant to the practice of the profession or
20 business for which ~~he~~ the person is a licensee or resident ~~trainee, and every trainee.~~ Every

1 funeral service establishment and its records and every place of business where the
2 practice of funeral service or embalming is carried on and its records thereof shall be
3 subject to inspection by the Board during normal hours of operation and periods shortly
4 before or after normal hours of operation and shall furnish all information required by the
5 Board reasonably relevant to the business therein conducted. Every licensee, resident
6 ~~trainee-trainee, embalming facility,~~ and funeral service establishment shall provide the
7 Board with ~~his or its~~ a current post-office address which shall be placed on the appropriate
8 register and all notices required by law or by any rule or regulation of the Board to be
9 mailed to any licensee, resident ~~trainee-trainee, embalming facility,~~ or funeral service
10 establishment shall be validly given when mailed to the address so provided.

11 The Board is empowered to hold hearings in accordance with the provisions of this
12 Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive
13 the affirmation of witnesses before the Board."

14 Section 3. G.S. 90-210.23(e) reads as rewritten:

15 "(e) The Board is empowered to regulate and inspect, according to law, funeral
16 service ~~establishments, establishments and embalming facilities,~~ their ~~operation-operation,~~
17 and the licenses under which they are operated, and to enforce as provided by law the
18 rules, ~~regulations-regulations,~~ and requirements of the Division of Health Services and of
19 the city, ~~town-town,~~ or county ~~wherein any such~~ in which the funeral service establishment
20 or embalming facility is maintained and operated. Any funeral establishment or
21 embalming facility ~~which, that,~~ upon inspection, is found not to meet all of the
22 requirements of this Article shall pay a reinspection fee to the Board for each additional
23 inspection that is made to ascertain that the deficiency or other violation has been
24 corrected. The Board is also empowered to enforce compliance with the standards set
25 forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time."

26 Section 4. G.S. 90-210.24(b)(1) reads as rewritten:

27 "(1) Enter the office, establishment or place of business of any funeral
28 service licensee, funeral director or embalmer in North Carolina, and
29 any office, establishment or place in North Carolina where the practice
30 of funeral service or embalming is carried on, or where that practice is
31 advertised as being carried on, or where a funeral is being ~~conducted,~~
32 conducted or a body is being embalmed, to inspect the records, office, ~~or~~
33 ~~establishment, establishment, or facility,~~ or to inspect the practice being
34 carried on or license or registration of any licensee and any resident
35 trainee operating therein;"

36 Section 5. G.S. 90-210.25(a)(1) reads as rewritten:

37 "(1) To be licensed for the practice of funeral directing under this Article, a
38 person must:

- 39 a. Be at least 18 years of ~~age,~~ age.
- 40 b. Be of good moral ~~character,~~ character.
- 41 c. Have completed a minimum of 32 semester hours or 48 quarter
42 hours of instruction in a course of study including the subjects set
43 out in ~~items~~ item e.1. ~~and 2.~~ of this subsection in a mortuary

1 science college approved by the Board, or be a graduate of a
2 mortuary science college approved by the Board.

- 3 d. Have completed 12 months of resident traineeship as funeral
4 director, pursuant to the procedures and conditions set out in G.S.
5 90-210.25(a)(4), either before or after satisfying the educational
6 requirement under item c. of this ~~subsection, and subsection.~~
7 e. Have passed an oral or written funeral director examination on
8 the following subjects:
- 9 1. ~~Basic health sciences, including microbiology, hygiene, and~~
10 ~~public health, Psychology, sociology, funeral directing,~~
11 ~~business law, funeral law, funeral management, and~~
12 ~~accounting.~~
 - 13 2. ~~Funeral service administration, including accounting,~~
14 ~~psychology, funeral principles and directing, and~~
 - 15 3. Laws of North Carolina and rules of the Board of
16 Mortuary Science and other agencies dealing with the
17 care, transportation and disposition of dead human
18 bodies."

19 Section 6. G.S. 90-210.25(a)(2) reads as rewritten:

20 "(2) To be licensed for the practice of embalming under this Article, a person
21 must:

- 22 a. Be at least 18 years of ~~age,~~ age.
 - 23 b. Be of good moral ~~character,~~ character.
 - 24 c. Be a graduate of a mortuary science college approved by the
25 ~~Board,~~ Board.
 - 26 d. Have completed 12 months of resident traineeship as an
27 embalmer pursuant to the procedures and conditions set out in
28 G.S. 90-210.25(a)(4), either before or after satisfying the
29 educational requirement under item c. of this ~~subsection, and~~
30 ~~subsection.~~
 - 31 e. Have passed an oral or written embalmer examination on the
32 following subjects:
- 33 1. ~~Basic health sciences, including anatomy, chemistry,~~
34 ~~microbiology, pathology and forensic pathology,~~
35 ~~Embalming, restorative arts, chemistry, pathology,~~
36 ~~microbiology, and anatomy.~~
 - 37 2. ~~Funeral service sciences, including embalming and~~
38 ~~restorative art, and~~
 - 39 3. Laws of North Carolina and rules of the Board of
40 Mortuary Science and other agencies dealing with the
41 care, transportation and disposition of dead human
42 bodies."

43 Section 7. G.S. 90-210.25(a)(3) reads as rewritten:

- 1 "(3) To be licensed for the practice of funeral service under this Article, a
2 person must:
- 3 a. Be at least 18 years of ~~age, age.~~
4 b. Be of good moral ~~character, character.~~
5 c. Be a graduate of a mortuary science college approved by the
6 ~~Board, Board.~~
7 d. Have completed 12 months of resident traineeship as a funeral
8 service licensee, pursuant to the procedures and conditions set
9 out in G.S. 90-210.25(a)(4), either before or after satisfying the
10 educational requirement under item c. of this ~~subsection, and~~
11 subsection.
12 e. Have passed an oral or written funeral service examination on the
13 following subjects:
- 14 1. ~~Basic health sciences, including anatomy, chemistry,~~
15 ~~microbiology, pathology, forensic pathology hygiene and~~
16 ~~public health, Psychology, sociology, funeral directing,~~
17 ~~business law, funeral law, funeral management, and~~
18 ~~accounting.~~
19 2. ~~Funeral service sciences, including embalming and restorative~~
20 ~~art, Embalming, restorative arts, chemistry, pathology,~~
21 ~~microbiology, and anatomy.~~
22 3. ~~Funeral service administration, including accounting,~~
23 ~~psychology, funeral principles and directing, and~~
24 4. Laws of North Carolina and rules of the Board of
25 Mortuary Science and other agencies dealing with the
26 care, transportation and disposition of dead human
27 bodies."

