

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

3

HOUSE BILL 1314
Committee Substitute Favorable 6/8/98
Committee Substitute #2 Favorable 8/5/98

Short Title: Cemetery Consumer Protection.

(Public)

Sponsors:

Referred to:

May 18, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CERTAIN CHANGES TO REGULATIONS REGARDING
3 CEMETERIES TO PROVIDE FOR CONSUMER PROTECTION, BASED ON
4 RECOMMENDATIONS OF THE LEGISLATIVE RESEARCH COMMISSION'S
5 STUDY COMMITTEE ON CEMETERY ISSUES.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 65-53 is amended by inserting a new subdivision to read:

8 "(3a) Investigate, upon its own initiative or upon a verified complaint in
9 writing, whether a particular contract for the sale of personal property or
10 services, whether preneed or at-need, contains the disclosures required
11 pursuant to G.S. 65-66(d) and to adopt temporary rules pursuant to
12 Chapter 150B of the General Statutes, if necessary, to implement this
13 subdivision until such time as permanent rules are adopted."

14 Section 2. G.S. 65-66(d) reads as rewritten:

15 "(d) Any contract for the sale of personal property ~~and/or or services~~ services,
16 whether preneed or at-need, shall state-disclose separate costs the following:

17 (1) The cost for each item of personal property, property and for each act of
18 installation or other service required by the contract, and for each other

1 ~~item of services included in the contract, including any costs for the right of~~
2 ~~interment, entombment, or inurnment;~~

3 (2) Specification of whether opening and closing of a grave space,
4 mausoleum space, or columbarium space is included in the contract,
5 and, if not, the current prices for opening and closing and a statement
6 that these prices are subject to change;

7 (3) Any requirements or costs relating to memorial markers, including any
8 obligations of the grave space, mausoleum space, or columbarium space
9 owner if the owner desires to have an outside provider provide the
10 marker and any costs relating to having an outside provider provide and
11 place a marker;

12 (4) A statement describing, in language that is readable and understandable
13 by a person of average intelligence, experience, and education, the
14 nature of the property right in the grave space, mausoleum space, or
15 columbarium space;

16 (5) A statement that a preneed purchaser has, pursuant to G.S. 65-66(m), 30
17 days following the execution of a contract to cancel the contract by
18 giving written notice to the seller and that the seller may cancel the
19 contract, upon default by the purchaser, by giving written notice to the
20 purchaser. The statement shall include (i) whether or not the purchaser
21 may transfer the purchaser's rights in the property to another person or
22 organization and (ii) whether or not the seller will refund all or part of
23 the purchase price and the conditions under which a refund will be
24 made, after the 30-day period, including the purchaser moving from one
25 locale to another;

26 (6) If the grave space, mausoleum space, or columbarium space has been
27 previously sold by the cemetery company to a purchaser and the space
28 was used in the final disposition interment, entombment, or inurnment
29 of human remains and has since returned to the inventory of available
30 spaces, a statement that the space has been used for a prior interment,
31 entombment, or inurnment;

32 (7) A statement identifying the person or legal entity which owns the
33 cemetery or provides the property or services, including whether the
34 entity is wholly or partially owned by another corporation; and

35 (8) If the purchaser may obtain property and services from an outside
36 provider and elects to do so, a statement disclosing any fees or
37 assessments charged to the outside provider.

38 Section 3. G.S. 65-53 is amended by adding a new subdivision to read:

39 "(9) The Commission shall keep records of the complaints received and the
40 action taken by the Commission on each complaint. These records shall
41 be kept for at least five years after receipt of the complaint."

42 Section 4. G.S. 65-71 is amended by adding a new subsection to read:

1 "(c) Failure to comply with the disclosure requirements contained in G.S. 65-66(d)
2 shall be punishable as a Class 3 misdemeanor."

3 Section 5. The Department of Justice through the Office of the Attorney
4 General, Consumer Protection Division, shall ensure that private, for-profit cemetery
5 companies operate within Article 1 of Chapter 75 of the General Statutes, titled
6 "Monopolies, Trusts, and Consumer Protection", the antitrust and unfair trade practices
7 laws.

8 Section 6. When the Legislative Research Commission Committee on
9 Cemetery Issues resumes its deliberations after the 1998 Regular Session, it shall
10 consider the following issues, in addition to the issues contained in its original charge: (i)
11 whether a purchaser of a grave space, mausoleum space, or columbarium space obtains a
12 transfer of real property or merely burial rights; (ii) whether the nature of the property
13 interest or right should be defined in statute; (iii) the extent to which there is overlap
14 among the agencies which regulate the death care industry; and (iv) whether other
15 providers of burial products and services should be regulated.

16 Section 7. This act is effective January 1, 1999, and is applicable to contracts
17 entered into on or after that date.