

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 808

Short Title: Merge Cemetery Comm./Funeral Service Board. (Public)

Sponsors: Representatives Boles and Alexander (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Regulatory Reform.

April 11, 2013

A BILL TO BE ENTITLED

AN ACT TO MERGE THE NORTH CAROLINA CEMETERY COMMISSION WITH THE NORTH CAROLINA BOARD OF FUNERAL SERVICE AND TO TRANSFER THE DUTIES AND POWERS OF THE NORTH CAROLINA CEMETERY COMMISSION TO THE NORTH CAROLINA BOARD OF FUNERAL SERVICE; RENAME THE NORTH CAROLINA BOARD OF FUNERAL SERVICE; AND MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Effective December 31, 2013, the North Carolina Cemetery Commission is abolished and the authority, powers, duties, and functions vested in the North Carolina Cemetery Commission are transferred to the North Carolina Board of Funeral Service, which shall be renamed the North Carolina Funeral Service and Cemetery Board. All records, property, and unexpended balances of funds of the North Carolina Cemetery Commission are transferred in their entirety to the North Carolina Funeral Service and Cemetery Board.

SECTION 2. G.S. 65-46, G.S. 65-48 through G.S. 65-53.1, and G.S. 90-210.20 of the General Statutes are repealed.

SECTION 3. Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 13G.

"Funeral and Cemetery Services."

SECTION 4. G.S. 65-47 is recodified as G.S. 90-210.142 under Part 1 of Article 13G of Chapter 90 of the General Statutes to be entitled "General Provisions."

SECTION 5. Part 1 of Article 13G of Chapter 90 of the General Statutes, as enacted in Section 4 of this act, reads as rewritten:

"Part. 1. General Provisions.

"§ 90-210.140. Definitions.

Unless the context requires otherwise, the following definitions apply in this Article:

- (1) Advertisement. – The publication, dissemination, circulation, or placing before the public or causing directly or indirectly to be made, published, disseminated, or placed before the public any announcement or statement in a newspaper, magazine, or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, or tag or over any radio, television station, or electronic medium.



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- 1 (2) Bank of belowground crypts. – Any construction unit of belowground crypts
2 acceptable to the Board which a cemetery uses to initiate its belowground
3 crypt program or to add to existing belowground crypt structures.
- 4 (3) Belowground crypts. – An interment space consisting of preplaced
5 chambers, either side by side or multiple depth, covered by earth and sod
6 and are also known as lawn crypts, westminsters, or turf top crypts.
- 7 (4) Board. – The North Carolina Funeral Service and Cemetery Board.
- 8 (5) Burial. – Interment in any form, cremation, and the transportation of the
9 dead human body as necessary therefor.
- 10 (6) Cemetery. – Any one or a combination of more than one of the following in
11 a place used or to be used and dedicated or designated for cemetery
12 purposes:
- 13 a. A burial park for earth interment.
- 14 b. A mausoleum.
- 15 c. A columbarium.
- 16 (7) Cemetery broker. – A legal entity engaged in the business of arranging sales
17 of cemetery products between legal entities and which sale does not involve
18 a cemetery company, but does not mean funeral establishments or funeral
19 directors operating under G.S. 90-210.155, when dealing between legal
20 entities wherein one of the entities shall be members of the family of a
21 deceased person or other persons authorized by law to arrange for the burial
22 and funeral of such deceased human being. This Article shall not apply to
23 any cemetery broker selling less than five grave spaces per year.
- 24 (8) Cemetery company. – Any legal entity that owns or controls cemetery lands
25 or property and conducts the business of a cemetery, including all cemeteries
26 owned and operated by governmental agencies, churches, and fraternal
27 organizations or their corporate agents for the duration of any sales and
28 management contracts entered into with cemetery sales organizations or
29 cemetery management organizations for cemetery purposes, or with any
30 other legal entity other than direct employees of said governmental agency,
31 church, or fraternal organization.
- 32 (9) Cemetery management organization. – Any legal entity contracting as an
33 independent contractor with a cemetery company to manage a cemetery, but
34 does not mean individual managers employed by and contracting directly
35 with cemetery companies operating under this Article.
- 36 (10) Cemetery sales organization. – Any legal entity contracting with a cemetery
37 which is exempt or not exempt under this Article to conduct sales of
38 cemetery products, but does not mean individual salesmen or sales managers
39 employed by and contracting directly with cemetery companies operating
40 under this Article.
- 41 (11) Columbarium. – A structure or building substantially exposed aboveground
42 intended to be used for the interment of the cremated remains of a deceased
43 person.
- 44 (12) Chapel. – A chapel or other facility separate from the funeral establishment
45 premises for the primary purpose of reposing of dead human bodies,
46 visitation, or funeral ceremony that is owned, operated, or maintained by a
47 funeral establishment under this Article and that does not use the word
48 "funeral" in its name, on a sign, in a directory, in advertising, or in any other
49 manner; in which or on the premises of which there is not displayed any
50 caskets or other funeral merchandise; in which or on the premises of which
51 there is not located any preparation room; and of which no owner, operator,