28 Section 8. G.S. 90-210.25(a)(5) reads as rewritten:

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

31 All licenses shall be signed by the president and secretary of the
32 Board and the seal of the Board affixed thereto. All licenses shall be
33 issued, renewed or duplicated for a period not exceeding one year upon
34 payment of the renewal fee, and all licenses, renewals or duplicates
35 thereof shall expire and terminate the thirty-first day of December
36 following the date of their issue unless sooner revoked and canceled;
37 provided, that the date of expiration may be changed by unanimous
38 consent of the Board and upon 90 days' written notice of such change to
39 all persons licensed for the practice of funeral directing, embalming and
40 funeral service in this State.

41 The holder of any license issued by the Board who shall fail to
42 renew the same on or before January 31 of the calendar year for which
43 the license is to be renewed shall have forfeited and surrendered the

1 license as of that date. No license forfeited or surrendered pursuant to
2 the preceding sentence shall be reinstated by the Board unless it is
3 shown to the Board that the applicant has, throughout the period of
4 forfeiture, engaged full time in another state of the United States or the
5 District of Columbia in the practice to which his North Carolina license
6 applies and has completed for each such year continuing education
7 substantially equivalent in the opinion of the Board to that required of
8 North Carolina licensees; or has completed in North Carolina a total
9 number of hours of accredited continuing education computed by
10 multiplying five times the number of years of forfeiture; or has passed
11 the North Carolina examination for the forfeited license. No additional
12 resident traineeship shall be required. The applicant shall be required to
13 pay all delinquent annual renewal fees and a reinstatement fee. The
14 Board may waive the provisions of this section for an applicant for a
15 forfeiture which occurred during his service in the armed forces of the
16 United States provided he applies within six months following
17 severance therefrom.

18 All licensees now or hereafter licensed in North Carolina shall take
19 courses of study in subjects relating to the practice of the profession for
20 which they are licensed, to the end that new techniques, scientific and
21 clinical advances, the achievements of research and the benefits of
22 learning and reviewing skills will be utilized and applied to assure
23 proper service to the public.

24 As a prerequisite to the annual renewal of a license, the licensee
25 must complete, during the year immediately preceding renewal, at least
26 five hours of continuing education courses, approved by the Board prior
27 to enrollment; ~~except that for renewals for calendar year 1980 the required~~
28 ~~length of study shall be a total of 15 hours in the three years immediately~~
29 ~~preceding January 1, 1980.~~ enrollment. A licensee who completes more
30 than five hours in a year may carry over a maximum of five hours as a
31 credit to the following year's requirement. A licensee who is issued an
32 initial license on or after July 1 does not have to satisfy the continuing
33 education requirement for that year.

34 The Board shall not renew a license unless fulfillment of the
35 continuing education requirement has been certified to it on a form
36 provided by the Board, but the Board may waive this requirement for
37 renewal in cases of certified illness or undue hardship or where the
38 licensee lives outside of North Carolina and does not practice in North
39 Carolina, and the Board shall waive the requirement for all licensees
40 who have been licensed in North Carolina for a continuous period of 25
41 years or more, and for all licensees who are, at the time of renewal,
42 members of the General Assembly. The waiver for 25-year licensees
43 shall apply only to those licensees who, before January 1, 1998, are

1 licensed, begin a course of study in a mortuary science college or a
2 trainee program, or make an application for a license.

3 The Board shall cause to be established and offered to the licensees,
4 each calendar year, at least five hours of continuing education courses in
5 subjects encompassing the license categories of embalming, funeral
6 directing and funeral service. The Board may charge licensees
7 attending these courses a reasonable registration fee in order to meet the
8 expenses thereof and may also meet those expenses from other funds
9 received under the provisions of this Article.

10 Any person who having been previously licensed by the Board as a
11 funeral director or embalmer prior to July 1, 1975, shall not be required
12 to satisfy the requirements herein for licensure as a funeral service
13 licensee, but shall be entitled to have such license renewed upon making
14 proper application therefor and upon payment of the renewal fee
15 provided by the provisions of this Article. Persons previously licensed
16 by the Board as a funeral director may engage in funeral directing, and
17 persons previously licensed by the Board as an embalmer may engage in
18 embalming. Any person having been previously licensed by the Board
19 as both a funeral director and an embalmer may upon application
20 therefor receive a license as a funeral service licensee."

21 Section 9. G.S. 90-210.25 is amended by adding a new subsection to read:

22 "(a1) Inactive Licenses. – Any person holding a license issued by the Board for
23 funeral directing, for embalming, or for the practice of funeral service may apply for an
24 inactive license in the same category as the active license held. The inactive license is
25 renewable annually. Continuing education is not required for the renewal of an inactive
26 license. The only activity that a holder of an inactive license may engage in is to vote
27 pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an
28 active license in the same category, and the Board shall issue an active license if the
29 applicant has completed in North Carolina a total number of hours of accredited
30 continuing education equal to five times the number of years the applicant held the
31 inactive license. No application fee is required for the active license. The holder of an
32 inactive license who returns to active status shall surrender the inactive license to the
33 Board."

34 Section 10. G.S. 90-210.25(b)(3) reads as rewritten:

35 "(3) The Board may issue special permits, to be known as courtesy cards,
36 permitting nonresident funeral directors, embalmers and funeral service
37 licensees to remove bodies from and to arrange and direct funerals and
38 embalm bodies in this State, but these privileges shall not include the
39 right to establish a place of business in or engage generally in the
40 business of funeral directing and embalming in this State. ~~Provided,~~
41 Except for special permits issued by the Board for teaching continuing
42 education programs and for work in connection with disasters, no
43 special permits may be issued to nonresident funeral directors,

1 embalmers, and funeral service licensees from states that do not issue
2 similar courtesy cards to persons licensed in North Carolina pursuant to
3 this Article."

4 Section 11. G.S. 90-210.25(d) reads as rewritten:

5 "(d) Establishment Permit. –

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

12 (2) A permit shall be issued when:

13 a. It is shown that the funeral establishment has in charge a person,
14 known as a manager, licensed for the practice of funeral directing
15 or funeral service, who shall not be permitted to manage more
16 than one funeral ~~establishment, establishment.~~

17 b. The Board receives a list of the names of all part-time and full-
18 time licensees employed by the ~~establishment, establishment.~~

19 c. It is shown that the funeral establishment satisfies the
20 requirements of ~~G.S. 90-210.27A, and~~ G.S. 90-210.27A.

