

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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1

HOUSE BILL 700*

Short Title: Crematory Act Changes.

(Public)

Sponsors: Representative Hunter.

Referred to: Finance.

March 27, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AND STRENGTHEN CREMATION LAW IN NORTH
3 CAROLINA AND TO IMPROVE AND MAKE TECHNICAL CORRECTIONS
4 TO THE FUNERAL LAW.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The name of the North Carolina Board of Mortuary Science is
7 changed to the North Carolina Board of Funeral Service.

8 **SECTION 2.** Article 13C of Chapter 130A reads as rewritten:

9 "Article 13C.

10 "Cremations.

11 **"§ 90-210.40. Short title.**

12 This Article shall be known and may be cited as the North Carolina Crematory Act.

13 **"§ 90-210.41. Definitions.**

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

15 (1) ~~"Authorizing agent" means a person legally entitled to order, or carry~~
16 ~~out the legal order for, the cremation of human remains. In the case of~~
17 ~~indigents or any other individuals whose final disposition is the~~
18 ~~responsibility of the State, a public official charged with arranging the~~
19 ~~final disposition of the deceased, if legally authorized, may serve as~~
20 ~~the authorizing agent. In the case of individuals whose death occurred~~
21 ~~in a nursing home or other private institution, and in which the~~
22 ~~institution is charged with making arrangements for the final~~
23 ~~disposition of the deceased, a representative of the institution, if~~
24 ~~legally authorized, may serve as the authorizing agent.~~

25 (2) "Board" means the North Carolina State Board of Mortuary Science.

26 (3) Repealed by Session Laws 1997-399, s. 16.

27 (4) ~~"Closed container" means any container in which cremated remains~~
28 ~~can be placed and closed in a manner so as to prevent leakage or~~
29 ~~spillage of cremated remains or the entrance of foreign material.~~

- 1 (5) ~~"Cremated remains" means all human remains recovered after the~~
2 ~~completion of the cremation process, including pulverization which~~
3 ~~leaves only bone fragments reduced to unidentifiable dimensions.~~
4 (6) ~~"Cremation" means the technical process, using heat, that reduces~~
5 ~~human remains to bone fragments.~~
6 (7) ~~"Cremation chamber" means the enclosed space within which the~~
7 ~~cremation process takes place. Cremation chambers covered by this~~
8 ~~Article shall be used exclusively for the cremation of human remains.~~
9 (8) ~~"Cremation container" means the container in which the human~~
10 ~~remains are placed in the cremation chamber for a cremation. A~~
11 ~~cremation container must meet all of the standards established by the~~
12 ~~rules adopted by the Board.~~
13 (9) ~~"Crematory" means the building or portion of a building that houses~~
14 ~~the cremation chamber and that may house the holding facility,~~
15 ~~business office or other part of the crematory business. A crematory~~
16 ~~must comply with any applicable public health laws and rules and~~
17 ~~must contain the equipment and meet all of the standards established~~
18 ~~by the rules adopted by the Board.~~
19 (10) ~~"Crematory authority" means the North Carolina Crematory Authority.~~
20 (11) ~~"Crematory operator" means the legal entity which is licensed by the~~
21 ~~Board to operate a crematory and perform cremations.~~
22 (12) ~~Repealed by Session Laws 1997-399, s. 16.~~
23 (13) ~~"Human remains" means the body of a deceased person, including a~~
24 ~~human fetus, regardless of the length of gestation, or part of a body~~
25 ~~that has been removed from a living or deceased person.~~
26 (14) ~~"Niche" means a compartment or cubicle for the memorialization or~~
27 ~~permanent placement of an urn containing cremated remains.~~
28 (1) 'Authorizing agent' means a person legally entitled to authorize the
29 cremation of human remains in accordance with G.S. 90-210.44.
30 (2) 'Board' means the North Carolina Board of Funeral Service.
31 (3) 'Body parts' means limbs or other portions of the anatomy that are
32 removed from a person or human remains for medical purposes during
33 treatment, surgery, biopsy, autopsy, or medical research; or human
34 bodies or any portion thereof that have been donated to science for
35 medical purposes.
36 (4) 'Casket' means a rigid container that is designed for the encasement of
37 human remains and that is usually constructed of wood, metal, or other
38 material and ornamented and lined with fabric, and which may or may
39 not be combustible.
40 (5) 'Certificate of cremation' means a certificate provided by the crematory
41 manager who performed the cremation containing, at a minimum, the
42 following information:
43 a. Name of decedent;
44 b. Date of cremation;

- 1 c. Name and address of crematory; and
2 d. Signature of crematory manager or person acting as crematory
3 manager.
- 4 (6) 'Cremated remains' means all human remains recovered after the
5 completion of the cremation process, including pulverization which
6 leaves only bone fragments reduced to unidentifiable dimensions.
- 7 (7) 'Cremation' means the technical process, using intense heat and flame,
8 that reduces human remains to bone fragments. Cremation includes the
9 processing and may include the pulverization of the bone fragments.
- 10 (8) 'Cremation chamber' means the enclosed space within which the
11 cremation process takes place. Cremation chambers covered by this
12 Article shall be used exclusively for the cremation of human remains.
- 13 (9) 'Cremation container' means the container in which the human remains
14 are transported to the crematory or placed therein upon arrival for
15 storage and placement in a cremation chamber for cremation. A
16 cremation container shall comply with all of the following standards:
- 17 a. Be composed of readily combustible materials suitable for
18 cremation;
- 19 b. Be able to be closed in order to provide a complete covering for
20 the human remains;
- 21 c. Be resistant to leakage or spillage;
- 22 d. Be rigid enough for handling with ease;
- 23 e. Be able to provide protection for the health, safety, and personal
24 integrity of crematory personnel; and
- 25 f. Be easily identifiable. The covering of the cremation container
26 shall contain the following information:
- 27 1. The name of the decedent;
- 28 2. The date of death;
- 29 3. The sex of the decedent; and
- 30 4. The age at death of the decedent.
- 31 (10) 'Cremation interment container' means a rigid outer container
32 composed of concrete, steel, fiberglass, or some similar material in
33 which an urn is placed prior to being interred in the ground and which
34 is designed to withstand prolonged exposure to the elements and to
35 support the earth above the urn.
- 36 (11) 'Crematory' or 'crematorium' means the building or buildings or
37 portion of a building on a single site that houses the cremation
38 equipment, the holding and processing facilities, the business office,
39 and other parts of the crematory business. A crematory must comply
40 with all applicable public health and environmental laws and rules and
41 must contain the equipment and meet all of the standards established
42 by the rules adopted by the Board.
- 43 (12) 'Crematory licensee' means the individual or legal entity that is
44 licensed by the Board to operate a crematory and perform cremations.

- 1 (13) 'Crematory manager' means the person who is responsible for the
2 management and operation of the crematory. A crematory manager
3 must be licensed to practice funeral directing or funeral service and
4 must also be qualified as a crematory technician. Notwithstanding any
5 other provision of law, a crematory that is licensed by the Board prior
6 to January 1, 2004, and as of that date is not managed by a crematory
7 manager who is licensed to practice funeral directing or funeral
8 service, may continue to be managed by a crematory manager who is
9 not licensed to practice funeral directing or funeral service so long as
10 there is no sale, transfer, devise, bequest, gift, or any other disposal of
11 a controlling interest in the crematory and the crematory does not
12 arrange cremations directly with the public.
- 13 (14) 'Crematory technician' means any employee of a crematory licensee
14 who has a certificate confirming that the crematory technician has
15 attended a training course approved by the Board.
- 16 (15) 'Final disposition' means the cremation and the ultimate interment,
17 entombment, inurnment, or scattering of the cremated remains or the
18 return of the cremated remains by the crematory licensee to the
19 authorizing agent or such agent's designee as provided in this Article.
20 Upon the written direction of the authorizing agent, cremated remains
21 may take various forms.
- 22 (16) 'Holding and processing facility' means an area or areas that are
23 designated for the retention of human remains prior to, and the
24 retention and processing of cremated remains after, cremation; that
25 comply with all applicable public health and environmental laws;
26 preserve the health and safety of the crematory technician and other
27 personnel of the crematory; and that are secure from access by anyone
28 other than authorized persons. A holding facility and processing
29 facility must be located in a crematory.
- 30 (17) 'Human remains' means the body of a deceased person, including a
31 separate human fetus, regardless of the length of gestation, or body
32 parts.
- 33 (18) 'Niche' means a compartment or cubicle for the memorialization or
34 final disposition of an urn or container containing cremated remains.
- 35 (19) 'Processing' means the removal of bone fragments from the cremation
36 chamber for the reduction in size, labeling and packaging, and placing
37 in an urn or temporary container.
- 38 (20) 'Pulverization' means the reduction of identifiable or unidentifiable
39 bone fragments after the completion of the cremation to granulated
40 particles by mechanical means.
- 41 (21) 'Scattering area' means an area permitted by North Carolina law
42 including, but not limited to, an area designated by a cemetery and
43 located on dedicated cemetery property where cremated remains that

1 have been removed from their container can be mixed with or placed
2 on top of the soil or ground cover.

3 (22) 'Temporary container' means a receptacle for cremated remains,
4 usually composed of cardboard, plastic, or similar material which can
5 be closed in a manner so as to prevent the leakage or spillage of the
6 cremated remains or the entrance of foreign material and which is a
7 single container of sufficient size to hold the cremated remains until an
8 urn is acquired or the cremated remains are scattered.

9 (23) 'Urn' means a receptacle designed to permanently encase the cremated
10 remains.

11 **"§ 90-210.42. Crematory Authority established.**

12 (a) The North Carolina Crematory Authority is established as a Committee
13 within the Board. The Crematory Authority shall suggest rules to the Board for the
14 carrying out and enforcement of the provisions of this Article.

15 (b) The Crematory Authority shall initially consist of five members appointed by
16 the Governor and two members of the Board appointed by the Board. The Governor
17 may consider a list of recommendations from the Cremation Association of North
18 Carolina.

19 (c) The initial terms of the members of the Crematory Authority shall be
20 staggered by the appointing authorities so that the terms of three members (two of
21 which shall be appointees of the Governor) expire December 31, 1991, the terms of two
22 members (both of which shall be appointees of the Governor) expire December 31,
23 1992, and the terms of the remaining two members (one of which shall be an appointee
24 of the Governor) expire December 31, 1993.

25 As the terms of the members appointed by the Governor expire, their successors
26 shall be elected from among a list of nominees in an election conducted by the Board in
27 which all licensed crematory operators are eligible to vote. The Board may conduct the
28 election for members of the Crematory Authority simultaneously with the election for
29 members of the Board or at any other time. The Board shall prescribe the procedures
30 and establish the time and date for nominations and elections to the Crematory
31 Authority. A nominee who receives a majority of the votes cast shall be declared
32 elected. The Board shall appoint the successors to the two positions for which it makes
33 initial appointments pursuant to this section.

34 The terms of the elected members of the Crematory Authority shall be three years.
35 The terms of the members appointed by the Board, including the members initially
36 appointed pursuant to this subsection, shall be coterminous with their terms on the
37 Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term
38 by majority vote of the remaining members of the Crematory Authority. Any vacancy
39 occurring in a seat appointed by the Governor shall be filled by the Governor. Any
40 vacancy occurring in a seat appointed by the Board shall be filled by the Board.

41 (d) The members of the Crematory Authority shall receive per diem and
42 necessary travel and subsistence expenses in accordance with the provisions of G.S.
43 93B-5 for all time actually spent upon the business of the Crematory Authority. All
44 expenses, salaries and per diem provided for in this Article shall be paid from funds

1 received under the provisions of this Article and Article 13A and shall in no manner be
2 an expense to the State.