- 1 employee, or agent thereof represents the chapel to be a funeral
2 establishment.
- 3 (13) Dead human bodies. – The bodies of deceased humans, including fetuses
4 beyond the second trimester and the ashes from cremated bodies.
- 5 (14) Embalmer. – Any person engaged in the practice of embalming.
- 6 (15) Embalming. – The preservation and disinfection or attempted preservation
7 and disinfection of dead human bodies by application of chemicals
8 externally, internally, or both and the practice of restorative art including the
9 restoration or attempted restoration of the appearance of a dead human body.
10 Embalming shall not include the washing or use of soap and water to cleanse
11 or prepare a dead human body for disposition by the authorized agents,
12 family, or friends of the deceased who do so privately without pay or as part
13 of the ritual washing and preparation of dead human bodies prescribed by
14 religious practices; provided, that no dead human body shall be handled in a
15 manner inconsistent with G.S. 130A-395.
- 16 (16) Funeral directing. – Engaging in the practice of funeral service except
17 embalming.
- 18 (17) Funeral director. – Any person engaged in the practice of funeral directing.
- 19 (18) Funeral establishment. – Every place or premises devoted to or used in the
20 care, arrangement, and preparation for the funeral and final disposition of
21 dead human bodies, maintained for the convenience of the public in
22 connection with dead human bodies, or as the place for carrying on the
23 practice of funeral service.
- 24 (19) Funeral service licensee. – A person who is duly licensed and engaged in the
25 practice of funeral service.
- 26 (20) Funeral service. – The aggregate of all funeral service licensees and their
27 duties and responsibilities in connection with the funeral as an organized,
28 purposeful, time-limited, flexible, group-centered response to death.
- 29 (21) Grave space. – A space of ground in a cemetery intended to be used for the
30 interment in the ground of the remains of a deceased person.
- 31 (22) Human remains or remains. – The bodies of deceased persons, including the
32 bodies in any stage of decomposition and cremated remains.
- 33 (23) Mausoleum. – A structure or building substantially exposed aboveground
34 intended to be used for the entombment of remains of a deceased person.
- 35 (24) Mausoleum section. – Any construction unit of a mausoleum acceptable to
36 the Board which a cemetery uses to initiate its mausoleum program or to add
37 to its existing mausoleum structures.
- 38 (25) Person. – An individual, corporation, partnership, joint venture, or
39 association as it relates to the operation of a cemetery.
- 40 (26) Practice of funeral service. – Engaging in the care or disposition of dead
41 human bodies or in the practice of disinfecting and preparing, by embalming
42 or otherwise, dead human bodies for the funeral service, transportation,
43 burial, or cremation, or in the practice of funeral directing or embalming as
44 presently known, whether under these titles, designations, or otherwise.
45 "Practice of funeral service" also means engaging in making arrangements
46 for funeral service, selling funeral supplies to the public, or making financial
47 arrangements for the rendering of the services or the sale of the supplies.
- 48 (27) Resident trainee. – A person who is engaged in preparing to become licensed
49 for the practice of funeral directing, embalming, or funeral service under the
50 personal supervision and instruction of a person duly licensed for the
51 practice of funeral directing, embalming, or funeral service in the State of

1 North Carolina under the provisions of this Chapter and who is duly
 2 registered as a resident trainee with the Board.