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

22 (3) Applications for funeral establishment permits shall be made on forms
23 provided by the Board and filed with the Board by the owner, a ~~partner~~
24 partner, a member of the limited liability company, or an officer of the
25 corporation by January 1 of each year, and shall be accompanied by the
26 application fee or renewal fee, as the case may be. All permits shall
27 expire on December 31 of each year.

28 A penalty for late renewal, in addition to the regular renewal fee,
29 shall be charged for renewal of registration coming after the first day of
30 February.

31 (4) The Board may suspend or revoke a permit when an owner, ~~partner~~
32 partner, manager, member, operator, or officer of the funeral
33 establishment violates any provision of this Article or any regulations of
34 the Board, or when any agent or employee of the funeral establishment,
35 with the consent of any person, firm or corporation operating the funeral
36 establishment, violates any of those provisions, rules or regulations.

37 (5) Funeral establishment permits are not transferable. A new application
38 for a permit shall be made to the Board within 30 days of a change of
39 ownership of a funeral establishment."

40 Section 12. G.S. 90-210.25 is amended by adding a new subsection to read:

41 "(d1) Embalming Outside Establishment. – An embalmer who engages in
42 embalming in a facility other than a funeral establishment or in the residence of the

1 deceased person shall, no later than January 1 of each year, register the facility with the
2 Board on forms provided by the Board."

3 Section 13. G.S. 90-210.25(e) reads as rewritten:

4 "(e) Revocation; Suspension; Compromise; Disclosure. –

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

- 11 a. Conviction of a felony or a crime involving fraud or moral
12 ~~turpitude;~~ turpitude.
- 13 b. Fraud or misrepresentation in obtaining or renewing a license or
14 in the practice of funeral ~~service;~~ service.
- 15 c. False or misleading advertising as the holder of a ~~license;~~ license.
- 16 d. Solicitation of dead human bodies by the licensee, his agents,
17 assistants, or employees; but this paragraph shall not be
18 construed to prohibit general advertising by the ~~licensee;~~ licensee.
- 19 e. Employment directly or indirectly of any resident trainee agent,
20 assistant or other person, on a part-time or full-time basis, or on
21 commission, for the purpose of calling upon individuals or
22 institutions by whose influence dead human bodies may be
23 turned over to a particular ~~licensee;~~ licensee.
- 24 f. The direct or indirect giving of certificates of credit or the
25 payment or offer of payment of a commission by the licensee, his
26 agents, assistants or employees for the purpose of securing
27 ~~business;~~ business.
- 28 g. Gross immorality, including being under the influence of alcohol
29 or drugs while practicing funeral ~~service;~~ service.
- 30 h. Aiding or abetting an unlicensed person to perform services
31 under this Article, including the use of a picture or name in
32 connection with advertisements or other written material
33 published or caused to be published by the ~~licensee;~~ licensee.
- 34 i. Using profane, indecent or obscene language in the presence of a
35 dead human body, and within the immediate hearing of the
36 family or relatives of a deceased, whose body has not yet been
37 interred or otherwise disposed ~~of;~~ of.
- 38 j. Violating or cooperating with others to violate any of the
39 provisions of this ~~Article or of Article,~~ the rules and regulations of
40 the Board; Board, or the standards set forth in Funeral Industry
41 Practices, 16 C.F.R. 453 (1984), as amended from time to time.

- 1 k. Violation of any State law or municipal or county ordinance or
2 regulation affecting the handling, custody, care or transportation
3 of dead human ~~bodies;~~ bodies.
4 l. Refusing to surrender promptly the custody of a dead human
5 body upon the express order of the person lawfully entitled to the
6 custody ~~thereof;~~ thereof.
7 m. Knowingly making any false statement on a certificate of ~~death;~~
8 death.
9 n. Indecent exposure or exhibition of a dead human body while in
10 the custody or control of a licensee.

11 In any case in which the Board is entitled to suspend, revoke or
12 refuse to renew a license, the Board may accept from the licensee an
13 offer in compromise to pay a penalty of not more than one thousand
14 dollars (\$1,000). The Board may either accept a compromise or revoke
15 or refuse to renew a license, but not both.

- 16 (2) Where the Board finds that a licensee is guilty of one or more of the acts
17 or omissions listed in subsection (e)(1) of this section but it is
18 determined by the Board that the licensee has not thereby become unfit
19 to practice, the Board may place the licensee on a term of probation in
20 accordance with the procedures set out in Chapter 150B.

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

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

1 When and where a licensee presents a selection of funeral merchandise to the public
2 to be used in connection with the service to be provided by the licensee or an
3 establishment as licensed under this Article, a card or brochure shall be directly
4 associated with each item of merchandise setting forth the price of the service using said
5 merchandise and listing the services and other merchandise included in the price, if any.
6 When there are separate prices for the merchandise and services, such cards or brochures
7 shall indicate the price of the merchandise and of the items separately priced.

8 At the time funeral arrangements are made and prior to the time of rendering the
9 service and providing the merchandise, a funeral director or funeral service licensee shall
10 give or cause to be given to the person or persons making such arrangements a written
11 statement duly signed by a licensee of said funeral establishment showing the price of the
12 service as selected and what services are included therein, the price of each of the
13 supplemental items of services or merchandise requested, and the amounts involved for
14 each of the items for which the funeral establishment will advance moneys as an
15 accommodation to the person making arrangements, insofar as any of the above items can
16 be specified at that time. The statement shall have printed, typed or stamped on the face
17 thereof: "This statement of disclosure is provided pursuant to the requirements of North
18 Carolina G.S. 90-210.25(e)."

19 Section 14. G.S. 90-210.27A reads as rewritten:

20 "**§ 90-210.27A. Funeral establishments.**

21 (a) Every funeral ~~establishment~~ establishment where embalming is performed shall
22 contain a preparation room which is strictly ~~private~~, private and of suitable size for the
23 embalming of dead bodies. If embalming is not performed on the premises, adequate
24 provisions shall be made for embalming by a licensed embalmer in an embalming
25 facility. Each preparation room ~~room~~, whether located in a funeral establishment or in
26 another facility, shall:

- 27 (1) Contain one standard type operating ~~table~~; table.
- 28 (2) Contain facilities for adequate ~~drainage~~; drainage.
- 29 (3) Contain a sanitary waste ~~receptacle~~; receptacle.
- 30 (4) Contain an instrument ~~sterilizer~~; sterilizer.
- 31 (5) Have wall-to-wall floor covering of tile, concrete, or other material
32 which can be easily ~~cleaned~~; cleaned.
- 33 (6) Be kept in sanitary condition and subject to inspection by the Board or
34 its agents at all ~~times~~; times.
- 35 (7) Have a placard or sign on the door indicating that the preparation room
36 is ~~private~~; and private.
- 37 (8) Have a proper ventilation or purification system to maintain a
38 nonhazardous level of airborne contamination.