3 (e) The Crematory Authority shall select from its members a chairman, a vice
4 chairman and a secretary who shall serve for one year or until their successors are
5 elected and qualified. No two offices may be held by the same person. The Crematory
6 Authority, with the concurrence of the Board, shall have the authority to engage
7 adequate staff as deemed necessary to perform its duties.

8 (f) The Crematory Authority shall hold at least one meeting in each year. In
9 addition, the Crematory Authority may meet as often as the proper and efficient
10 discharge of its duties shall require. ~~Five~~ Three members shall constitute a quorum.

11 **"§ 90-210.43. Licensing and inspection.**

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

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

21 (c) ~~Application for a license as a crematory operator shall be made on forms~~
22 ~~furnished and prescribed by the Board. The Board shall examine the premises and~~
23 ~~structure to be used as a crematory and shall issue a renewable license to the crematory~~
24 ~~operator if the applicant meets all the requirements and standards of the Board and the~~
25 ~~requirements of this Article.~~

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

30 (d1) ~~All licenses shall expire on the last day of December of each year. A license~~
31 ~~may be renewed without paying a late fee on or before the first day of February~~
32 ~~immediately following expiration. After that date, a license may be renewed by paying a~~
33 ~~late fee as provided in G.S. 90-210.48 in addition to the annual renewal fee. Licenses~~
34 ~~that remain expired six months or more require a new application for renewal. Licenses~~
35 ~~are not transferable. A new application for a license shall be made to the Board within~~
36 ~~30 days following a change of ownership of more than fifty percent (50%) of the~~
37 ~~business.~~

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

42 (f) ~~Whenever the Board finds that an owner, partner, manager, member, or~~
43 ~~officer of a crematory operator or an applicant to become a crematory operator, or that~~
44 ~~any agent or employee of a crematory operator or an applicant to become a crematory~~

1 operator, with the direct or implied permission of such owner, partner, manager,
2 member, or officer, has violated any provision of this Article, or is guilty of any of the
3 following acts, and when the Board also finds that the crematory operator or applicant
4 has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue
5 or renew the license, in accordance with the procedures of Chapter 150B:

- 6 (1) Conviction of a felony or a crime involving fraud or moral turpitude.
- 7 (2) Fraud or misrepresentation in obtaining or renewing a license or in the
8 practice of cremation.
- 9 (3) False or misleading advertising.
- 10 (4) Gross immorality, including being under the influence of alcohol or
11 drugs while performing cremation services.
- 12 (5) Using profane, indecent or obscene language in the presence of a dead
13 human body, and within the immediate hearing of the family or
14 relatives of a deceased, whose body has not yet been cremated or
15 otherwise disposed of.
- 16 (6) Violating or cooperating with others to violate any of the provisions of
17 this Article or of the rules of the Board.
- 18 (7) Violation of any State law or municipal or county ordinance or
19 regulation affecting the handling, custody, care or transportation of
20 dead human bodies.
- 21 (8) Refusing to surrender promptly the custody of a dead human body or
22 cremated remains upon the express order of the person lawfully
23 entitled to the custody thereof, except as provided in G.S.
24 90-210.47(e).
- 25 (9) Indecent exposure or exhibition of a dead human body while in the
26 custody or control of a licensee.

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

31 (g) The Board and Crematory Authority may hold hearings in accordance with
32 the provisions of this Article and Chapter 150B. Any such hearing shall be conducted
33 jointly by the Board and the Crematory Authority. The Board and the Crematory
34 Authority shall jointly constitute an "agency" under Article 3A of Chapter 150B of the
35 General Statutes with respect to proceedings initiated pursuant to this Article. The
36 Board is empowered to regulate and inspect crematories and crematory operators and to
37 enforce as provided by law the provisions of this Article and the rules adopted
38 hereunder. Any crematory that, upon inspection, is found not to meet any of the
39 requirements of this Article shall pay a reinspection fee to the Board for each additional
40 inspection that is made to ascertain whether the deficiency or other violation has been
41 corrected.

42 In addition to the powers enumerated in Chapter 150B of the General Statutes, the
43 Board shall have the power to administer oaths and issue subpoenas requiring the
44 attendance of persons and the production of papers and records before the Board in any

1 ~~hearing, investigation or proceeding conducted by it or conducted jointly with the~~
2 ~~Crematory Authority. Members of the Board's staff or the sheriff or other appropriate~~
3 ~~official of any county of this State shall serve all notices, subpoenas and other papers~~
4 ~~given to them by the President of the Board for service in the same manner as process~~
5 ~~issued by any court of record. Any person who neglects or refuses to obey a subpoena~~
6 ~~issued by the Board shall be guilty of a Class 1 misdemeanor.~~

7 (a) Any person doing business in this State, or any cemetery, funeral
8 establishment, corporation, partnership, joint venture, voluntary organization, or any
9 other entity may erect, maintain, and operate a crematory in this State and may provide
10 the necessary employees, facilities, structure, and equipment for the cremation of human
11 remains, provided that the person or entity has secured a license as a crematory licensee
12 in accordance with this Article.

13 (b) A crematory may be constructed on or adjacent to any cemetery, on or
14 adjacent to any funeral establishment that is zoned commercial or industrial, or at any
15 other location consistent with local zoning and environmental regulations.

16 (c) Application for a license as a crematory licensee shall be made on forms
17 furnished and prescribed by the Board. The Board shall inspect the premises, facilities,
18 structure, and equipment to be used as a crematory, confirm that the crematory
19 manager's and crematory technician's educational certificate is valid, and issue a
20 renewable license to the crematory licensee if the applicant meets all the requirements
21 and standards of the Board and the requirements of this Article.

22 (d) Every application for licensure shall identify the crematory manager and all
23 crematory technicians employed by the crematory licensee providing that nothing in this
24 Article shall prohibit the designation and identification by the crematory licensee of one
25 individual to serve as a crematory manager and crematory technician. Each crematory
26 licensed in North Carolina shall employ on a full-time basis at least one crematory
27 technician. Every application for licensure and renewal thereof shall include all
28 crematory technicians' educational certificates. The crematory licensee shall keep the
29 Board informed at all times of the names and addresses of the crematory manager and
30 all crematory technicians. In the event a licensee is in the process of replacing its only
31 crematory technician at the time of license renewal, the licensee may continue to
32 operate the crematory for a reasonable time period not to exceed 180 days.

33 (e) All licenses shall expire on the last day of December of each year. A license
34 may be renewed without paying a late fee on or before the first day of February
35 immediately following expiration. After that date, a license may be renewed by paying a
36 late fee as provided in G.S. 90-210.52 in addition to the annual renewal fee. Licenses
37 that remain expired six months or more require a new application for renewal. Licenses
38 are not transferable. A new application for a license shall be made to the Board within
39 30 days following a change of ownership of more than fifty percent (50%) of the
40 business.

41 (f) No person, cemetery, funeral establishment, corporation, partnership, joint
42 venture, voluntary organization, or any other entity shall cremate any human remains,
43 except in a crematory licensed for this express purpose and operated by a crematory

1 licensee subject to the restrictions and limitations of this Article or unless otherwise
2 permitted by statute.

3 (g) Whenever the Board finds that an owner, partner, crematory manager,
4 member, officer, or any crematory technician of a crematory licensee or any applicant to
5 become a crematory licensee, or that any authorized employee, agent, or representative
6 has violated any provision of this Article, or is guilty of any of the following acts, and
7 when the Board also finds that the crematory operator or applicant has thereby become
8 unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license,
9 in accordance with Chapter 150B of the General Statutes:

- 10 (1) Conviction of a felony or a crime involving fraud or moral turpitude.
- 11 (2) Fraud or misrepresentation in obtaining or renewing a license or in the
12 practice of cremation.
- 13 (3) False or misleading advertising.
- 14 (4) Solicitation of dead human bodies by the licensee, his agents,
15 assistants, or employees; but this paragraph shall not be construed to
16 prohibit general advertising by the licensee.
- 17 (5) Employment directly or indirectly of any agent, assistant, or other
18 person on a part-time or full-time basis or on commission for the
19 purpose of calling upon individuals or institutions by whose influence
20 dead human bodies may be turned over to a particular licensee.
- 21 (6) The direct or indirect payment or offer of payment of a commission by
22 the licensee or the licensee's agent, assistant, or employees for the
23 purpose of securing business.
- 24 (7) Gross immorality, including being under the influence of alcohol or
25 drugs while performing cremation services.
- 26 (8) Aiding or abetting an unlicensed person to perform services under this
27 Article, including the use of a picture or name in connection with
28 advertisements or other written material published or caused to be
29 published by the licensee.
- 30 (9) Failing to treat a dead human body with respect at all times.
- 31 (10) Violating or cooperating with others to violate any of the provisions of
32 this Article or of the rules of the Board.
- 33 (11) Violation of any State law or municipal or county ordinance or
34 regulation affecting the handling, custody, care, or transportation of
35 dead human bodies.
- 36 (12) Refusing to surrender promptly the custody of a dead human body or
37 cremated remains upon the express order of the person lawfully
38 entitled to the custody thereof, except as provided in G.S.
39 90-210.51(e).
- 40 (13) Indecent exposure or exhibition of a dead human body while in the
41 custody or control of a licensee.
- 42 (14) Practicing funeral directing, embalming, or funeral service without a
43 license.

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 five
4 thousand dollars (\$5,000).

5 (h) Where the Board finds a licensee is guilty of one or more of the acts or
6 omissions listed in subsection (g) of this section but it is determined by the Board that
7 the licensee has not thereby become unfit to practice, the Board may place the licensee
8 on a term of probation in accordance with the procedures set out in Chapter 150B of the
9 General Statutes. In any case in which the Board is entitled to place a licensee on a term
10 of probation, the Board may also impose a penalty of not more than five thousand
11 (\$5,000) in conjunction with the probation.

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

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

31 **"§ 90-210.44. Authorizing agent.**

32 (a) The following person, in the priority list below, shall have the right to serve
33 as an "authorizing agent":

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

1 with this subsection, the individual or institution designated by that
2 individual shall act as the authorizing agent for that individual.

3 (2) If a decedent has left no written authorization for the cremation and
4 disposition of the decedent's body as permitted under subsection (a) of
5 this section, the following competent persons in the order listed may
6 authorize the type, method, place, cremation, and disposition of the
7 decedent's body:

8 (a) The surviving spouse.

9 (b) A majority of the surviving children who are at least 18 years of
10 age and can be located after reasonable efforts.

11 (c) The surviving parents.

12 (d) A majority of the surviving siblings who are at least 18 years of
13 age and can be located after reasonable efforts.

14 (e) A majority of the persons in the classes of the next degrees of
15 kinship, in descending order, who, under State law, would
16 inherit the decedent's estate if the decedent died intestate who
17 are at least 18 years of age and can be located after reasonable
18 efforts.

19 (f) A person who has exhibited special care and concern for the
20 decedent and is willing and able to make decisions about the
21 cremation and disposition.

22 (g) In the case of indigents or any other individuals whose final
23 disposition is the responsibility of the State or any of its
24 instrumentalities, a public administrator, medical examiner,
25 coroner, State-appointed guardian, or any other public official
26 charged with arranging the final disposition of the decedent
27 may served as the authorizing agent.

