

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 657
HOUSE BILL 800

AN ACT TO AMEND CHAPTER 65 RELATING TO FUNERAL AND BURIAL
TRUST FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 65-36.1(1) is rewritten to read:

"(1) 'Commissioner' means the Commissioner of Banks of this State."

Sec. 2. G.S. 65-36.2 is amended as follows:

- (1) by deleting the word "All" at the beginning of the first sentence of subsection (a) and inserting in lieu thereof the phrase "Except as provided in this section, all";
- (2) by inserting a new subsection (b) following subsection (a) to read as follows and relettering the current subsections (b) and (c) as (c) and (d) respectively:

"(b) A funeral establishment licensed by the Commissioner may enter into an inflation-proof pre-need burial contract that establishes a fixed price for services and merchandise to be furnished at a future date regardless of changes in the cost of services and merchandise to the licensed funeral establishment. A licensed funeral establishment that enters into an inflation- proof pre-need burial contract may retain ten percent (10%) of all payments on the contract upon filing with the Commissioner a bond in the amount retained. The bond shall be in a form and with such surety or sureties as may be required by the Commissioner, conditioned on compliance with G.S. 65-36.2(e) and G.S. 65-36.3(b). In the event of noncompliance with G.S. 65- 36.2(e) the Commissioner shall disburse the proceeds of the bond in accordance with G.S. 65-36.2(e), and in the event of noncompliance with G.S. 65-36.3(b) the Commissioner shall disburse the proceeds to the party who made the payments to the licensed funeral establishment. That portion of all payments on the contract not retained by the licensed funeral establishment shall be deposited in a trust fund as provided in subsection (a) of this section."

- (3) by adding a new sentence at the end of current subsection (b) to read:
"The trust fund shall be established in an insured account in a financial institution and may be transferred from one approved financial institution to another."

- (4) by rewriting the first sentence of current subsection (c) to read:

"Upon the death of the beneficiary of a pre-need burial contract, the financial institution shall not pay funds it holds in trust under this section to the licensed funeral establishment until a certified statement is furnished to the financial institution that all

terms and conditions of the contract have been fully performed by the licensed funeral establishment."

- (5) by inserting a new subsection (e) to read as follows and relettering current subsections (d) and (e) as (f) and (g) respectively.

"(e) In the event that a person, partnership, association, or corporation other than the contracting licensed funeral establishment to a pre-need burial contract provides the services, merchandise or personal property described in the contract for the beneficiary thereof, the funds deposited in a financial institution pursuant to G.S. 65-36.2(a) together with all interest, dividends, increases or accretions earned on such fund and any amount retained by the licensed funeral establishment pursuant to G.S. 65-36.2(b) shall be paid to the provider of such services, merchandise or personal property upon submission to the financial institution and the licensed funeral establishment of a certified copy of the death certificate of the beneficiary and a certified copy of the charges for the services, merchandise or personal property provided for the deceased. Any balance remaining in the financial institution or retained by the licensed funeral establishment after payment to the provider shall be paid to the estate of the beneficiary of the contract. Upon making payment pursuant to this subsection and giving notice of payment to the licensed funeral establishment, the financial institution shall be relieved from all further liability. Upon making payment pursuant to this subsection, the licensed funeral establishment shall be relieved from all further liability. This subsection shall not apply if the pre-need contract provides that it is irrevocable."

Sec. 3. G.S. 65-36.3 is rewritten to read:

"(a) Within 30 days of receipt of a written demand for refund by any party who has paid funds under a pre-need burial contract, the financial institution with which such funds have been deposited shall refund to such party the entire amount deposited with the financial institution together with all interest, dividends, increases, or accretions earned on such fund.

(b) Within 30 days of receipt of a written demand for refund by any party who has paid funds under a pre-need burial contract, the licensed funeral establishment that has retained any portion of the payments pursuant to G.S. 65-36.2(b) shall refund to such party the entire principal amount retained by the licensed funeral establishment without any interest, dividends, increases or accretions earned on such fund.

(c) After making refund pursuant to this section and giving notice of the refund to the contracting licensed funeral establishment, the financial institution shall be relieved from all further liability. After making refund pursuant to this section, the licensed funeral establishment shall be relieved from all further liability.

(d) This section shall not apply if the pre-need burial contract provides that it is irrevocable."

Sec. 4. Article 7A of Chapter 65 of the General Statutes is amended by replacing the words "Department" or "State Banking Department" with the word "Commissioner" each place the word or words appear.

Sec. 5. The present G.S. 65-36.6 is designated as G.S. 65-36.6(a) and the following paragraphs are added:

"(b) Before any trust funds may be transferred to a financial institution that is not a party to a pre-need burial contract, the licensee shall notify the Commissioner of the name and address of the intended transferee financial institution; and before the transfer may be made, the transferee financial institution shall agree to make the disclosure required under the pre-need burial contract to the Commissioner or his designated examiner. If the contract is revocable, the licensee shall notify the contracting party of the intended transfer.

(c) In the event that any licensee should transfer or assign its assets or stock to a successor funeral establishment or terminate its business as a funeral establishment, the licensee shall notify the Commissioner within 15 days after the effective date of said transfer, assignment or terminations."

Sec. 6. This act shall become effective 30 days after ratification.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.