3 (28) Vault. – A crypt or underground receptacle which is used for interment in
 4 the ground and which is designed to encase and protect caskets or similar
 5 burial devices. For the purposes of this Article, a vault is a pre-need item
 6 until delivery to the purchaser.

7 **"§ 90-210.141. License required for funeral service or cemetery operation.**

8 (a) An individual shall not engage in the practice of funeral directing, embalming, or
 9 funeral service as defined in G.S. 90-210.140 unless the individual is licensed in accordance
 10 with Part 3 of this Article.

11 (b) A person shall not operate as a cemetery company or sell pre-need grave space
 12 without first receiving a license to conduct the business in accordance with Part 4 of this
 13 Article.

14 **"§ 90-210.142. Scope-Application of Article.**

15 (a) The provisions of this Article shall apply to all persons engaged in the practice of
 16 funeral service and the business of operating a cemetery as defined herein, except cemeteries in
 17 this Article. Cemeteries owned and operated by governmental agencies or churches-churches
 18 shall be exempt from this Article.

19 (b) Any cemetery beneficially owned and operated by a fraternal organization or its
 20 corporate agent for at least 50 years prior to September 1, 1975, shall be exempt from the
 21 provisions of Article 9 of this Chapter-Article.

22 (c) The provisions of this Article shall not apply to persons licensed under Article 13D
 23 of Chapter 90 of the General Statutes when engaging in activities for which a license is
 24 required under the Article."

25 **SECTION 6.** The following sections of Article 13A of Chapter 90 of the General
 26 Statutes are recodified as Part 2 of Article 13G of Chapter 90 of the General Statutes, to be
 27 entitled "Funeral Service and Cemetery Board."

28 (1) G.S. 90-210.18A is recodified as G.S. 90-210.145.

29 (2) G.S. 90-210.19 is recodified as G.S. 90-210.146.

30 (3) G.S. 90-210.22 is recodified as G.S. 90-210.147.

31 (4) G.S. 90-210.23 is recodified as G.S. 90-210.148.

32 (5) G.S. 90-210.24 is recodified as G.S. 90-210.149.

33 **SECTION 7.** Part 2 of Article 13G of Chapter 90 of the General Statutes, as
 34 enacted by Section 6 of this act, reads as rewritten:

35 "Part 2. Funeral Service and Cemetery Board.

36 **"§ 90-210.145. Board of Funeral Service and Cemetery Board created; qualifications;**
 37 **vacancies; removal.**

38 (a) Purpose. – The General Assembly declares that the practice of funeral service
 39 affects-and the operation of cemeteries affect the public health, safety, and welfare and is-are
 40 subject to regulation and control in the public interest. The public interest requires that only
 41 qualified persons be permitted to practice funeral service and operate cemeteries in North
 42 Carolina and that the-profession-these professions merit the confidence of the public. This
 43 Article shall be liberally construed to accomplish these ends.

44 (b) Board Created. – The North Carolina Board-of-Funeral Service and Cemetery Board
 45 is created and shall regulate the practice of funeral service and the operation of cemeteries in
 46 this State. The Board shall have nine-12 members as follows:

47 (1) Four-Two members appointed by the Governor from nominees
 48 recommended by the North Carolina Funeral Directors Association, Inc.
 49 These members shall be persons licensed under this Article.