28 (h) In the case of individuals who have donated their bodies to
29 science or whose death occurred in a nursing home or private
30 institution and in which the institution is charged with making
31 arrangements for the final disposition of the decedent, a
32 representative of such institution may serve as the authorizing
33 agent in the absence of any of the above.

34 (i) In the absence of any of the above, any person willing to
35 assume responsibility as authorizing agent, as specified in this
36 act.

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

40 (b) A person who does not exercise his or her right to dispose of the decedent's
41 body under subdivision (a)(2) of this section within five days of notification or 10 days
42 from date of death, whichever is earlier, shall be deemed to have waived his or her right
43 to authorize disposition of the decedent's body.

1 (c) An individual at least 18 years of age may, in a writing signed by the
2 individual, authorize the cremation and disposition of one or more of the individual's
3 body parts that has been or will be removed. If the individual does not authorize the
4 cremation and disposition, a person listed in subdivision (a)(2) of this section may
5 authorize the cremation and disposition as if the individual were deceased.

6 (d) This section does not apply to the disposition of dead human bodies as
7 anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or
8 the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General
9 Statutes.

10 **"§ 90-210.45. Authorization to cremate.**

11 (a) A crematory licensee shall not cremate human remains until it has received a
12 cremation authorization form signed by an authorizing agent. The cremation
13 authorization form shall be prescribed by the Board and shall contain at a minimum the
14 following information:

- 15 (1) The identity of the human remains and confirmation that the human
16 remains are in fact the individual so named.
- 17 (2) The time and date of death of the decedent.
- 18 (3) The name and address of the funeral establishment and/or the funeral
19 director that obtained the cremation authorization.
- 20 (4) The name and address of the crematory to be in receipt of the human
21 remains for the purpose of cremation.
- 22 (5) The name and address of the authorizing agent, the relationship
23 between the authorizing agent and the decedent, and the date and time
24 of signature of the authorizing agent.
- 25 (6) A representation that the authorizing agent does in fact have the right
26 to authorize the cremation of the decedent and that the authorizing
27 agent is not aware of any living person who has a superior priority
28 right to that of the authorizing agent, as set forth in G.S. 90-210.44. Or,
29 in the event that there is another living person who does have a
30 superior priority right to that of the authorizing agent, a representation
31 that the authorizing agent has made all reasonable efforts to contact
32 such person, has been unable to do so, and that the authorizing agent
33 has no reason to believe that such person would object to the
34 cremation of the decedent.
- 35 (7) A representation that the authorizing agent has either disclosed the
36 location of all living persons with an equal right to that of the
37 authorizing agent, as set forth in G.S. 90-201.44, or does not know the
38 location of any other living person with an equal right to that of the
39 authorizing agent.
- 40 (8) Authorization for the crematory to cremate the human remains,
41 including authorization to process or pulverize the cremated remains.
- 42 (9) A representation that the human remains do not contain a pacemaker
43 or any other material or implant that may be potentially hazardous to
44 the person performing the cremation.

- 1 (10) The name of the person authorized to receive the cremated remains
2 from the crematory licensee.
- 3 (11) The manner in which final disposition of the cremated remains is to
4 take place, if known. If the cremation authorization form does not
5 specify final disposition in a grave, crypt, niche, or scattering area,
6 then the form shall indicate that the cremated remains will be held by
7 the crematory licensee for 30 days before they are disposed of, unless
8 they are received from the crematory licensee prior to that time, in
9 person, by the authorizing agent or his designee.
- 10 (12) The signature of the authorizing agent attesting to the accuracy of all
11 representations contained on the cremation authorization form, except
12 as set forth in subsection (b) of this section.
- 13 (13) If a cremation authorization form is being executed on a preneed basis,
14 the cremation authorization form shall contain the disclosure required
15 by G.S. 90-210.46. The authorizing agent may specify in writing
16 religious practices that conflict with provisions in this statute. The
17 crematory licensee and funeral director shall observe those religious
18 practices except where they interfere with cremation in a licensed
19 crematory as specified under G.S. 90-210.43 or the required
20 documentation and record keeping.
- 21 (14) A licensed funeral director of the funeral establishment or crematory
22 licensee that received the cremation authorization form shall also sign
23 the cremation authorization form. Such individual shall not be
24 responsible for any of the representations made by the authorizing
25 agent, unless such individual has actual knowledge to the contrary,
26 except for the information requested by subdivisions (a)(1), (2), (3),
27 (4), and (9) of this section, which shall be considered to be
28 representations of the individual. In addition, the funeral director shall
29 warrant to the crematory that the human remains delivered to the
30 crematory licensee are the human remains identified on the cremation
31 authorization form with any other documentation required by this
32 State, any county, or any municipality.

33 (b) An authorizing agent who signs a cremation authorization form shall be
34 deemed to warrant the truthfulness of any facts set forth on the cremation authorization
35 form, including that person's authority to order the cremation; except for the information
36 required by subdivisions (a)(4) and (9) of this section, unless the authorizing agent has
37 actual knowledge to the contrary. An authorizing agent signing a cremation
38 authorization form shall be personally and individually liable for all damages
39 occasioned thereby and resulting therefrom.

40 (c) A crematory licensee shall have the legal right to cremate human remains
41 upon the receipt of a cremation authorization form signed by an authorizing agent.
42 There shall be no liability for a crematory licensee that cremates human remains
43 pursuant to such authorization, or that releases or disposes of the cremated remains
44 pursuant to such authorization, except for such crematory licensee's gross negligence,

1 provided that the crematory licensee performs such functions in compliance with the
2 provisions of this Article.

3 (d) After the authorizing agent has executed a cremation authorization form and
4 prior to the commencement of the cremation, the authorizing agent may revoke the
5 authorization and instruct the crematory licensee to cancel the cremation and to release
6 or deliver the human remains to another crematory licensee or funeral establishment.
7 Such instructions shall be provided to the crematory licensee in writing. A crematory
8 licensee shall honor any instructions given to it by an authorizing agent under this
9 section, provided that it receives such instructions prior to commencement of the
10 cremation of the human remains.

11 **"§ 90-210.46. Preneed cremation arrangements.**

12 (a) Any person, on a preneed basis, may authorize the person's own cremation
13 and the final disposition of the person's cremated remains by executing, as the
14 authorizing agent, a cremation authorization form on a preneed basis and having the
15 form signed by two witnesses. The person shall retain a copy of this form, and a copy
16 shall be sent to the funeral establishment and/or the crematory licensee. Any person
17 shall have the right to transfer or cancel this authorization at any time prior to the
18 person's death, by destroying the executed cremation authorization form and providing
19 written notice to the party or parties that received the cremation authorization form.

20 (b) Any cremation authorization form executed by an individual as the
21 individual's own authorizing agent on a preneed basis shall contain the following
22 disclosure, which shall be completed by the authorizing agent:

23 / / I do not wish to allow any of my survivors the option of canceling my
24 cremation and selecting alternative arrangements, regardless of
25 whether my survivors deem such a change to be appropriate.

26 / / I wish to allow only the survivors whom I have designated below the
27 option of canceling my cremation and selecting alternative
28 arrangements or continuing to honor my wishes for cremation and
29 purchasing services and merchandise, if they deem such a change to be
30 appropriate.

31 (c) Except as provided in subsection (b) of this section, at the time of the death of
32 a person who has executed, as the authorizing agent, a cremation authorization form on
33 a preneed basis, any person in possession of the executed form, and any person charged
34 with making arrangements for the disposition of the decedent's human remains who has
35 knowledge of the existence of the executed form, shall use the person's best efforts to
36 ensure that the decedent's human remains are cremated and that the final disposition of
37 the cremated remains is in accordance with the instructions contained on the cremation
38 authorization form.

39 (d) If a crematory licensee is in possession of a completed cremation
40 authorization form, executed on a preneed basis, and the crematory licensee is in
41 possession of the designated human remains, then the crematory licensee shall be
42 required to cremate the human remains and dispose of the human remains according to
43 the instructions contained on the cremation authorization form. A crematory licensee

1 that complies with the preneed cremation authorization form under these circumstances
2 may do so without any liability.

3 (e) Any preneed contract sold by, or preneed arrangements made with a funeral
4 establishment, that includes a cremation shall specify the final disposition of the
5 cremated remains, pursuant to G.S. 90-210.50. In the event that no different or
6 inconsistent instructions are provided to the crematory licensee by the authorizing agent
7 at the time of death, the crematory licensee shall be authorized to release or dispose of
8 the cremated remains as indicated in the preneed agreement. Upon compliance with the
9 terms of the preneed agreement, the crematory licensee shall be discharged from any
10 legal obligation concerning such cremated remains.

11 (f) The provisions of this section shall not apply to any cremation authorization
12 form or preneed contract executed prior to the effective date of this act. Any funeral
13 establishment, however, with the written approval of the authorizing agent or person
14 who executed the preneed contract, may designate that such cremation authorization
15 form or preneed contract shall be subject to this act.

16 **"§ 90-210.44. Authorization and record keeping.**

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

20 **"§ 90-210.47. Record keeping.**

21 (a) The crematory licensee shall furnish to the person who delivers such human
22 remains to the crematory licensee a receipt, signed by both the crematory licensee and
23 the person who delivers the human remains, showing the date and time of the delivery;
24 the type of casket or cremation container that was delivered; the name of the person
25 from whom the human remains were received and the name of the funeral establishment
26 or other entity with whom such person is affiliated; the name of the person who
27 received the human remains on behalf of the crematory licensee; and the name of the
28 decedent. The crematory licensee shall retain a copy of this receipt in its permanent
29 records for three years.

30 (b) Upon its release of cremated remains, the crematory licensee shall furnish to
31 the person who receives such cremated remains from the crematory licensee a receipt,
32 signed by both the crematory licensee and the person who receives the cremated
33 remains, showing the date and time of the release; the name of the person to whom the
34 cremated remains were released and the name of the funeral establishment, cemetery, or
35 other entity with whom such person is affiliated; the name of the person who released
36 the cremated remains on behalf of the crematory licensee; and the name of the decedent.
37 The crematory shall retain a copy of this receipt in its permanent records for three years.

38 (c) A crematory licensee shall maintain at its place of business a record of all
39 forms required by the Board of each cremation that took place at its facility for three
40 years.

41 (d) The crematory licensee shall maintain a record for three years of all cremated
42 remains disposed of by the crematory licensee in accordance with G.S. 90-210.46(d).

43 (e) Upon completion of the cremation, the crematory licensee shall issue a
44 certificate of cremation.

1 (f) All records that are required to be maintained under this Article shall be
2 subject to inspection by the Board or its agents upon request.

3 **"§ 90-210.48. Cremation containers.**

4 (a) No crematory licensee shall make or enforce any rules requiring that any
5 human remains be placed in a casket before cremation or that human remains be
6 cremated in a casket, nor shall any crematory licensee refuse to accept human remains
7 for cremation for the reason that they are not in a casket.

8 (b) No crematory licensee shall make or enforce any rules requiring that any
9 cremated remains be placed in an urn or receptacle designed to permanently encase the
10 cremated remains after the cremation process has been performed.

