

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 430
HOUSE BILL 780

AN ACT TO AMEND THE LAW REGULATING THE PRACTICE OF FUNERAL
SERVICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-210.18(c)(9) is rewritten to read:

"(9)a. Election shall be determined by a majority of the votes cast. As used in this subdivision 'category I' refers to the seat held by a funeral service licensee or a person holding both a funeral director's license and an embalmer's license, and 'category II' refers to the seat held by a funeral director or a funeral service licensee. A majority shall be determined:

1. In an election to fill one seat in category I and one seat in category II, and if there are two or more candidates for a category, the majority shall be determined by dividing the total vote cast for all candidates in the category by two. An excess of the sum so ascertained shall be a majority.
 2. In an election to fill two seats in the same category, and if there are more than two candidates, the majority shall be determined by dividing the total vote cast for all candidates by two and by dividing the result by two. Any excess of the sum so ascertained shall be a majority. If more than two candidates obtain a majority the two having the highest vote shall be declared elected.
- b. If there is a failure to obtain a majority of the votes cast for any seat the following procedures shall apply:
1. In an election to fill one seat in category I and one seat in category II, and if no candidate receives a majority in a category, the candidate receiving the highest number of votes in that category shall be declared elected unless the candidate receiving the second highest number of votes, within 10 days of having been notified by the Board of the vote total, shall request a second election. In the second election, the names of the candidates who received the highest and the next highest number of votes shall appear on the ballot.
 2. In an election to fill two seats in the same category, and if no candidate receives a majority, the two candidates

receiving the highest number of votes shall be declared elected unless the candidate receiving the next highest number of votes, within 10 days of having been notified by the Board of the vote total, shall request a second election. In the second election the names of the two candidates who received the highest number of votes in the first election and the name of the candidate who received the next highest number of votes shall appear on the ballot, and the two candidates who receive the highest number of votes in the second election shall be declared elected. If in the first election only one candidate fails to receive a majority, the candidate receiving the highest number of votes, but not a majority, shall be declared elected unless the candidate receiving the next highest number of votes, within 10 days of having been notified by the Board of the vote total, shall request a second election. In the second election the name of the candidate who received the highest number of votes, but not a majority, in the first election and the name of the candidate who received the next highest number of votes shall appear on the ballot, and the candidate who receives the higher number of votes in the second election shall be declared elected.

- c. In any election if there is a tie between candidates the tie shall be resolved by a vote of the Board, provided that if a member of the Board is one of the candidates in the tie he may not participate in such vote."

Sec. 2. G.S. 90-210.20 is amended by adding two subdivisions to read:

"(1) (c1) 'Dead human bodies', as used in this Article includes fetuses beyond the second trimester and the ashes from cremated bodies.'

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

Sec. 3. G.S. 90-210.21 is repealed.

Sec. 4. G.S. 90-210.25(a)(1)c. is rewritten to read:

"c. Have completed a minimum of 32 semester hours or 48 quarter hours of instruction in a course of study including the subjects set out in items e.1. and 2. of this

subsection in a mortuary science college approved by the Board, or be a graduate of a mortuary science college approved by the Board."

Sec. 5. G.S. 90-210.25(a)(1)e.2. is rewritten to read:

"e. 2. Funeral service administration, including accounting, psychology, funeral principles and directing, and."

Sec. 6. G.S. 90-210.25(a)(3)e.3. is rewritten to read:

"e. 3. Funeral service administration, including accounting, psychology, funeral principles and directing, and".

Sec. 7. G.S. 90-210.25(a)(4) is amended by adding the following subdivisions, at the end:

"j. The Board shall not register a resident trainee unless it is shown that the funeral establishment where he is to be employed had at least 35 funerals during the 12 months immediately preceding the date of the application.

k. The Board shall not register more than one resident trainee for each 150 funerals had by the funeral establishment during the 12 months immediately preceding the date of the application."

Sec. 8. The third paragraph of G.S. 90-210.25(a)(5) is rewritten to read:

"The holder of any license issued by the Board who shall fail to renew the same on or before January 31 of the calendar year for which the license is to be renewed shall have forfeited and surrendered the license as of that date. No license forfeited or surrendered pursuant to the preceding sentence shall be reinstated by the Board unless it is shown to the Board that the applicant has, throughout the period of forfeiture, engaged full time in another state of the United States or the District of Columbia in the practice to which his North Carolina license applies and has completed for each such year continuing education substantially equivalent in the opinion of the Board to that required of North Carolina licensees; or has completed in North Carolina a total number of hours of accredited continuing education computed by multiplying five times the number of years of forfeiture; or has passed the North Carolina examination for the forfeited license. No additional resident traineeship shall be required. The applicant shall be required to pay all delinquent annual renewal fees and a reinstatement fee. The Board may waive the provisions of this section for an applicant for a forfeiture which occurred during his service in the armed forces of the United States provided he applies within six months following severance therefrom."

Sec. 9. G.S. 90-210.25(d)(1) is amended by adding the following, at the end:

"Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article."

Sec. 10. G.S. 90-210.25(d)(2)a. is amended by adding the following, at the end:

"who shall not be permitted to manage more than one funeral establishment,".

Sec. 11. G.S. 90-210.25(d)(2)c. is rewritten to read:

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

Sec. 12. G.S. 90-210.27 is repealed.

Sec. 13. Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-210.27A. **Funeral establishments.** – (a) Every funeral establishment shall contain a preparation room which is strictly private, of suitable size for the embalming of dead bodies. Each preparation room shall:

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

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

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

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

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

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

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

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

Sec. 14. Section 4 of this act shall not affect persons who are, on the effective date of this act, registered as resident trainees or students enrolled in a course of study pursuant to the requirements of G.S. 90-210.25(a)(I)c. as those requirements existed before being amended by this act. Section 7 of this act shall not affect persons who are, on the effective date of this act, registered resident trainees, their employers or licensed sponsors. Section 10 and the first sentence of paragraph (a) and all of paragraphs (c), (d), (e), and (f) of Section 13 of this act shall not affect funeral establishments which hold an establishment permit on the effective date of this act; provided, however, such exemptions shall not apply after the sale of a controlling interest in a funeral establishment.

Sec. 15. G.S. 90-210.31 is amended by adding a new subsection to read:

"(d1) This Article does not apply to pre-need burial contracts or pre-arrangements for funeral services or merchandise funded, at the direction of the purchaser, with the proceeds of any insurance policy regulated by Chapter 58 of the General Statutes."

Sec. 16. This act is effective upon ratification and Section 15 of this act shall expire on July 1, 1989.

In the General Assembly read three times and ratified this the 19th day of June, 1987.