39 (b) No one is allowed in the preparation room while a dead human body is being
40 prepared except licensees, resident trainees, public officials in the discharge of their
41 duties, members of the medical profession, officials of the funeral home, next of kin, or
42 other legally authorized persons.

(c) Every funeral establishment shall contain a reposing room for dead human bodies, of suitable size to accommodate a casket and visitors.

~~(d) No person who has been convicted of a felony shall:~~

- ~~(1) Own a funeral establishment if it is owned by a sole proprietorship;~~
- ~~(2) Be a partner in a funeral establishment if it is owned by a partnership;~~
- ~~(3) Be an officer, member of the board of directors or owner of twenty-five percent (25%) or more of the stock if it is owned by a corporation.~~

(e) If a funeral establishment is solely owned by a natural person, that person must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a partnership, at least one partner must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a corporation, the president, vice-president, or the chairman of the board of directors must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a limited liability company, at least one member must be licensed by the Board as a funeral director or a funeral service licensee. The licensee required by this subsection must be actively engaged, ~~on a day-to-day basis,~~ engaged in the operation of the funeral establishment.

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

(g) No funeral establishment or other licensee under this Article shall own, operate, or maintain a funeral chapel without first having registered the name, location, and ownership thereof with the Board."

Section 15. G.S. 90-210.28 reads as rewritten:

"§ 90-210.28. Fees.

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

Establishment permit		
Application		\$250.00
Annual renewal	175.00	
Late renewal penalty	100.00	
Establishment reinspection <u>Reinspection fee</u>		100.00
Courtesy card		
Application	75.00	
Annual renewal		50.00
Out-of-state licensee		
Application	200.00	
Embalmer, funeral director,		
funeral service		
Application—North		
Carolina-Resident	150.00	
-Non-Resident		200.00
Annual Renewal-embalmer or		
funeral director		50.00
-funeral service	100.00	

1	Reinstatement fee	50.00	
2	Resident trainee permit		
3	Application		50.00
4	Annual renewal	35.00	
5	Late renewal penalty	25.00	
6	Duplicate license certificate	25.00	
7	Chapel registration		
8	Application		150.00
9	Annual renewal	100.00	

10 The Board shall provide, without charge, one copy of the current statutes and
 11 regulations relating to Mortuary Science to every person applying for and paying the
 12 appropriate fees for licensing pursuant to this Article. The Board may charge all others
 13 requesting copies of the current statutes and regulations, and the licensees or applicants
 14 requesting additional copies, a fee equal to the costs of production and distribution of the
 15 requested documents.”

16 Section 16. G.S. 90-210.41 reads as rewritten:

17 **"§ 90-210.41. Definitions.**

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

- 19 (1) ‘Authorizing agent’ means a person legally entitled to ~~order~~order, or
 20 carry out the legal order for, the cremation of human remains. An
 21 authorizing agent shall be, in order of priority, a spouse, an adult child, a
 22 parent, any adult sibling, guardian or close relation of the deceased. In
 23 the case of indigents or any other individuals whose final disposition is
 24 the responsibility of the State, a public official charged with arranging
 25 the final disposition of the deceased, if legally authorized, may serve as
 26 the authorizing agent. In the case of individuals whose death occurred
 27 in a nursing home or other private institution, and in which the
 28 institution is charged with making arrangements for the final disposition
 29 of the deceased, a representative of the institution, if legally authorized,
 30 may serve as the authorizing agent.
- 31 (2) ‘Board’ means the North Carolina State Board of Mortuary Science.
- 32 (3) ~~‘Casket’ means a rigid container which is designed for the encasement~~
 33 ~~of human remains and which is usually constructed of wood, metal or~~
 34 ~~other rigid material and ornamented and lined with fabric.~~
- 35 (4) ‘Closed container’ means any container in which cremated remains can
 36 be placed and closed in a manner so as to prevent leakage or spillage of
 37 cremated remains or the entrance of foreign material.
- 38 (5) ‘Cremated remains’ means all human remains recovered after the
 39 completion of the cremation process, including pulverization which
 40 leaves only bone fragments reduced to unidentifiable dimensions.
- 41 (6) ‘Cremation’ means the technical process, using heat, that reduces human
 42 remains to bone fragments.

- 1 (7) 'Cremation chamber' means the enclosed space within which the
2 cremation process takes place. Cremation chambers covered by this
3 Article shall be used exclusively for the cremation of human remains.
- 4 (8) 'Cremation container' means the container in which the human remains
5 are placed in the cremation chamber for a cremation. A cremation
6 container must meet all of the standards established by the rules adopted
7 by the Board.
- 8 (9) 'Crematory' means the building or portion of a building that houses the
9 cremation chamber and that may house the holding facility, business
10 office or other part of the crematory business. A crematory must
11 comply with any applicable public health laws and rules and must
12 contain the equipment and meet all of the standards established by the
13 rules adopted by the Board.
- 14 (10) 'Crematory authority' means the North Carolina Crematory Authority.
- 15 (11) 'Crematory operator' means the legal entity which is licensed by the
16 Board to operate a crematory and perform cremations.
- 17 ~~(12) 'Holding facility' means an area within or adjacent to the crematory,
18 designated for the retention of human remains prior to cremation. A
19 holding facility must comply with any applicable public health laws and
20 rules and must meet all of the standards established by the rules adopted
21 by the Board.~~
- 22 (13) 'Human remains' means the body of a deceased person, including a
23 human fetus, regardless of the length of gestation, or part of a body that
24 has been removed from a living or deceased person.
- 25 (14) 'Niche' means a compartment or cubicle for the memorialization or
26 permanent placement of an urn containing cremated remains.
- 27 ~~(15) 'Scattering area' means a designated area for the scattering of cremated
28 remains.~~
- 29 ~~(16) 'Temporary container' means a temporary receptacle for cremated
30 remains, usually made of cardboard, plastic film or similar material
31 designed to hold the cremated remains until an urn or other permanent
32 container is acquired.~~
- 33 (17) ~~'Urn' means a receptacle designed to permanently encase the cremated
34 remains."~~

35 Section 17. G.S. 90-210.43 reads as rewritten:

36 **"§ 90-210.43. Licensing and inspection.**

37 (a) Any person doing business in this State, or any cemetery, funeral
38 establishment, corporation, partnership, joint venture, voluntary organization or any other
39 entity may erect, maintain and conduct a crematory in this State and may provide the
40 necessary appliances and facilities for the cremation of human remains, provided that
41 such person has secured a license as a crematory operator in accordance with the
42 provisions of this Article.