11 **"§ 90-210.45. Cremation procedures.**

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

15 (b) ~~Human remains shall not be cremated within 24 hours after the time of death,~~
16 ~~unless such death was a result of an infectious, contagious or communicable and~~
17 ~~dangerous disease as listed by the Commission of Health Services pursuant to G.S.~~
18 ~~130A-134, and unless such time requirement is waived in writing by the medical~~
19 ~~examiner, county health director, or attending physician where the death occurred. In~~
20 ~~the event such death comes under the jurisdiction of the medical examiner, the human~~
21 ~~remains shall not be received by the crematory operator until authorization to cremate~~
22 ~~has been received in writing from the medical examiner of the county in which the~~
23 ~~death occurred. In the event the crematory operator is authorized to perform funerals as~~
24 ~~well as cremation, this restriction on the receipt of human remains shall not be~~
25 ~~applicable.~~

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

31 (c1) ~~Human remains shall be cremated only while enclosed in a cremation~~
32 ~~container.~~

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

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

39 (e) ~~Crematory operators shall comply with standards established by the Board for~~
40 ~~the reduction and pulverization of human remains by the cremation process.~~

41 **"§ 90-210.49. Cremation procedures.**

42 (a) In deaths certified by the attending physician, the body shall not be cremated
43 before the crematory licensee receives a death certificate signed by the attending
44 physician, which shall contain at a minimum the following information:

- 1 (1) Decedent's name;
- 2 (2) The date of death;
- 3 (3) Date of birth;
- 4 (4) Sex;
- 5 (5) The place of death;
- 6 (6) Facility name (if not institution, give street and number);
- 7 (7) County of death;
- 8 (8) City of death; and
- 9 (9) Time of death (if known).

10 (b) When required by G.S. 130A-388 and the rules adopted pursuant to that
11 section or by successor statute and the rules pursuant to it, a cremation authorization
12 form signed by a medical examiner shall be received by the crematory prior to
13 cremation.

14 (c) In deaths coming under full investigation by the Office of the Chief Medical
15 Examiner, a burial-transit permit/cremation authorization form must be received by the
16 crematory before cremation.

17 (d) No body shall knowingly be cremated with a pacemaker or defibrillator or
18 other potentially hazardous implant or condition in place. The authorizing agent for the
19 cremation of the human remains shall be responsible for taking all necessary steps to
20 ensure that any pacemaker or defibrillator or other potentially hazardous implant or
21 condition is removed or corrected prior to cremation. If an authorizing agent informs the
22 funeral director and the crematory licensee on the cremation authorization form of the
23 presence of a pacemaker or defibrillator or other potentially hazardous implant or
24 condition in the human remains, then the funeral director shall be responsible for
25 ensuring that all necessary steps have been taken to remove the pacemaker or
26 defibrillator or other potentially hazardous implant or to correct the hazardous condition
27 before delivering the human remains to the crematory. Should the funeral director who
28 knows and delivers the human remains to the crematory fail to ensure that the
29 pacemaker or defibrillator or other potentially hazardous implant or condition is
30 removed or corrected from the human remains prior to delivery, and should the human
31 remains be cremated with the pacemaker or defibrillator or other potentially hazardous
32 implant or condition, then the funeral director who delivered the human remains to the
33 crematory and anyone else covered by this section shall be liable for all resulting
34 damages.

35 (e) Human remains shall not be cremated within 24 hours after the time of death,
36 unless such death was a result of an infectious, contagious, or communicable and
37 dangerous disease as listed by the Commission of Health Services pursuant to G.S.
38 130A-134, and unless such time requirement is waived in writing by the medical
39 examiner, county health director, or attending physician where the death occurred.

40 (f) No unauthorized person shall be permitted in view of the cremation chamber
41 or in the holding and processing facility while any human remains are being removed
42 from the cremation container, processed, or pulverized. Relatives of the deceased and
43 their invitees, the authorizing agent and the agent's invitees, medical examiners,
44 Inspectors of the North Carolina Board of Funeral Service, and law enforcement

1 officers in the execution of their duties shall be authorized to have access to the
2 crematory area, subject to the rules adopted by the crematory licensee governing the
3 safety of such individuals.

4 (g) Human remains shall be cremated only while enclosed in a cremation
5 container. Upon completion of the cremation, and insofar as is possible, all of the
6 recoverable residue of the cremation process shall be removed from the cremation
7 chamber. Insofar as is possible, all residue of the cremation process shall then be
8 separated from any foreign residue or anything else other than bone fragments and then
9 be processed by pulverization so as to reduce the cremated remains to unidentifiable
10 particles. Any foreign residue and anything other than the particles of the cremated
11 remains shall be removed from the cremated remains as far as possible and shall be
12 disposed of by the crematory licensee. This section does not apply where law otherwise
13 provides for commingling of human remains. The fact that there is incidental and
14 unavoidable residue in the cremation chamber used in a prior cremation is not a
15 violation of this subsection of this Article.

16 (h) The simultaneous cremation of the human remains of more than one person
17 within the same cremation chamber is forbidden.

18 (i) Every crematory shall have a holding and processing facility, within the
19 crematory, designated for the retention of human remains prior to cremation. The
20 holding and processing facility must comply with any applicable public health laws and
21 rules and must meet all of the standards established pursuant to rules adopted by the
22 Board.

23 (j) Crematory licensees shall comply with standards established by the Board for
24 the processing and pulverization of human remains by cremation.

25 (k) Nothing in this Article shall require a crematory licensee to perform a
26 cremation that is impossible or impractical to perform.

27 (l) The cremated remains with proper identification shall be placed in a
28 temporary container or the urn selected or provided by the authorizing agent. The
29 temporary container or urn contents shall not be contaminated with any other object,
30 unless specific authorization has been received from the authorizing agent or as
31 provided in subsection (g) of this section.

32 (m) If the cremated remains are greater than the dimensions of a temporary
33 container or urn, the excess cremated remains shall be returned to the authorizing agent
34 or its representative in a separate container or urn.

35 (n) If the cremated remains are to be shipped, the temporary container or urn
36 shall be packed securely in a suitable shipping container that complies with the
37 requirements of the shipper. Cremated remains shall be shipped only by a method which
38 has an internal tracing system available and which provides a receipt signed by the
39 person accepting delivery, unless otherwise authorized in writing by the authorizing
40 agent. Cremated remains shall be shipped to the proper address as stated on the
41 cremation authorization form signed by the authorizing agent.

42 ~~"§ 90-210.46. Disposition of cremated remains.~~

43 ~~(a) The authorizing agent shall provide the person with whom cremation~~
44 ~~arrangements are made with a signed statement specifying the ultimate disposition of~~

1 the cremated remains, if known. The crematory operator may store or retain cremated
2 remains as directed by the authorizing agent. Records of retention and disposition of
3 cremated remains shall be kept by the crematory operator pursuant to G.S. 90-210.44.

4 (b) The authorizing agent is responsible for the disposition of the cremated
5 remains. If, after a period of 30 days from the date of cremation, the authorizing agent
6 or his representative has not specified the ultimate disposition or claimed the cremated
7 remains, the crematory operator or the person in possession of the cremated remains
8 may dispose of the cremated remains only in a manner permitted in this section. The
9 authorizing agent shall be responsible for reimbursing the crematory operator for all
10 reasonable expenses incurred in disposing of the cremated remains pursuant to this
11 section. A record of such disposition shall be made and kept by the person making such
12 disposition. Upon disposing of cremated remains in accordance with this section, the
13 crematory operator or person in possession of the cremated remains shall be discharged
14 from any legal obligation or liability concerning such cremated remains.

15 (c) In addition to the disposal of cremated remains in a crypt, niche, grave, or
16 scattering garden located in a dedicated cemetery, or by scattering over uninhabited
17 public land, the sea or other public waterways pursuant to subsection (f) of this section,
18 cremated remains may be disposed of in any manner on the private property of a
19 consenting owner, upon direction of the authorizing agent. If cremated remains are to be
20 disposed of by the crematory operator on private property, other than dedicated
21 cemetery property, the authorizing agent shall provide the crematory operator with the
22 written consent of the property owner.

23 (d) Except with the express written permission of the authorizing agent no person
24 may:

25 (1) Dispose of or scatter cremated remains in such a manner or in such a
26 location that the cremated remains are commingled with those of
27 another person. This subdivision shall not apply to the scattering of
28 cremated remains at sea or by air from individual closed containers or
29 to the scattering of cremated remains in an area located in a dedicated
30 cemetery and used exclusively for such purposes.

31 (2) Place cremated remains of more than one person in the same closed
32 container. This subdivision shall not apply to placing the cremated
33 remains of members of the same family in a common closed container
34 designed for the cremated remains of more than one person.

35 (e) Cremated remains shall be delivered by the crematory operator to the
36 individual specified by the authorizing agent on the cremation authorization form. The
37 representative of the crematory operator and the individual receiving the cremated
38 remains shall sign a receipt indicating the name of the deceased, and the date, time, and
39 place of the receipt. After this delivery, the cremated remains may be transported in any
40 manner in this State, without a permit, and disposed of in accordance with the
41 provisions of this Article.

42 (f) Cremated remains may be scattered over uninhabited public land, a public
43 waterway or sea, subject to health and environmental standards, or on the private
44 property of a consenting owner pursuant to subsection (c) of this section. A person may

1 utilize a boat or airplane to perform such scattering. Cremated remains shall be removed
2 from their closed container before they are scattered.

3 **"§ 90-210.50. Final disposition of cremated remains.**

4 (a) The authorizing agent shall provide the person with whom cremation
5 arrangements are made with a signed statement specifying the ultimate disposition of
6 the cremated remains, if known. The crematory licensee may store or retain cremated
7 remains as directed by the authorizing agent. Records of retention and disposition of
8 cremated remains shall be kept by the crematory licensee pursuant to G.S. 90-210.47.

9 (b) The authorizing agent is responsible for the disposition of the cremated
10 remains. If, after a period of 30 days from the date of cremation, the authorizing agent
11 or the agent's representative has not specified the final disposition or claimed the
12 cremated remains, the crematory licensee or the person in possession of the cremated
13 remains may dispose of the cremated remains only in a manner permitted in this section.
14 The authorizing agent shall be responsible for reimbursing the crematory licensee for all
15 reasonable expenses incurred in disposing of the cremated remains pursuant to this
16 section. A record of such disposition shall be made and kept by the person making the
17 disposition. Upon disposing of cremated remains in accordance with this section, the
18 crematory licensee or person in possession of the cremated remains shall be discharged
19 from any legal obligation or liability concerning such cremated remains.

20 (c) In addition to the disposal of cremated remains in a crypt, niche, grave, or
21 scattering garden located in a dedicated cemetery, or by scattering over uninhabited
22 public land, the sea, or other public waterways pursuant to subsection (f) of this section,
23 cremated remains may be disposed of in any manner on the private property of a
24 consenting owner, upon direction of the authorizing agent. If cremated remains are to be
25 disposed of by the crematory licensee on private property, other than dedicated
26 cemetery property, the authorizing agent shall provide the crematory licensee with the
27 written consent of the property owner.

28 (d) Except with the express written permission of the authorizing agent, no
29 person may:

30 (1) Dispose of or scatter cremated remains in such a manner or in such a
31 location that the cremated remains are commingled with those of
32 another person. This subdivision shall not apply to the scattering of
33 cremated remains at sea or by air from individual closed containers or
34 to the scattering of cremated remains in an area located in a dedicated
35 cemetery and used exclusively for such purposes.

36 (2) Place cremated remains of more than one person in the same closed
37 container. This subdivision shall not apply to placing the cremated
38 remains of members of the same family in a common closed container
39 designed for the cremated remains of more than one person with the
40 written consent of the family.

41 (e) Cremated remains shall be released by the crematory licensee to the
42 individual specified by the authorizing agent on the cremation authorization form. The
43 representative of the crematory licensee and the individual receiving the cremated
44 remains shall sign a receipt indicating the name of the deceased, and the date, time, and

1 place of the receipt, and contain a representation that the handling of the final
2 disposition will be in a proper manner. After this delivery, the cremated remains may be
3 transported in any manner in this State, without a permit, and disposed of in accordance
4 with the provisions of this Article.