- 1 (2) Two members appointed by the Governor from nominees recommended by
 2 the Funeral Directors & Morticians Association of North Carolina, Inc.
 3 These members shall be persons licensed under this Article.
- 4 (3) ~~One member~~ Two members appointed by the Governor who ~~is licensed under~~
 5 ~~this Article and who is~~ are not affiliated with any funeral service trade
 6 ~~association.~~ association or cemetery operation.
- 7 (3a) Two members appointed by the Governor from a list of six nominees
 8 recommended by the North Carolina Cemetery Association.
- 9 (4) ~~One member~~ Two members appointed by the General Assembly, upon the
 10 recommendation of the President Pro Tempore of the Senate. ~~This One~~
 11 ~~member shall be a person who is not licensed under this Article or employed~~
 12 ~~by a person who is licensed under this Article.~~ Article and one member shall
 13 be a person who owns or manages a cemetery located in North Carolina.
- 14 (5) ~~One member~~ Two members appointed by the General Assembly, upon the
 15 recommendation of the Speaker of the House of Representatives. ~~This One~~
 16 ~~member shall be a person who is not licensed under this Article or employed~~
 17 ~~by a person who is licensed under this Article.~~ Article and one member shall
 18 be a person who owns or manages a cemetery located in North Carolina.
- 19 (b1) Terms. – Members of the Board shall serve staggered three-year terms, ending on
 20 December 31 of the last year of the term or when a successor has been duly appointed,
 21 whichever is later. No member may serve more than two complete consecutive terms.

22 ...
 23 **"§ 90-210.147. Required meetings of the Board.**

24 The Board shall hold at least four meetings in each year. In addition, the Board may meet as
 25 often as the proper and efficient discharge of its duties shall require. ~~Five~~ Seven members shall
 26 constitute a quorum.

27 **"§ 90-210.148. Powers and duties of the Board.**

28 (a) The Board is authorized to adopt and promulgate ~~such the~~ rules and regulations for
 29 transaction of its ~~business~~ business, specifications for the minimum quality of any product sold,
 30 and for the carrying out and enforcement of the provisions of this Article as may be necessary
 31 and as are consistent with the laws of this State and of the United States.

32 (b) The Board shall elect from its members a president, a vice-president and a secretary,
 33 no two offices to be held by the same person. The president and vice-president and secretary
 34 shall serve for one year and until their successors shall be elected and qualified. The Board
 35 shall have authority to engage adequate staff as deemed necessary to perform its duties.

36 (c) The members of the Board shall serve without compensation provided that ~~such the~~
 37 ~~members shall be reimbursed for their necessary traveling expenses and the necessary expenses~~
 38 ~~incident to their attendance upon the business of the Board, and in addition thereto they shall~~
 39 ~~receive per diem and expense reimbursement as provided in G.S. 93B-5 for every day actually~~
 40 ~~spent by such the member upon the business of the Board. All expenses, salaries and per diem~~
 41 ~~provided for in this Article shall be paid from funds received under the provisions of this~~
 42 ~~Article and shall in no manner be an expense to the State.~~

43 (d) Every person licensed by the Board and every resident trainee shall furnish all
 44 information required by the Board reasonably relevant to the practice of the profession or
 45 business for which the person is a licensee or resident trainee. Every funeral service
 46 establishment and its ~~records and~~ records; every place of business where the practice of funeral
 47 service or embalming is carried on and its ~~records~~ records; and every cemetery, cemetery
 48 broker, cemetery company, cemetery management organization, and cemetery sales
 49 organization and their records shall be subject to inspection by the Board during normal hours
 50 of operation and periods shortly before or after normal hours of operation and shall furnish all
 51 information required by the Board reasonably relevant to the business therein conducted. Every

1 licensee, resident trainee, embalming facility, ~~and funeral service establishment~~ establishment,
2 cemetery, cemetery broker, cemetery company, cemetery management organization, and
3 cemetery sales organization shall provide the Board with a current post-office address which
4 shall be placed on the appropriate register and all notices required by law or by any rule or
5 regulation of the Board to be mailed to any licensee, resident trainee, embalming facility, ~~or~~
6 ~~funeral service establishment~~ establishment, cemetery, cemetery broker, cemetery company,
7 cemetery management organization, or cemetery sales organization shall be validly given when
8 mailed to the address so provided.