1 (b) A crematory may be constructed on or adjacent to any cemetery, on or adjacent
2 to any funeral establishment that is zoned commercial or industrial, or at any other
3 location consistent with local zoning regulations.

4 (c) Application for a license as a crematory operator shall be made on forms
5 furnished and prescribed by the Board. The Board shall examine the premises and
6 structure to be used as a crematory and shall issue a renewable license to the crematory
7 operator if the applicant meets all the requirements and standards of the Board and the
8 requirements of this Article. ~~In the event of a change of ownership of a crematory, at least 30~~
9 ~~days prior to the change the new owners shall provide the Board with the name and address of~~
10 ~~the new owners.~~

11 (d) Every application for licensure shall identify the individual who is responsible
12 for overseeing the management and operation of the crematory. The crematory operator
13 shall keep the Board informed at all times of the name and address of the manager.

14 (d1) All licenses shall expire on the last day of December of each year. A license
15 may be renewed without paying a late fee on or before the first day of February
16 immediately following expiration. After that date, a license may be renewed by paying a
17 late fee as provided in G.S. 90-210.48 in addition to the annual renewal fee. Licenses
18 that remain expired six months or more require a new application for renewal. Licenses
19 are not transferable. A new application for a license shall be made to the Board within 30
20 days following a change of ownership of more than fifty percent (50%) of the business.

21 (e) No person, cemetery, funeral establishment, corporation, partnership, joint
22 venture, voluntary organization or any other entity shall cremate any human remains,
23 except in a crematory licensed for this express purpose and under the limitations provided
24 in this ~~Article.~~ Article, or unless otherwise permitted by statute.

25 (f) Whenever the Board finds that an owner, ~~partner~~ partner, manager, member, or
26 officer of a crematory operator or an applicant to become a crematory operator, or that
27 any agent or employee of a crematory operator or an applicant to become a crematory
28 operator, with the direct or implied permission of such owner, ~~partner~~ partner, manager,
29 member, or officer, has violated any provision of this Article, or is guilty of any of the
30 following acts, and when the Board also finds that the crematory operator or applicant
31 has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or
32 renew the license, in accordance with the procedures of Chapter 150B:

- 33 (1) Conviction of a felony or a crime involving fraud or moral ~~turpitude;~~
34 turpitude.
- 35 (2) Fraud or misrepresentation in obtaining or renewing a license or in the
36 practice of ~~cremation;~~ cremation.
- 37 (3) False or misleading ~~advertising;~~ advertising.
- 38 (4) Gross immorality, including being under the influence of alcohol or
39 drugs while performing cremation ~~services;~~ services.
- 40 (5) Using profane, indecent or obscene language in the presence of a dead
41 human body, and within the immediate hearing of the family or relatives
42 of a deceased, whose body has not yet been cremated or otherwise
43 disposed ~~of;~~ of.

- 1 (6) Violating or cooperating with others to violate any of the provisions of
2 this Article or of the rules of the ~~Board~~; Board.
- 3 (7) Violation of any State law or municipal or county ordinance or
4 regulation affecting the handling, custody, care or transportation of dead
5 human ~~bodies~~; bodies.
- 6 (8) Refusing to surrender promptly the custody of a dead human body or
7 cremated remains upon the express order of the person lawfully entitled
8 to the custody thereof, except as provided in ~~G.S. 90-210.47(e)~~; G.S. 90-
9 210.47(e).
- 10 (9) Indecent exposure or exhibition of a dead human body while in the
11 custody or control of a licensee.

12 In any case in which the Board is authorized to take any of the actions permitted
13 under this subsection, the Board may instead accept an offer in compromise of the
14 charges whereby the accused shall pay to the Board a penalty of not more than one
15 thousand dollars (\$1,000).

16 (g) The Board and Crematory Authority may hold hearings in accordance with the
17 provisions of this Article and Chapter 150B. Any such hearing shall be conducted jointly
18 by the Board and the Crematory Authority. The Board and the Crematory Authority shall
19 jointly constitute an 'agency' under Article 3A of Chapter 150B of the General Statutes
20 with respect to proceedings initiated pursuant to this Article. The Board is empowered to
21 regulate and inspect crematories and crematory operators and to enforce as provided by
22 law the provisions of this Article and the rules adopted hereunder. Any crematory that,
23 upon inspection, is found not to meet any of the requirements of this Article shall pay a
24 reinspection fee to the Board for each additional inspection that is made to ascertain
25 whether the deficiency or other violation has been corrected.

26 In addition to the powers enumerated in Chapter 150B of the General Statutes, the
27 Board shall have the power to administer oaths and issue subpoenas requiring the
28 attendance of persons and the production of papers and records before the Board in any
29 hearing, investigation or proceeding conducted by it or conducted jointly with the
30 Crematory Authority. Members of the Board's staff or the sheriff or other appropriate
31 official of any county of this State shall serve all notices, subpoenas and other papers
32 given to them by the President of the Board for service in the same manner as process
33 issued by any court of record. Any person who neglects or refuses to obey a subpoena
34 issued by the Board shall be guilty of a Class 1 misdemeanor."

35 Section 18. G.S. 90-210.44 reads as rewritten:

36 "**§ 90-210.44. Authorization and record keeping.**

37 The Board shall establish requirements for record ~~keeping and keeping,~~
38 authorizations, and cremation reports. ~~It shall be a violation of this Article for any~~
39 crematory operator to fail to comply with the requirements."

40 Section 19. G.S. 90-210.45 reads as rewritten:

41 "**§ 90-210.45. Cremation procedures.**

1 (a) No human body shall be cremated before the crematory operator receives a
2 death certificate signed by the attending physician or an authorization for cremation
3 signed by a medical examiner.

4 (b) Human remains shall not be cremated within 24 hours after the time of death,
5 unless such death was a result of an infectious, contagious or communicable and
6 dangerous disease as listed by the Commission of Health Services pursuant to G.S. 130A-
7 134, and unless such time requirement is waived in writing by the medical examiner,
8 county health director, or attending physician where the death occurred. In the event
9 such death comes under the jurisdiction of the medical examiner, the human remains
10 shall not be received by the crematory operator until authorization to cremate has been
11 received in writing from the medical examiner of the county in which the death occurred.
12 In the event the crematory operator is authorized to perform funerals as well as
13 cremation, this restriction on the receipt of human remains shall not be applicable.

14 (c) No unauthorized person shall be permitted in the crematory area while any
15 human remains are in the crematory area awaiting cremation, being cremated, or being
16 removed from the cremation chamber. Relatives of the deceased, the authorizing agent,
17 medical examiners and law enforcement officers in the execution of their duties shall be
18 authorized to have access to the holding facility and crematory facility.