5 (f) Cremated remains may be scattered over uninhabited public land, over a
6 public waterway or sea, subject to health and environmental standards, or on the private
7 property of a consenting owner pursuant to subsection (c) of this section. A person may
8 utilize a boat or airplane to perform such scattering. Cremated remains shall be removed
9 from their closed container before they are scattered.

10 **"§ 90-210.47. Liability.**

11 ~~(a) Any person signing a cremation authorization form shall be deemed to~~
12 ~~warrant the truthfulness of any facts set forth in the cremation authorization form,~~
13 ~~including the identity of the deceased whose remains are sought to be cremated and that~~
14 ~~person's authority to order such cremation.~~

15 ~~(b) A crematory operator shall have authority to cremate human remains only~~
16 ~~upon the receipt of a cremation authorization form signed by an authorizing agent.~~
17 ~~There shall be no liability of a crematory operator that cremates human remains~~
18 ~~pursuant to such authorization, or that releases or disposes of the cremated remains~~
19 ~~pursuant to such authorization.~~

20 ~~(c) A crematory operator shall not be responsible or liable for any valuables~~
21 ~~delivered to the crematory operator with human remains.~~

22 ~~(d) A crematory operator shall not be liable for refusing to accept a body or to~~
23 ~~perform a cremation until it receives a court order or other suitable confirmation that a~~
24 ~~dispute has been settled if:~~

- 25 ~~(1) It is aware of any dispute concerning the cremation of human remains;~~
26 ~~(2) It has a reasonable basis for questioning any of the representations~~
27 ~~made by the authorizing agent; or~~
28 ~~(3) For any other lawful reason.~~

29 ~~(e) If a crematory operator is aware of any dispute concerning the release or~~
30 ~~disposition of the cremated remains, the crematory operator may refuse to release the~~
31 ~~cremated remains until the dispute has been resolved or the crematory operator has been~~
32 ~~provided with a court order authorizing the release or disposition of the cremated~~
33 ~~remains. A crematory operator shall not be liable for refusing to release or dispose of~~
34 ~~cremated remains in accordance with this subsection.~~

35 **"§ 90-210.51. Limitation of liability.**

36 (a) Any person signing a cremation authorization form shall be deemed to
37 warrant the truthfulness of any facts set forth in the cremation authorization form,
38 including the identity of the deceased whose remains are sought to be cremated and that
39 person's authority to order such cremation.

40 (b) A crematory licensee shall have authority to cremate human remains only
41 upon the receipt of a cremation authorization form signed by an authorizing agent.
42 There shall be no liability of a crematory licensee that cremates human remains
43 pursuant to such authorization or that releases or disposes of the cremated remains
44 pursuant to such authorization. A crematory licensee shall have no liability for the final

1 disposition or manner in which the cremated remains are handled after the cremated
 2 remains are released in accordance with the directions of the authorizing agent.

3 (c) A crematory licensee shall not be responsible or liable for any valuables
 4 delivered to the crematory licensee with human remains.

5 (d) A crematory licensee shall not be liable for refusing to accept a body or to
 6 perform a cremation until it receives a court order or other suitable confirmation that a
 7 dispute has been settled if:

8 (1) It is aware of any dispute concerning the cremation of human remains;

9 (2) It has a reasonable basis for questioning any of the representations
 10 made by the authorizing agent; or

11 (3) For any other lawful reason.

12 (e) If a crematory licensee is aware of any dispute concerning the release or
 13 disposition of the cremated remains, the crematory licensee may refuse to release the
 14 cremated remains until the dispute has been resolved or the crematory licensee has been
 15 provided with a court order authorizing the release or disposition of the cremated
 16 remains. A crematory licensee shall not be liable for refusing to release or dispose of
 17 cremated remains in accordance with this subsection. A crematory licensee may charge
 18 a reasonable storage fee if the dispute is not resolved within 30 days after it is received
 19 by the crematory licensee.

20 **"§ 90-210.48. Fees.**

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

23	(1) Licensee application fee	\$400.00
24	(2) Annual renewal fee	150.00
25	(3) Late renewal penalty	75.00
26	(4) Re-inspection fee	100.00
27	(5) Per cremation fee.	10.00
28	(6) Late fee, per cremation.	10.00
29	(7) Late fee, cremation report	75.00 per month.

30 ~~(b) The funds collected pursuant to this Article shall become part of the general~~
 31 ~~fund of the Board. The cost of the maintenance of the Crematory Authority shall be~~
 32 ~~deemed a general expense of the Board. The Board shall keep an accurate accounting of~~
 33 ~~all the receipts and expenditures made pursuant to this Article and shall provide a~~
 34 ~~current report of such to the Crematory Authority biannually.~~

35 **"§ 90-210.52. Fees.**

36 (a) The Board may set and collect fees not to exceed the following amounts from
 37 licensed crematory licencees and applicants:

38	<u>(1) Licensee application fee</u>	<u>\$400.00</u>
39	<u>(2) Annual renewal fee</u>	<u>150.00</u>
40	<u>(3) Late renewal fee</u>	<u>75.00</u>
41	<u>(4) Reinspection fee</u>	<u>100.00</u>
42	<u>(5) Per cremation fee</u>	<u>10.00</u>
43	<u>(6) Late fee, per cremation</u>	<u>10.00</u>
44	<u>(7) Late fee, cremation report</u>	<u>75.00 per month.</u>

1 (b) The funds collected pursuant to this Article shall become part of the general
2 fund of the Board.

3 ~~"§ 90-210.49. Crematory operator authority.~~

4 (a) ~~A crematory operator may employ a licensed funeral director for the purpose~~
5 ~~of arranging cremations with the general public, transporting human remains to the~~
6 ~~crematory, and processing all necessary paper work. Nothing in this provision may be~~
7 ~~construed to require a licensed funeral director to perform any functions not otherwise~~
8 ~~required by law to be performed by a licensed funeral director.~~

9 (b) ~~A crematory operator may adopt reasonable rules consistent with this Article~~
10 ~~for the management and operation of a crematory. Nothing in this subsection may be~~
11 ~~construed to prevent a crematory operator from adopting rules which are more stringent~~
12 ~~than the provisions of this Article.~~

13 (c) ~~Nothing in this Article shall prohibit or require the performance of cremations~~
14 ~~by crematory operators for or directly with the public, or exclusively for or through~~
15 ~~licensed funeral directors.~~

16 (d) ~~Nothing in this Article may be construed to prohibit a crematory operator~~
17 ~~from transporting human remains.~~

18 (e) ~~Nothing in this Article may be construed to relieve the holder of a license~~
19 ~~issued hereunder from obtaining any other licenses or permits required by law.~~

20 ~~"§ 90-210.53. Crematory licensee rights.~~

21 (a) ~~A crematory licensee may employ a licensed funeral director for the purpose~~
22 ~~of arranging cremations with the general public and processing all necessary paperwork.~~

23 (b) ~~A crematory licensee may adopt reasonable rules consistent with this Article~~
24 ~~for the management and operation of a crematory. Nothing in this subsection may be~~
25 ~~construed to prevent a crematory licensee from adopting rules which are more stringent~~
26 ~~than the provisions of this Article.~~

27 (c) ~~Nothing in this Article may be construed to relieve the crematory licensee~~
28 ~~from obtaining any other licenses or permits required by law.~~

29 ~~"§ 90-210.50. Rulemaking, applicability, violations, and prohibitions of Article.~~

30 (a) ~~The Board is authorized to adopt and promulgate such rules for the carrying~~
31 ~~out and enforcement of the provisions of this Article as may be necessary and as are~~
32 ~~consistent with the laws of this State and of the United States. The Board shall adopt~~
33 ~~rules only after consideration of the Crematory Authority's suggested rules pursuant to~~
34 ~~G.S. 90-210.42(a). The Board may perform such other acts and exercise such other~~
35 ~~powers and duties as may be provided in this Article, in Article 13A of this Chapter, and~~
36 ~~otherwise by law and as may be necessary to carry out the powers herein conferred.~~

37 (b) ~~The provisions of this Article shall not apply to the cremation of human~~
38 ~~remains and medical waste performed by the North Carolina Anatomical Commission,~~
39 ~~licensed hospitals and medical schools, and the office of the Chief Medical Examiner~~
40 ~~when the disposition of such human remains and medical waste is the legal~~
41 ~~responsibility of said institutions.~~

42 (c) ~~A violation of any of the provisions of this Article is a Class 2 misdemeanor.~~

43 (d) ~~No person, firm, or corporation may request or authorize cremation or~~
44 ~~cremate a dead human body when he has information indicating a crime or violence of~~

1 any sort in connection with the cause of death unless such information has been
2 conveyed to the State or county medical examiner and permission from the State or
3 county medical examiner to cremate has thereafter been obtained.

4 **"§ 90-210.54. Rulemaking, applicability, violations, and prohibitions of Article.**

5 (a) The Board is authorized to adopt and promulgate such rules for the carrying
6 out and enforcement of the provisions of this Article as may be necessary and as are
7 consistent with the laws of this State and of the United States. The Board may develop a
8 Standard Cremation Authorization Form and procedures for its execution that shall be
9 used by the crematory licensee subject to this Article, unless a crematory has its own
10 form approved by the Board. A crematory licensee that uses its own approved cremation
11 authorization form must have the cremation authorization form reapproved if changed
12 or after amendments are made to this Article or the rules adopted by the Board related to
13 cremation authorization forms. The Board may perform such other acts and exercise
14 such other powers and duties as may be provided in this Article, in Article 13A of this
15 Chapter, and otherwise by law and as may be necessary to carry out the powers herein
16 conferred.

17 (b) The provisions of this Article shall not apply to the cremation of medical
18 waste performed by the North Carolina Anatomical Commission, licensed hospitals and
19 medical schools, and the office of the Chief Medical Examiner when the disposition of
20 such medical waste is the legal responsibility of the institutions.

21 (c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.

22 (d) No person, firm, or corporation may request or authorize cremation or
23 cremate human remains when the person, firm, or corporation has information
24 indicating a crime or violence of any sort in connection with the cause of death unless
25 such information has been conveyed to the State or county medical examiner and
26 permission from the State or county medical examiner to cremate human remains has
27 thereafter been obtained."

28 **SECTION 3.** G.S. 90-210.20(k) reads as rewritten:

29 "(k) "Practice of funeral service" means engaging in the care or disposition of
30 dead human bodies or in the practice of disinfecting and preparing by embalming or
31 otherwise dead human bodies for the funeral service, transportation, burial or cremation,
32 or in the practice of funeral directing or embalming as presently known, whether under
33 these titles or designations or otherwise. "Practice of funeral service" also means
34 engaging in making arrangements for funeral service, selling funeral supplies to the
35 public or making financial arrangements for the rendering of such services or the sale of
36 such supplies. 'Practice of funeral service' also includes the cremation of human
37 remains."

38 **SECTION 4.** G.S. 90-21.22 reads as rewritten:

39 **"§ 90-210.22. Required meetings of the Board.**

40 The Board shall hold at least ~~two~~four meetings in each year ~~at which examinations~~
41 ~~shall be given to qualified applicants for licenses year.~~ In addition, the Board may meet
42 as often as the proper and efficient discharge of its duties shall require. Five members
43 shall constitute a quorum."