9 (d1) The Board is empowered to hold hearings in accordance with the provisions of this
10 Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive the
11 affirmation of witnesses before the Board.

12 In any show cause hearing before the Board held under the authority of Chapter 150B of the
13 General Statutes where the Board imposes discipline against a licensee, the Board may recover
14 the costs, other than attorneys' fees, of holding the hearing against all respondents jointly, not to
15 exceed two thousand five hundred dollars (\$2,500).

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

29 (e1) When the Board finds that failure by a licensee to maintain a cemetery properly has
30 caused that cemetery to be a public nuisance or a health or safety hazard, the Board may bring
31 an action for injunctive relief against the responsible licensee in the superior court of the county
32 in which the cemetery or any part thereof is located.

33 (e2) The Board may apply to the courts in its own name for injunctive relief to prevent
34 violations of this Article or violations of any rules adopted pursuant to this Article. Any court
35 may grant injunctive relief regardless of whether criminal prosecution or any other action is
36 instituted as a result of the violation. A single violation is sufficient to invoke the injunctive
37 relief under this subdivision. In any of these actions, an order or judgment may be entered
38 awarding a temporary or permanent injunction as may be deemed proper; provided, that before
39 any of these actions is brought the Board shall give the cemetery at least 20 days' notice in
40 writing, stating the alleged violation and giving the cemetery an opportunity within the 20-day
41 period to cure the violation. In addition to all other means provided by law for the enforcement
42 of a temporary restraining order, temporary injunction, or permanent injunction, the court shall
43 have the power and jurisdiction to impound and to appoint a receiver for the property and
44 business of the defendant, including books, papers, documents, and records appertaining
45 thereto or so much thereof as the court may deem reasonably necessary to prevent further
46 violation of this Article through or by means of the use of said property and business. The
47 Board may institute proceedings against the cemetery or its officers, where after an
48 examination pursuant to this Article a shortage in the care and maintenance trust fund,
49 merchandise trust fund, or mausoleum and belowground crypts preconstruction trust fund is
50 discovered, to recover the shortage.

1 (e3) To examine a cemetery company's records when a person applies for a change of
2 control of the company.

3 (e4) The Board may investigate, upon its own initiative or upon a verified complaint in
4 writing, the actions of any person engaged in the business or acting in the capacity of a licensee
5 under this Article. The license of a licensee may be revoked or suspended for a period not
6 exceeding two years, or until compliance with a lawful order imposed in the final order of
7 suspension, or both, where the licensee in performing or attempting to perform any of the acts
8 specified in this Article has been guilty of any of the following:

9 (1) Failing to pay the fees required herein.

10 (2) Failing to make any reports required by this Article.

11 (3) Failing to remit to the care and maintenance trust fund, merchandise trust
12 fund, or preconstruction trust fund the required amounts.

13 (4) Making any substantial misrepresentation.

14 (5) Making any false statement of a character likely to influence or persuade.

15 (6) A continued and flagrant course of misrepresentation or making of false
16 promises through cemetery agents or salesmen.

17 (7) Violating any provision of this Article or rule promulgated by the Board.

18 (8) Any other conduct, whether of the same or a different character than
19 specified in this section, which constitutes fraud or dishonest dealing.

20 (e5) Whenever any special additional audit or examination of a licensee's premises,
21 facilities, books, or records is necessary because of the failure of the licensee to comply with
22 the requirements imposed in this Article or by the rules and regulations of the Board, to charge
23 a fee based on the cost of the special examination or audit, taking into consideration the salary
24 of any employees involved in the special audit or examination and any expenses incurred.