19 (c1) Human remains shall be cremated only while enclosed in a cremation
20 container.

21 (d) The simultaneous cremation of the human remains of more than one person
22 within the same cremation chamber is forbidden.

23 (d1) Every crematory shall have a holding facility, within or adjacent to the
24 crematory, designated for the retention of human remains prior to cremation. The
25 holding facility must comply with any applicable public health laws and rules and must
26 meet all of the standards established pursuant to rules adopted by the Board.

27 (e) Crematory operators shall comply with standards established by the Board for the
28 reduction and pulverization of human remains by the cremation process."

29 Section 20. G.S. 90-210.46(a) reads as rewritten:

30 "(a) The authorizing agent shall provide the person with whom cremation
31 arrangements are made with a signed statement specifying the ultimate disposition of the
32 cremated remains, if known. ~~A copy of this statement shall be retained by the crematory~~
33 ~~operator. The crematory operator may store or retain cremated remains as directed by the~~
34 authorizing agent. Records of retention and disposition of cremated remains shall be kept
35 by the crematory operator pursuant to G.S. 90-210.44."

36 Section 21. G.S. 90-210.47(b) reads as rewritten:

37 "(b) A crematory operator shall have authority to cremate human remains only
38 upon the receipt of a cremation authorization form signed by an authorizing agent. There
39 shall be no liability of a crematory operator that cremates human remains pursuant to
40 such authorization, or that releases or disposes of the cremated remains pursuant to such
41 authorization."

42 Section 22. G.S. 90-210.48(a) reads as rewritten:

43 "**§ 90-210.48. Fees.**

1 (a) The Board may set and collect fees not to exceed the following amounts from
2 licensed crematory operators and applicants:

- 3 (1) Licensee application fee. \$400.00
4 (2) Annual renewal fee. 150.00
5 (3) Late renewal penalty. 75.00
6 (4) Re-inspection fee. 100.00
7 (5) Per cremation fee. 10.00
8 (6) Late fee, per cremation. 10.00
9 (7) Late fee, cremation report. 75.00 per month."

10 Section 23. G.S. 90-210.60(3) reads as rewritten:

11 "(3) 'Insurance company' means any corporation, limited liability company,
12 association, partnership, society, order, individual or aggregation of
13 individuals engaging in or proposing or attempting to engage as
14 principals in any kind of insurance business, including the exchanging
15 of reciprocal or interinsurance contracts between individuals,
16 partnerships, and corporations;"

17 Section 24. G.S. 90-210.63(a)(2) reads as rewritten:

18 "(2) The original contracting preneed licensee shall immediately pay all ~~such~~
19 ~~funds received to the successor funeral establishment so designated;~~
20 designated. provided, however, regardless ~~Regardless~~ of whether the
21 substitution is made before or after the death of the preneed funeral
22 contract beneficiary, the original contracting preneed licensee shall not
23 be required to give credit for the amount retained pursuant to G.S. 90-
24 210.61(a)(2), except when there was a substitution under G.S. 90-
25 210.68(d1) and (e). ~~and provided further, if~~ Except when there was a
26 substitution under G.S. 90-210.68(d1) and (e), if the original contracting
27 preneed licensee did not retain any portion of payments made ~~to it~~ as is
28 permitted by G.S. 90-210.61(a)(2) then ~~such~~ the preneed licensee may
29 retain up to ten percent (10%) of ~~said~~ the funds received from the
30 financial institution. Upon making payments pursuant to this
31 subsection, the financial institution and the original contracting preneed
32 licensee shall be relieved from all further contractual liability thereon."

33 Section 25. G.S. 90-210.64(a) reads as rewritten:

34 "(a) After the death of a preneed funeral contract beneficiary and full performance
35 of the preneed funeral contract by the preneed licensee, the preneed licensee shall
36 promptly complete a certificate of performance or similar claim form and present it to the
37 financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the
38 insurance company that issued a preneed insurance policy pursuant to G.S. 90-
39 210.61(a)(3). Upon receipt of the certificate of performance or similar claim form, the
40 financial institution shall pay the trust funds to the contracting preneed licensee and the
41 insurance company shall pay the insurance proceeds according to the terms of the policy.
42 Within 10 days after receiving payment, the preneed licensee shall mail a copy of the
43 certificate of performance or other claim form to the Board."

1 Section 26. G.S. 90-210.66(b) reads as rewritten:

2 "(b) From the fee of ~~fifteen dollars (\$15.00)~~ for each preneed funeral contract as
3 required by G.S. 90-210.67(d), the Board shall deposit two dollars (\$2.00) into the Fund.
4 The Board may suspend the deposits into the Fund at any time and for any period for
5 which the Board determines that a sufficient amount is available to meet likely
6 disbursements and to maintain an adequate reserve."

7 Section 27. G.S. 90-210.67 reads as rewritten:

8 **"§ 90-210.67. Application for license.**

9 (a) No person may offer or sell preneed funeral contracts or offer to make or make
10 any funded funeral prearrangements without first securing a license from the Board.
11 There shall be two types of licenses: a preneed funeral establishment license and a
12 preneed sales license. Only funeral establishments holding a valid establishment permit
13 pursuant to G.S. 90-210.25(d) shall be eligible for a preneed funeral establishment
14 license. Employees and agents of such entities, upon meeting the qualifications to engage
15 in preneed funeral planning as established by the Board, shall be eligible for a preneed
16 sales license. The Board shall establish the preneed funeral planning activities that are
17 permitted under a preneed sales license. The Board shall adopt rules establishing such
18 qualifications and activities no later than 12 months following the ratification of this act.
19 Preneed sales licensees may sell preneed funeral contracts, prearrangement insurance
20 policies, and make funded funeral prearrangements only on behalf of one preneed funeral
21 establishment licensee; provided, however, they may sell preneed funeral contracts,
22 prearrangement insurance policies, and make funeral prearrangements for any number of
23 licensed preneed funeral establishments that are wholly owned by or affiliated with,
24 through common ownership or contract, the same entity; provided further, in the event
25 they engage in selling prearrangement insurance policies, they shall meet the licensing
26 requirements of the Commissioner of Insurance. Every preneed funeral contract shall be
27 signed by a person licensed as a funeral director or funeral service licensee pursuant to
28 Article 13A of Chapter 90 of the General Statutes.