44 **SECTION 5.(a)** G.S. 90-210.23(b) reads as rewritten:

1 **"§ 90-210.23. Powers and duties of the Board.**

2 ...

3 (b) The Board shall elect from its members a president, a vice-president and a
4 secretary, no two offices to be held by the same person. The president and
5 vice-president and secretary shall serve for one year and until their successors shall be
6 elected and ~~qualify~~-qualified. The Board shall have authority to engage adequate staff
7 as deemed necessary to perform its duties."

8 **SECTION 5.(b)** G.S. 90-210.23 is amended by adding the following new
9 subsections to read:

10 "(h1) The Board shall have the power to acquire, hold, rent, encumber, alienate,
11 and otherwise deal with real property in the same manner as a private person or
12 corporation, subject only to approval of the Governor and the Council of State as to the
13 acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged
14 by the Board for an encumbrance is limited to the assets, income, and revenues of the
15 Board.

16 (h2) The Board may employ legal counsel and clerical and technical assistance,
17 and fix the compensation therefor, and incur such other expenses as may be deemed
18 necessary in the performance of its duties and the enforcement of the provisions of this
19 Article or as otherwise required by law and as may be necessary to carry out the powers
20 herein conferred."

21 **SECTION 6.(a)** G.S. 90-210.24(a) reads as rewritten:

22 **"§ 90-210.24. Inspector.**

23 (a) The Board may appoint one or more agents who shall serve at the pleasure of
24 the Board and who shall have the title "Inspector of the ~~Board of Mortuary Science of~~
25 ~~North Carolina~~-"North Carolina Board of Funeral Service." No person is eligible for
26 appointment as inspector unless at the time of ~~his~~-the appointment ~~he~~ the person is
27 licensed under this Article as a funeral service licensee."

28 **SECTION 6.(b)** G.S. 90-210.24 is amended by adding the following new
29 subsection to read:

30 "(e) The Board's Executive Director shall have all the powers of an Inspector of
31 the North Carolina Board of Funeral Services."

32 **SECTION 7.** G.S. 90-210.25 reads as rewritten:

33 **"§ 90-210.25. Licensing.**

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

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

37 a. Be at least 18 years of age.

38 b. Be of good moral character.

39 c. Be a graduate of a Funeral Director Program at a mortuary
40 science college approved by the Board or a school of mortuary
41 science accredited by the American Board of Funeral Service
42 Education. Have completed a minimum of 32 semester hours or
43 48 quarter hours of instruction, including the subjects set out in
44 sub-part e.1. of this subdivision, as prescribed by a mortuary

- 1 science college approved by the Board or a school of mortuary
2 science accredited by the American Board of Funeral Service
3 Education.
- 4 d. Have completed 12 months of resident traineeship as a funeral
5 director, pursuant to the procedures and conditions set out in
6 G.S. 90-210.25(a)(4), either before or after satisfying the
7 educational requirement under sub-subdivision c. of this
8 subdivision.
- 9 e. Have passed an oral or written funeral director examination on
10 the following subjects:
- 11 1. Psychology, sociology, funeral directing, business law,
12 funeral law, funeral management, and accounting.
- 13 2. Repealed by 1997-399, s. 5.
- 14 3. Laws of North Carolina and rules of the Board of
15 ~~Mortuary Science~~ and other agencies dealing with the
16 care, transportation and disposition of dead human
17 bodies.
- 18 (2) To be licensed for the practice of embalming under this Article, a
19 person must:
- 20 a. Be at least 18 years of age.
- 21 b. Be of good moral character.
- 22 c. Be a graduate of a mortuary science college approved by the
23 Board.
- 24 d. Have completed 12 months of resident traineeship as an
25 embalmer pursuant to the procedures and conditions set out in
26 G.S. 90-210.25(a)(4), either before or after satisfying the
27 educational requirement under sub-subdivision c. of this
28 subdivision.
- 29 e. Have passed an oral or written embalmer examination on the
30 following subjects:
- 31 1. Embalming, restorative arts, chemistry, pathology,
32 microbiology, and anatomy.
- 33 2. Repealed by 1997-399, s. 6.
- 34 3. Laws of North Carolina and rules of the Board of
35 ~~Mortuary Science~~ and other agencies dealing with the
36 care, transportation and disposition of dead human
37 bodies.
- 38 (3) To be licensed for the practice of funeral service under this Article, a
39 person must:
- 40 a. Be at least 18 years of age.
- 41 b. Be of good moral character.
- 42 c. Be a graduate of and receive an associate degree from a
43 mortuary science college approved by the Board or a school of
44 mortuary science accredited by the American Board of Funeral

- 1 Service Education. Have completed a minimum of ~~32~~–~~60~~
2 semester hours or ~~48~~–~~90~~ quarter hours of instruction, including
3 the subjects set out in sub-part e.1. of this subdivision, as
4 prescribed by a mortuary science college approved by the Board
5 or a school of mortuary science accredited by the American
6 Board of Funeral Service Education.
- 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 sub-subdivison c. of this
11 subdivision.
- 12 e. Have passed an oral or written funeral service examination on
13 the following subjects:
- 14 1. Psychology, sociology, funeral directing, business law,
15 funeral law, funeral management, and accounting.
 - 16 2. Embalming, restorative arts, chemistry, pathology,
17 microbiology, and anatomy.
 - 18 3. Repealed by 1997-399, s. 7.
 - 19 4. Laws of North Carolina and rules of the Board of
20 ~~Mortuary Science~~ and other agencies dealing with the
21 care, transportation and disposition of dead human
22 bodies.
- 23 (4) a. A person desiring to become a resident trainee shall apply to the
24 Board on a form provided by the Board. The application shall
25 state that the applicant is not less than 18 years of age, of good
26 moral character, and is the graduate of a high school or the
27 equivalent thereof, and shall indicate the licensee under whom
28 the applicant expects to train. A person training to become an
29 embalmer may serve under either a licensed embalmer or a
30 funeral service licensee. A person training to become a funeral
31 director may serve under either a licensed funeral director or a
32 funeral service licensee. A person training to become a funeral
33 service licensee shall serve under a funeral service licensee. The
34 application must be sustained by oath of the applicant and be
35 accompanied by the appropriate fee. When the Board is
36 satisfied as to the qualifications of an applicant it shall instruct
37 the secretary to issue a certificate of resident traineeship.
- 38 b. When a resident trainee leaves the proctorship of the licensee
39 under whom the trainee has worked, the licensee shall file with
40 the Board an affidavit showing the length of time served with
41 the licensee by the trainee, and the affidavit shall be made a
42 matter of record in the Board's office. The licensee shall deliver
43 a copy of the affidavit to the trainee.

- 1 c. A person who has not completed the traineeship and wishes to
2 do so under a licensee other than the one whose name appears
3 on the original certificate may reapply to the Board for
4 ~~approval, without payment of an additional fee.~~ approval.
- 5 d. A certificate of resident traineeship shall be signed by the
6 resident trainee and upon payment of the renewal fee shall be
7 renewable one year after the date of original registration; but
8 the certificate may not be renewed more than ~~one time.~~ two
9 times. The Board shall mail to each registered trainee at his last
10 known address a notice that the renewal fee is due and that, if
11 not paid within 30 days of the notice, the certificate will be
12 canceled. A ~~penalty, late fee~~ in addition to the renewal fee, shall
13 be charged for a late renewal, but the renewal of the registration
14 of any resident trainee who is engaged in the active military
15 service of the United States at the time renewal is due may, at
16 the discretion of the Board, be held in abeyance for the duration
17 of that service without penalties. No credit shall be allowed for
18 the 12-month period of resident traineeship that shall have been
19 completed more than ~~three~~ five years preceding the examination
20 for a license.
- 21 e. All registered resident trainees shall report to the Board at least
22 once every month during traineeship upon forms provided by
23 the Board listing the work which has been completed during the
24 preceding month of resident traineeship. The data contained in
25 the reports shall be certified as correct by the licensee under
26 whom the trainee has served during the period and by the
27 licensed person who is managing the funeral service
28 establishment. Each report shall list the following:
- 29 1. For funeral director trainees, the conduct of any funerals
30 during the relevant time period,
 - 31 2. For embalming trainees, the embalming of any bodies
32 during the relevant time period,
 - 33 3. For funeral service trainees, both of the activities named
34 in 1 and 2 of this subsection, engaged in during the
35 relevant time period.
- 36 f. To meet the resident traineeship requirements of G.S.
37 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3)
38 the following must be shown by the affidavit(s) of the
39 licensee(s) under whom the trainee worked:
- 40 1. That the funeral director trainee has, under supervision,
41 assisted in directing at least 25 funerals during the
42 resident traineeship,

- 1 2. That the embalmer trainee has, under supervision,
2 assisted in embalming at least 25 bodies during the
3 resident traineeship,
4 3. That the funeral service trainee has, under ~~supervision~~
5 supervision, assisted in directing at least 25 funerals and,
6 under supervision, assisted in embalming at least 25
7 bodies during the resident traineeship.
8 g. The Board may suspend or revoke a certificate of resident
9 traineeship for violation of any provision of this Article.
10 h. Each sponsor for a registered resident trainee must during the
11 period of sponsorship be actively employed with a funeral
12 establishment. The traineeship shall be a primary vocation of
13 the trainee.
14 i. Only one resident trainee may register and serve at any one time
15 under any one person licensed under this Article.
16 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
17 l. The Board shall register no more than one resident trainee at a
18 funeral establishment that served 100 or fewer families during
19 the 12 months immediately preceding the date of the
20 application, and shall register no more than one resident trainee
21 for each additional 100 families served at the funeral
22 establishment during the 12 months immediately preceding the
23 date of the application.
24 (5) The Board by regulation may recognize other examinations that the
25 Board deems equivalent to its own.
26 a. All licenses shall be signed by the president and secretary of the
27 Board and the seal of the Board affixed thereto. All licenses
28 shall be issued, renewed or duplicated for a period not
29 exceeding one year upon payment of the renewal fee, and all
30 licenses, renewals or duplicates thereof shall expire and
31 terminate the thirty-first day of December following the date of
32 their issue unless sooner revoked and canceled; provided, that
33 the date of expiration may be changed by unanimous consent of
34 the Board and upon 90 days' written notice of such change to all
35 persons licensed for the practice of funeral directing,
36 embalming and funeral service in this State.
37 b. The holder of any license issued by the Board who shall fail to
38 renew the same on or before ~~January 31~~February 1 of the
39 calendar year for which the license is to be renewed shall have
40 forfeited and surrendered the license as of that date. No license
41 forfeited or surrendered pursuant to the preceding sentence shall
42 be reinstated by the Board unless it is shown to the Board that
43 the applicant has, throughout the period of forfeiture, engaged
44 full time in another state of the United States or the District of

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

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

22 d. As a prerequisite to the annual renewal of a license, the licensee
23 must complete, during the year immediately preceding renewal,
24 at least ~~five~~ 10 hours of continuing education courses, of which
25 the Board may require licensees to take up to three hours
26 specified by the Board and two hours may be self-study. All
27 continuing education courses must be approved by the Board
28 prior to enrollment. A licensee who completes more than ~~five~~
29 10 hours in a year may carry over a maximum of ~~five~~ 10 hours
30 as a credit to the following year's requirement. A licensee who
31 is issued an initial license on or after July 1 does not have to
32 satisfy the continuing education requirement for that year.

33 e. The Board shall not renew a license unless fulfillment of the
34 continuing education requirement has been certified to it on a
35 form provided by the Board, but the Board may waive this
36 requirement for renewal in cases of certified illness or undue
37 hardship or where the licensee lives outside of North Carolina
38 and does not practice in North Carolina, and the Board shall
39 waive the requirement for all licensees who were licensed on or
40 before December 31, 2003, and have been licensed in North
41 Carolina for a continuous period of 25 years or more, for all
42 licensees who are licensed on or after January 1, 2004, who
43 have been licensed for a continuous period of 25 years or more

1 and have attained the age of 60 years, and for all licensees who
2 are, at the time of renewal, members of the General Assembly.

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

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

24 h. The Department of Justice may provide a criminal record check
25 to the Board for a person who has applied for a new or renewal
26 license, or certification through the Board. The Board shall
27 provide to the Department of Justice, along with the request, the
28 fingerprints of the applicant, any additional information
29 required by the Department of Justice, and a form signed by the
30 applicant consenting to the check of the criminal record and to
31 the use of the fingerprints and other identifying information
32 required by the State or national repositories. The applicant's
33 fingerprints shall be forwarded to the State Bureau of
34 Investigation for a search of the State's criminal history record
35 file, and the State Bureau of Investigation shall forward a set of
36 the fingerprints to the Federal Bureau of Investigation for a
37 national criminal history check. The Board shall keep all
38 information pursuant to this subdivision privileged, in
39 accordance with applicable State law and federal guidelines,
40 and the information shall be confidential and shall not be a
41 public record under Chapter 132 of the General Statutes.

42 The Department of Justice may charge each applicant a fee
43 for conducting the checks of criminal history records authorized
44 by this subdivision.

1 (a1) Inactive Licenses. – Any person holding a license issued by the Board for
2 funeral directing, for embalming, or for the practice of funeral service may apply for an
3 inactive license in the same category as the active license held. The inactive license is
4 renewable annually. Continuing education is not required for the renewal of an inactive
5 license. The only activity that a holder of an inactive license may engage in is to vote
6 pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an
7 active license in the same category, and the Board shall issue an active license if the
8 applicant has completed in North Carolina a total number of hours of accredited
9 continuing education equal to five times the number of years the applicant held the
10 inactive license. No application fee is required for the reinstatement of an active license
11 pursuant to this subsection. The holder of an inactive license who returns to active status
12 shall surrender the inactive license to the Board.

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

17 (1) Employed by a college of mortuary science; or

18 (2) The licensee:

19 a. Maintains all of his or her business records at a location made
20 known to the Board and available for inspection by the Board
21 under the same terms and conditions as the business records of
22 a licensed funeral establishment;

23 b. Complies with rules and regulations imposed on funeral
24 establishments and the funeral profession that are designed to
25 protect consumers, to include, but not limited to, the Federal
26 Trade Commission's laws and rules requiring General Price
27 Lists and Statements of Goods and Services; and

28 c. Pays to the Board the funeral establishment license fee required
29 by law and set by the Board.

30 Nothing in this subdivision shall preclude a licensee from arranging
31 cremations and cremating human remains while employed by a
32 crematory.

33 (b) Persons Licensed under the Laws of Other Jurisdictions. –

34 (1) The Board shall grant licenses to funeral directors, embalmers and
35 funeral service licensees, licensed in other states, territories, the
36 District of Columbia, and foreign countries, when it is shown that the
37 applicant holds a valid license as a funeral director, embalmer or
38 funeral service licensee issued by the other jurisdiction, has
39 demonstrated knowledge of the laws and ~~regulations~~ rules governing
40 the profession in North Carolina and has submitted proof of his good
41 moral character; and either that the applicant has continuously
42 practiced the profession in the other jurisdiction for at least three years
43 immediately preceding his application, or the Board has determined

- 1 that the licensing requirements for the other jurisdiction are
2 substantially similar to those of North Carolina.
- 3 (2) The Board shall periodically review the mortuary science licensing
4 requirements of other jurisdictions and shall determine which licensing
5 requirements are substantially similar to the requirements of North
6 Carolina.
- 7 (3) The Board may issue special permits, to be known as courtesy cards,
8 permitting nonresident funeral directors, embalmers and funeral
9 service licensees to remove bodies from and to arrange and direct
10 funerals and embalm bodies in this State, but these privileges shall not
11 include the right to establish a place of business in or engage generally
12 in the business of funeral directing and embalming in this State.
13 Except for special permits issued by the Board for teaching continuing
14 education programs and for work in connection with disasters, no
15 special permits may be issued to nonresident funeral directors,
16 embalmers, and funeral service licensees from states that do not issue
17 similar courtesy cards to persons licensed in North Carolina pursuant
18 to this Article.
- 19 (c) Registration, Filing and Transportation. –
- 20 (1) The holder of any license granted by this State for those within the
21 funeral service profession or renewal thereof provided for in this
22 Article shall cause registration to be filed in the office of the board of
23 health of the county or city in which he practices his profession, or if
24 there be no board of health in such county or city, at the office of the
25 clerk of the superior court of such county. All such licenses,
26 certificates, duplicates and renewals thereof shall be displayed in a
27 conspicuous place in the funeral establishment where the holder
28 renders service.
- 29 (2) It shall be unlawful for any railway agent, express agency, baggage
30 master, conductor or other person acting as such, to receive the dead
31 body of any person for shipment or transportation by railway or other
32 public conveyance, to a point outside of this State, unless the body is
33 accompanied by a burial-transit permit.
- 34 (3) The "transportation or removal of a dead human body" shall mean the
35 removal of a dead human body for a fee from the location of the place
36 of death or discovery of death or the transportation of the body to or
37 from a medical facility, funeral establishment or facility, crematory or
38 related holding facility, place of final disposition, or place designated
39 by the Medical Examiner for examination or autopsy of the dead
40 human body.
- 41 (4) Any individual, not otherwise exempt from this subsection, shall apply
42 for and receive a permit from the Board before engaging in the
43 transportation or removal of a dead human body in this State. Unless
44 otherwise exempt from this subsection, no corporation or other

1 business entity shall engage in the transportation or removal of a dead
2 human body unless it has in its employ at least one individual who
3 holds a permit issued under this section. No individual permit holder
4 shall engage in the transportation or removal of a dead human body for
5 more than one person, firm, or corporation without first providing the
6 Board with written notification of the name and physical address of
7 each such employer.

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

- 12 a. Licensees under this Article and their employees.
- 13 b. Employees of common carriers.
- 14 c. Except as provided in sub-subdivision (6)c. of this section,
15 employees of the State and its agencies and employees of local
16 governments and their agencies.
- 17 d. Funeral directors licensed in another state and their employees.

18 (6) The following persons shall be exempt from this section:

- 19 a. Emergency medical technicians, rescue squad workers,
20 volunteer and paid firemen, and law enforcement officers.
- 21 b. Employees of public or private hospitals, nursing homes, or
22 long-term care facilities, while handling a dead human body
23 within such facility or while acting within the scope of their
24 employment.
- 25 c. State and county medical examiners and their investigators.
- 26 d. Any individual transporting cremated remains.
- 27 e. Any individual transporting or removing a dead human body of
28 their immediate family or next of kin.
- 29 f. Any individual who has exhibited special care and concern for
30 the decedent.

31 (7) Individuals eligible to receive a permit under this section for the
32 transportation or removal of a dead human body for a fee, shall:

- 33 a. Be at least 18 years of age.
- 34 b. Possess and maintain a valid drivers license issued by this State
35 and provide proof of all liability insurance required for the
36 registration of any vehicle in which the person intends to
37 engage in the business of the removal or transportation of a
38 dead human body.
- 39 c. Affirmatively state under oath that the person has read and
40 understands the statutes and rules relating to the removal and
41 transportation of dead human bodies and any guidelines as may
42 be adopted by the Board.

- 1 d. Provide three written character references on a form prescribed
2 by the Board, one of which must be from a licensed funeral
3 director.
- 4 e. Be of good moral character.
- 5 (8) The permit issued under this section shall expire on December 31 of
6 each year. The application fee for the individual permit shall not
7 exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed
8 one hundred dollars (\$100.00), in addition to the renewal fee not to
9 exceed seventy-five dollars (\$75.00), shall be charged for any
10 application for renewal received by the Board after February 1 of each
11 year.
- 12 (9) No person shall transport a dead human body in the open cargo area or
13 passenger area of a vehicle or in any vehicle in which the body may be
14 viewed by the public. Any person removing or transporting a dead
15 human body shall either cover the body, place it upon a stretcher
16 designed for the purpose of transporting humans or dead human bodies
17 in a vehicle, and secure such stretcher in the vehicle used for
18 transportation, or shall enclose the body in a casket or container
19 designed for common carrier transportation, and secure the casket or
20 container in the vehicle used for transportation. No person shall fail to
21 treat a dead human body with respect at all times. ~~use profanity,~~
22 ~~indecent, or obscene language in the presence of a dead human body.~~
23 No person shall take a photograph or video recording of a dead human
24 body without the consent of a member of the deceased's immediate
25 family or next of ~~kin~~ kin or other authorizing agent.
- 26 (10) The Board may adopt rules under this section including permit
27 application procedures and the proper procedures for the removal,
28 handling, and transportation of dead human bodies. The Board shall
29 consult with the Office of the Chief Medical Examiner before
30 initiating rule making under this section and before adopting any rules
31 pursuant to this section. Nothing in this section prohibits the Office of
32 the Chief Medical Examiner from adopting policies and procedures
33 regarding the removal, transportation, or handling of a dead human
34 body under the jurisdiction of that office that are more stringent than
35 the laws in this section or any rules adopted under this section. Any
36 violation of this section or rules adopted under this section may be
37 punished by the Board by a suspension or revocation of the permit to
38 transport or remove dead human bodies or by a term of probation. The
39 Board may, in lieu of any disciplinary measure, accept a penalty not to
40 exceed five thousand dollars (\$5,000) per violation.
- 41 (11) Each applicant for a permit shall provide the Board with the applicant's
42 home address, name and address of any corporation or business entity
43 employing such individual for the removal or transportation of dead
44 human bodies, and the make, year, model, and license plate number of

1 any vehicle in which a dead human body is transported. A permittee
2 shall provide written notification to the Board of any change in the
3 information required to be provided to the Board by this section or by
4 the application for a permit within 30 days after such change takes
5 place.

6 (12) If any person shall engage in or hold himself out as engaging in the
7 business of transportation or removal of a dead human body without
8 first having received a permit under this section, the person shall be
9 guilty of a Class 2 misdemeanor.

10 (13) The Board shall have the authority to inspect any place or premises
11 that the business of removing or transporting a dead human body is
12 carried out and shall also have the right of inspection of any vehicle
13 and equipment used by a permittee for the removal or transportation of
14 a dead human body.

15 (d) Establishment Permit. –

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

22 (2) A permit shall be issued when:

23 a. It is shown that the funeral establishment has in charge a
24 person, known as a manager, licensed for the practice of funeral
25 directing or funeral service, who shall not be permitted to
26 manage more than one funeral establishment.

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

29 c. It is shown that the funeral establishment satisfies the
30 requirements of G.S. 90-210.27A.

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

32 (3) Applications for funeral establishment permits shall be made on forms
33 provided by the Board and filed with the Board by the owner, a
34 partner, a member of the limited liability company, or an officer of the
35 corporation by January 1 of each year, and shall be accompanied by
36 the application fee or renewal fee, as the case may be. All permits shall
37 expire on December 31 of each year. If the renewal application and
38 renewal fee are not received in the Board's office on or before
39 February 1, a late renewal fee, ~~A penalty for late renewal,~~ in addition
40 to the regular renewal fee, shall be ~~charged for renewal of registration~~
41 ~~received after the first day of February-charged.~~

42 (4) The Board may suspend or revoke a permit when an owner, partner,
43 manager, member, operator, or officer of the funeral establishment
44 violates any provision of this Article or any regulations of the Board,

1 or when any agent or employee of the funeral establishment, with the
2 consent of any person, firm or corporation operating the funeral
3 establishment, violates any of those provisions, rules or regulations.