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

36 (b) An application for a preneed funeral establishment license shall be
37 accompanied by a nonrefundable application fee of not more than one hundred fifty
38 dollars (\$150.00). The Board shall set the amounts of the application fees and renewal
39 fees by rule, but the fees shall not exceed one hundred fifty dollars (\$150.00). If the
40 license is granted, the application fee shall be applied to the annual license fee for the
41 first year or part thereof. Upon receipt of the application and payment of the application
42 fee, the Board shall issue a renewable preneed funeral establishment license unless it
43 determines that the applicant has violated any provision of G.S. 90-210.69(c) or has made

1 false statements or representations in the application, or is insolvent, or has conducted or
2 is about to conduct, its business in a fraudulent manner, or is not duly authorized to
3 transact business in this State. The license shall expire on December 31 and ~~Each~~ each
4 preneed funeral establishment licensee shall pay annually to the Board on or before ~~June~~
5 ~~30 of each year that date~~ a license renewal fee of not more than one hundred fifty dollars
6 (\$150.00). ~~On or before the first day of February immediately following expiration,~~ a
7 license may be renewed without paying a late fee. After that date, a license may be
8 renewed by paying a late fee of not more than one hundred dollars (\$100.00) in addition
9 to the annual renewal fee.

10 (c) An application for a preneed sales license shall be accompanied by a
11 nonrefundable application fee of not more than fifty dollars (\$50.00). The Board shall set
12 the amounts of the application fees and renewal fees by rule, but the fees shall not exceed
13 fifty dollars (\$50.00). If the license is granted, the application fee shall be applied to the
14 annual license fee for the first year or part thereof. Upon receipt of the application and
15 payment of the application fee, the Board shall issue a renewable preneed sales license
16 provided the applicant has met the qualifications to engage in preneed funeral planning as
17 established by the Board unless it determines that the applicant has violated any provision
18 of G.S. 90-210.69(c). The license shall expire on December 31 and ~~Each~~ each preneed
19 sales licensee shall pay annually to the Board on or before ~~June 30 of each year, that date~~ a
20 license renewal fee of not more than fifty dollars (\$50.00). ~~On or before the first day of~~
21 February, a license may be renewed without paying a late fee. After that date, a license
22 may be renewed by paying a late fee of not more than twenty-five dollars (\$25.00) in
23 addition to the annual renewal fee.

24 (d) Any person selling a preneed funeral contract, whether funded by a trust
25 deposit or a prearrangement insurance policy, shall remit to the Board, within 10 days of
26 the sale, a fee of fifteen dollars (\$15.00) not to exceed twenty dollars (\$20.00) for each sale.
27 sale and a copy of each contract. The person shall pay a late fee of not more than twenty-
28 five dollars (\$25.00) for each late filing and payment. The ~~fee~~ fees shall not be remitted in
29 cash.

30 (d1) The Board may also set and collect a fee of not more than twenty-five dollars
31 (\$25.00) for the late filing of a certificate of performance and a fee of not more than one
32 hundred and fifty dollars (\$150.00) for the late filing of an annual report.

33 (e) The fees collected under this Article, except for monies used pursuant to G.S.
34 90-210.66, shall be used for the expenses of the Board in carrying out the provisions of
35 this Article. Any funds collected under this Article and remaining with the Board after all
36 expenses under this Article for the current fiscal year have been fully provided for shall
37 be paid over to the General Fund of the State of North Carolina. Provided, however, the
38 Board shall have the right to maintain an amount, the cumulative total of which shall not
39 exceed twenty percent (20%) of gross receipts under this Article for the previous fiscal
40 year of its operations, as a maximum contingency or emergency fund.

41 (f) Any entity licensed by the Commissioner of Banks under Article 13B of
42 Chapter 90 of the General Statutes before July 9, 1992 shall be entitled to have its license

1 renewed notwithstanding that it is not a funeral establishment, provided it otherwise
2 satisfies the requirements of this Article.”

3 Section 28. G.S. 90-210.68 reads as rewritten:

4 **"§ 90-210.68. Licensee's books and records; notice of transfers, assignments and**
5 **terminations.**

6 (a) Every preneed licensee shall keep for examination by the Board accurate
7 accounts, books, and records in this State of all preneed funeral contract and
8 prearrangement insurance policy transactions, copies of all agreements, insurance
9 policies, instruments of assignment, the dates and amounts of payments made and
10 accepted thereon, the names and addresses of the contracting parties, the persons for
11 whose benefit funds are accepted, and the names of the financial institutions holding
12 preneed funeral trust funds and insurance companies issuing prearrangement insurance
13 policies. The Board, its inspectors appointed pursuant to G.S. 90-210.24 and its
14 examiners, which the Board may appoint to assist in the enforcement of this Article, may
15 during normal hours of operation and periods shortly before or after normal hours of
16 operation, investigate the books, records, and accounts of any licensee under this Article
17 with respect to trust funds, preneed funeral contracts, and prearrangement insurance
18 policies. Any preneed licensee who, upon inspection, fails to meet the requirements of
19 this subsection or who fails to keep an appointment for an inspection shall pay a
20 reinspection fee to the Board in an amount not to exceed one hundred dollars (\$100.00).
21 The Board may require the attendance of and examine under oath all persons whose
22 testimony it may require. Every preneed licensee shall submit a written report to the
23 Board, at least annually, in a manner and with such content as established by the Board,
24 of its preneed funeral contract sales and performance of such contracts. The Board may
25 also require other reports.

26 (b) A preneed licensee may transfer preneed funds held by it as trustee from the
27 financial institution which is a party to a preneed funeral contract to a substitute financial
28 institution that is not a party to the contract. Within 10 days after the transfer, the preneed
29 licensee shall notify the Board, in writing, of the name and address of the transferee
30 financial institution. Before the transfer may be made, the transferee financial institution
31 shall agree to make disclosures required under the preneed funeral contract to the Board
32 or its inspectors or examiners. If the contract is revocable, the licensee shall notify the
33 contracting party of the intended transfer.

34 (c) If any preneed licensee transfers or assigns its assets or stock to a successor
35 funeral establishment or terminates its business as a funeral establishment, the preneed
36 licensee and assignee shall notify the Board at least 15 days prior to the effective date of
37 the transfer, assignment or termination: provided, however, the successor funeral
38 establishment must be a preneed licensee or shall be required to apply for and be granted
39 such license by the Board before accepting any preneed funeral contracts, whether funded
40 by trust deposits or preneed insurance policies. Provided further, a successor funeral
41 establishment shall be liable to the preneed funeral contract purchasers for the amount of
42 contract payments retained by the assigning or transferring funeral home pursuant to G.S.
43 90-210.61(a)(2).

1 (d) Financial institutions that accept preneed funeral trust funds and insurance
2 companies that issue prearrangement insurance policies shall, upon request by the Board
3 or its inspectors or examiners, disclose any information regarding preneed funeral trust
4 accounts held or prearrangement insurance policies issued by it for a preneed licensee.