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

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

11 (e) Revocation; Suspension; Compromise; Disclosure. –

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

18 a. Conviction of a felony or a crime involving fraud or moral
19 turpitude.

20 b. Fraud or misrepresentation in obtaining or renewing a license or
21 in the practice of funeral service.

22 c. False or misleading advertising as the holder of a license.

23 d. Solicitation of dead human bodies by the licensee, his agents,
24 assistants, or employees; but this paragraph shall not be
25 construed to prohibit general advertising by the licensee.

26 e. Employment directly or indirectly of any resident trainee agent,
27 assistant or other person, on a part-time or full-time basis, or on
28 commission, for the purpose of calling upon individuals or
29 institutions by whose influence dead human bodies may be
30 turned over to a particular licensee.

31 f. ~~The direct or indirect giving of certificates of credit or the~~
32 ~~payment or offer of payment of a commission by the licensee,~~
33 ~~his agents, assistants or employees for the purpose of securing~~
34 ~~business.~~business except as authorized by Article 13D of this
35 Chapter.

36 g. Gross immorality, including being under the influence of
37 alcohol or drugs while practicing funeral service.

38 h. Aiding or abetting an unlicensed person to perform services
39 under this Article, including the use of a picture or name in
40 connection with advertisements or other written material
41 published or caused to be published by the licensee.

42 i. Failing to treat a dead human body with respect at all times.
43 ~~Using profane, indecent or obscene language in the presence of~~
44 ~~a dead human body, and within the immediate hearing of the~~

1 ~~family or relatives of a deceased, whose body has not yet been~~
2 ~~interred or otherwise disposed of.~~

- 3 j. Violating or cooperating with others to violate any of the
4 provisions of this Article, the rules and regulations of the
5 Board, or the standards set forth in Funeral Industry Practices,
6 16 C.F.R. 453 (1984), as amended from time to time.
7 k. Violation of any State law or municipal or county ordinance or
8 regulation affecting the handling, custody, care or transportation
9 of dead human bodies.
10 l. Refusing to surrender promptly the custody of a dead human
11 body upon the express order of the person lawfully entitled to
12 the custody thereof.
13 m. Knowingly making any false statement on a certificate of death.
14 n. Indecent exposure or exhibition of a dead human body while in
15 the custody or control of a licensee.

16 In any case in which the Board is entitled to suspend, revoke or
17 refuse to renew a license, the Board may accept from the licensee an
18 offer to pay a penalty of not more than five thousand dollars (\$5,000).
19 The Board may either accept a penalty or revoke or refuse to renew a
20 license, but not both.

- 21 (2) Where the Board finds that a licensee is guilty of one or more of the
22 acts or omissions listed in subdivision (e)(1) of this section but it is
23 determined by the Board that the licensee has not thereby become unfit
24 to practice, the Board may place the licensee on a term of probation in
25 accordance with the procedures set out in Chapter ~~150B~~ 150B of the
26 General Statutes. In any case in which the Board is entitled to place a
27 licensee on a term of probation, the Board may also impose a penalty
28 of not more than five thousand dollars (\$5,000) in conjunction with the
29 probation.

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

36 No funeral service establishment shall accept a dead human body from any public
37 officer (excluding the State or county medical examiner or his agent), or employee or
38 from the official of any institution, hospital or nursing home, or from a physician or any
39 person having a professional relationship with a decedent, without having first made
40 due inquiry as to the desires of the persons who have the legal authority to direct the
41 disposition of the decedent's body. If any persons are found, their authority and
42 directions shall govern the disposal of the remains of the decedent. Any funeral service
43 establishment receiving the remains in violation of this subsection shall make no charge
44 for any service in connection with the remains prior to delivery of the remains as

1 stipulated by the persons having legal authority to direct the disposition of the body.
2 This section shall not prevent any funeral service establishment from charging and
3 being reimbursed for services rendered in connection with the removal of the remains of
4 any deceased person in case of accidental or violent death, and rendering necessary
5 professional services required until the persons having legal authority to direct the
6 disposition of the body have been notified.

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

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

25 (f) Unlawful Practices. – If any person shall practice or hold himself out as
26 practicing the profession or art of embalming, funeral directing or practice of funeral
27 service without having complied with the licensing provisions of this Article, he shall be
28 guilty of a Class 2 misdemeanor.

29 (g) Whenever it shall appear to the Board that any person, firm or corporation has
30 violated, threatens to violate or is violating any provisions of this Article, the Board may
31 apply to the courts of the State for a restraining order and injunction to restrain these
32 practices. If upon application the court finds that any provision of this Article is being
33 violated, or a violation is threatened, the court shall issue an order restraining and
34 enjoining the violations, and this relief may be granted regardless of whether criminal
35 prosecution is instituted under the provisions of this subsection. The venue for actions
36 brought under this subsection shall be the superior court of any county in which the acts
37 are alleged to have been committed or in the county where the defendant in the action
38 resides."

39 **SECTION 8.** G.S. 90-210.25A is recodified as G.S. 65-73A.

40 **SECTION 9.** G.S. 90-210.27A is amended by adding the following new
41 subsections to read:

42 "(i) No funeral establishment shall use an unregistered or misleading name.
43 Misleading names include, but are not limited to, names in the plural form when there is
44 only one funeral establishment and the use of the word "crematory" or "crematorium" in

1 the name of a funeral establishment that does not own a crematory. If an owner of a
2 funeral establishment owns more than one funeral establishment, the owner may not use
3 the word "crematory" or "crematorium" in the name of more than one of its funeral
4 establishments; except that each funeral home having a crematory on the premises may
5 contain the term "crematory" or "crematorium" in its name.

6 (j) A funeral establishment will not use any name other than the name by which
7 it is properly registered with the Board."

8 **SECTION 10.** G.S. 90-210.29A reads as rewritten:

9 **"§ 90-210.29A. Identification of bodies before burial or cremation.**

10 The funeral director or person otherwise responsible for the final disposition of a
11 dead body shall, prior to the interment or entombment of the dead body, affix on the
12 ankle or wrist of the dead body, or, if cremated, on the inside of the ~~vessel~~-temporary
13 container or urn containing the remains of the dead body, a tag of durable, noncorroding
14 material permanently marked with the name of the deceased, the date of death, the
15 social security number of the deceased, the county and state of death, and the site of
16 interment or entombment."

17 **SECTION 11.** G.S. 90-210.63(a)(2) reads as rewritten:

18 **"§ 90-210.63. Substitution of licensee.**

19 (a) If the preneed funeral contract is irrevocable, the preneed funeral contract
20 purchaser, or after his death the preneed funeral contract beneficiary or his legal
21 representative, upon written notice to the financial institution or insurance company and
22 the preneed licensee who is a party to the preneed funeral contract, may direct the
23 substitution of a different funeral establishment to furnish funeral services and
24 merchandise.

25 ...

26 (2) The original contracting preneed licensee shall immediately pay all
27 funds received to the successor funeral establishment designated.
28 Regardless of whether the substitution is made before or after the death
29 of the preneed funeral contract beneficiary, the original contracting
30 preneed licensee shall not be required to give credit for the amount
31 retained pursuant to G.S. 90-210.61(a)(2), except when there was a
32 substitution under G.S. 90-210.68(d1) and (e). ~~Except when there was~~
33 ~~a substitution under G.S. 90-210.68(d1) and (e), if the original~~
34 ~~contracting preneed licensee did not retain any portion of payments~~
35 ~~made as is permitted by G.S. 90-210.61(a)(2) then the preneed licensee~~
36 ~~may retain up to ten percent (10%) of the funds received from the~~
37 ~~financial institution.~~ Upon making payments pursuant to this
38 subsection, the financial institution and the original contracting
39 preneed licensee shall be relieved from all further contractual liability
40 thereon.

41 ..."

42 **SECTION 12.** G.S. 90-210.64(a) reads as rewritten:

43 **"§ 90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

1 (a) After the death of a preneed funeral contract beneficiary and full performance
2 of the preneed funeral contract by the preneed licensee, the preneed licensee shall
3 promptly complete a certificate of performance ~~or similar claim form~~ and present it to
4 the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the
5 insurance company that issued a preneed insurance policy pursuant to G.S.
6 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form,
7 the financial institution shall pay the trust funds to the contracting preneed licensee and
8 the insurance company shall pay the insurance proceeds according to the terms of the
9 policy. Within 10 days after receiving payment, the preneed licensee shall mail a copy
10 of the certificate of performance or other claim form to the Board."

11 **SECTION 13.** G.S. 90-210.65(e) reads as rewritten:

12 "**§ 90-210.65. Refund of preneed funeral funds.**

13 (e) This section shall not apply to irrevocable preneed funeral contracts.
14 Irrevocable preneed funeral contracts may not be revoked nor any proceeds refunded
15 except by order of a court of competent jurisdiction. Notwithstanding the previous
16 sentence, irrevocable preneed funeral contracts purchased pursuant to G.S. 90-
17 210.61(a)(3) shall also be revocable when the underlying insurance policy lapses or is
18 otherwise cancelled and the lapsed or cancelled policy no longer provides any funding
19 for the preneed funeral contract."

20 **SECTION 14.** G.S. 90-210.67(e) and (f) are repealed.

21 **SECTION 15.** G.S. 90-210.70 is amended by adding the following new
22 subsection to read:

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

33 **SECTION 16.** G.S. 143B-472.5, as recodified by Section 17 of this act,
34 reads as rewritten:

35 "**§ 90-210.35D. Assessments against association for expenses of Board of Mortuary**
36 **Science associations.**

37 ~~In order to meet the expenses of the supervision of the burial associations, the Board~~
38 ~~of Mortuary Science shall prepare an annual budget for the office of the Board of~~
39 ~~Mortuary Science. Thereafter, the Board of Mortuary Science shall~~ The North Carolina
40 Board of Funeral Service shall annually assess each burial association one hundred
41 dollars (\$100.00) plus an amount not to exceed fifty cents (50¢) per member, and shall
42 ~~prorate the remaining amount of this budget, over and above any other funds made~~
43 ~~available to it for this purpose, and assess each association on a pro rata basis in~~
44 ~~accordance with the number of members of each association. Each burial association~~

1 shall remit to the Board of ~~Mortuary Science-Funeral Service~~ its ~~pro-rata part of the total~~
2 assessment, which expense shall be included in the thirty per centum (30%) expense
3 allowance as provided in G.S. ~~143B-472.3-90-210.35B~~. This assessment shall be made
4 on the first day of July of each and every year and said assessment shall be paid within
5 30 days thereafter. If any association shall fail or refuse to pay such assessment within
6 30 days, the Board of ~~Mortuary Science-Funeral Service~~ is authorized to transfer all
7 memberships and assets of every kind and description to the nearest association that is
8 found by the Board of ~~Mortuary Science-Funeral Service~~ to be in good sound financial
9 condition."

10 **SECTION 17.** G.S. 143B-472.2 through G.S. 143B-472.29 are recodified as
11 G.S. 90-210.35A through G.S. 90-210.35BB.

12 **SECTION 18.** This act becomes effective October 1, 2003.