5 (d1) When a preneed funeral establishment license lapses or is terminated for any
6 reason, the preneed licensee shall immediately divest of all the unperformed preneed
7 funeral contracts and shall transfer them and any amounts retained under G.S. 90-
8 210.61(a)(2) to another preneed funeral establishment licensee pursuant to the procedures
9 of subsection (e) of this section.

10 (e) In the event that any preneed licensee is unable or unwilling or is for any
11 reason relieved of its responsibility to perform as trustee or to perform any preneed
12 funeral contract, the Board, with the written consent of the purchaser of the preneed
13 funeral contract, or after the purchaser's death or incapacity, the preneed funeral contract
14 beneficiary ~~may~~ shall order the contract and any amounts retained pursuant to G.S. 90-
15 210.61(a)(2) to be assigned to a substitute preneed licensee provided that the substitute
16 licensee agrees to accept such assignment.

17 (f) The substitute preneed licensee under subsections (d1) and (e) of this section
18 shall be liable to the preneed funeral contract purchasers for the amount of contract
19 payments that had been retained by, and that the substitute preneed licensee has received
20 from, the assigning preneed licensee."

21 Section 29. G.S. 90-210.69(c) reads as rewritten:

22 "(c) In accordance with the provisions of Chapter 150B of the General Statutes, if
23 the Board finds that a licensee, an applicant for a license or an applicant for license
24 renewal is guilty of one or more of the following, the Board may refuse to issue or renew
25 a license or may suspend or revoke a license or place the holder thereof on probation
26 upon conditions set by the Board, with revocation upon failure to comply with the
27 conditions:

- 28 (1) Offering to engage or engaging in activities for which a license is
29 required under this Article but without having obtained such a ~~license;~~
30 license.
- 31 (2) Aiding or abetting an unlicensed person, firm, partnership, association,
32 corporation or other entity to offer to engage or engage in such ~~activities;~~
33 activities.
- 34 (3) A crime involving fraud or moral turpitude by conviction ~~thereof;~~
35 thereof.
- 36 (4) Fraud or misrepresentation in obtaining or receiving a license or in
37 preneed funeral ~~planning;~~ planning.
- 38 (5) False or misleading ~~advertising;~~ or advertising.
- 39 (6) Violating or cooperating with others to violate any provision of this
40 ~~Article or Article,~~ the rules and regulations of the Board, pursuant thereto.
41 or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453
42 (1984), as amended from time to time.

1 In any case in which the Board is authorized to take any of the actions permitted
2 under this subsection, the Board may instead accept an offer in compromise of the
3 charges whereby the accused shall pay to the Board a penalty of not more than one
4 thousand dollars (\$1,000)."

5 Section 30. G.S. 90-210.69(e) reads as rewritten:

6 "~~(e) All hearings under this Article shall be conducted pursuant to G.S. 150B-40(e).~~
7 Judicial review shall be pursuant to Article 4 of Chapter 150B of the General Statutes."

8 Section 31. G.S. 90-210.70(c) reads as rewritten:

9 "(c) If a corporation or limited liability company embezzles or fraudulently or
10 knowingly and willfully misapplies or converts preneed funeral funds as provided in
11 subsection (a) hereof or otherwise violates any provision of this Article, the officers,
12 directors, members, agents, or employees responsible for committing the offense shall be
13 fined or imprisoned as herein provided."

14 Section 32. G.S. 90-210.70(d) reads as rewritten:

15 "(d) The Board shall have the power to investigate violations of this section and
16 shall deliver all evidence of violations of subsection (a) of this section to the district
17 attorney in the county where the offense occurred. The Board shall, with the fees
18 collected under this Article, employ legal counsel and other staff to monitor preneed
19 trusts, investigate complaints, audit preneed trusts, and be responsible for delivering
20 evidences to the district attorney when there is evidence ~~of criminal violation~~ that a felony
21 has been committed by a licensee. The record of complaints, auditing, and enforcement
22 shall be presented in an annual report from the Board to the General Assembly."

23 Section 33. Article 13D of Chapter 90 of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 90-210.73. Not public record.**

26 The names and addresses of the purchasers and beneficiaries of preneed funeral
27 contracts filed with the Board shall not be subject to Chapter 132 of the General
28 Statutes."

29 Section 34. Article 16 of Chapter 130A of the General Statutes is amended by
30 adding a new Part to read:

31 **"PART 7. DISPOSITION OF BODY OR BODY PARTS.**

32 **"§ 130A-422. Authority to dispose of body or body parts.**

33 (a) An individual at least 18 years of age may authorize the disposition of the
34 individual's own dead body in a written will, pursuant to a health care power of attorney
35 to the extent provided in Article 3 of Chapter 32A of the General Statutes, pursuant to a
36 preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General
37 Statutes, pursuant to a cremation authorization form executed pursuant to Article 13C of
38 Chapter 90 of the General Statutes, or in a written statement signed by the individual and
39 witnessed by two persons who are at least 18 years old.

40 (b) If a decedent has left no written authorization for the disposal of the decedent's
41 body as permitted under subsection (a) of this section, the following competent persons in
42 the order listed may authorize the type, method, place, and disposition of the decedent's
43 body:

- 1 (1) The surviving spouse.
2 (2) A majority of the surviving children.
3 (3) The surviving parents.
4 (4) A majority of the surviving siblings.
5 (5) A majority of the persons in the classes of the next degrees of kinship,
6 in descending order, who, under State law, would inherit the decedent's
7 estate if the decedent died intestate.
8 (6) A person who has exhibited special care and concern for the decedent
9 and is willing and able to make decisions about the disposition.

10 This subsection does not grant to any person the right to cancel a preneed funeral
11 contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to
12 prohibit the substitution of a preneed licensee as authorized under G.S. 90-210.63.

13 (c) An individual at least 18 years of age may, in a writing signed by the
14 individual, authorize the disposition of one or more of the individual's body parts that has
15 been or will be removed. If the individual does not authorize the disposition, a person
16 listed in subsection (b) of this section may authorize the disposition as if the individual
17 was deceased.

18 (d) This section does not apply to the disposition of dead human bodies as
19 anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes, the
20 right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General
21 Statutes, or the right to perform cremations under Article 13C of Chapter 90 of the
22 General Statutes."

23 Section 35. G.S. 150B-1(e) is amended by adding a new subdivision to read:

24 "(12) The North Carolina Board of Mortuary Science regarding funeral and
25 burial trust funds under Article 13D of Chapter 90."

26 Section 36. This act is effective when it becomes law.