25 (f) The Board may establish, supervise, regulate and control programs for the resident
26 trainee. It may approve schools of mortuary science or funeral service, graduation from which
27 is required by this Article as a qualification for the granting of any license, and may establish
28 essential requirements and standards for such approval of mortuary science or funeral service
29 schools.

30 (g) Schools for teaching mortuary science which are approved by the Board shall have
31 extended to them the same privileges as to the use of bodies for dissecting while teaching as
32 those granted in this State to medical colleges, but ~~such~~ the bodies shall be obtained through the
33 same agencies which provide bodies for medical colleges.

34 (h) The Board shall adopt a common seal.

35 (h1) The Board shall have the power to acquire, hold, rent, encumber, alienate, and
36 otherwise deal with real property in the same manner as a private person or corporation, subject
37 only to approval of the Governor and the Council of State. Collateral pledged by the Board for
38 an encumbrance is limited to the assets, income, and revenues of the Board.

39 (h2) The Board may employ legal counsel and clerical and technical assistance, and fix
40 the compensation therefor, and incur ~~such~~ any other expenses as may be deemed necessary in
41 the performance of its duties and the enforcement of the provisions of this Article or as
42 otherwise required by law and as may be necessary to carry out the powers herein conferred.

43 (i) The Board may perform ~~such~~ any other acts and exercise ~~such~~ any other powers and
44 duties as may be provided elsewhere in this Article or otherwise by law and as may be
45 necessary to carry out the powers herein conferred.

46 **"§ 90-210.149. ~~Inspector.~~Inspectors; compliance with Article.**

47 (a) The Board ~~may~~ shall appoint ~~one or more~~ agents who shall serve at the pleasure of
48 the Board and who shall have the title "Inspector of the North Carolina ~~Board of Funeral~~
49 ~~Service.~~" Service and Cemetery Board." No person is eligible for appointment as inspector
50 unless at the time of the appointment the person is licensed under this ~~Article as a funeral~~
51 ~~service licensee.~~ Article.

1 (b) To determine compliance with the provisions of this Article and regulations
2 promulgated under this Article, inspectors may do any of the following:

- 3 (1) Enter the office, establishment or place of business of any funeral service
4 licensee, funeral director or embalmer in North Carolina, and any office,
5 establishment or place in North Carolina where the practice of funeral
6 service or embalming is carried on, or where that practice is advertised as
7 being carried on, or where a funeral is being conducted or a body is being
8 embalmed, to inspect the records, office, establishment, or facility, or to
9 inspect the practice being carried on or license or registration of any licensee
10 and any resident trainee operating ~~therein~~therein.
- 11 (2) Enter any hospital, nursing home, or other institution from which a dead
12 human body has been removed by any person licensed under this Article or
13 their designated representative to inspect records pertaining to the removal
14 and its ~~authorization~~and authorization.
- 15 (3) May inspect criminal and probation records of licensees and applicants for
16 licenses under this Article to obtain evidence of their character.
- 17 (4) Enter the office, establishment, or place of business in North Carolina of any
18 cemetery broker, cemetery company, cemetery management organization,
19 cemetery sales organization, or pre-need sales licensee to inspect the records,
20 office, establishment, or facility or to inspect the practice conducted or
21 license of any licensee.
- 22 (5) ~~Inspectors may~~May serve papers and subpoenas issued by the Board or any
23 office or member thereof under authority of this Article, and shall perform
24 other duties prescribed or ordered by the Board.

25 (c) Upon request by the Board, the Attorney General of North Carolina shall provide
26 the inspectors with appropriate identification cards, signed by the Attorney General or his
27 designated agent.

28 (d) The Board may prescribe an inspection form to be used by the inspectors in
29 performing their duties."

30 **SECTION 8.** The following sections of Article 13A of Chapter 90 of the General
31 Statutes are recodified as Part 3 of Article 13G of Chapter 90 of the General Statutes, to be
32 entitled "Funeral Service License."

- 33 (1) G.S. 90-210.25 is recodified as G.S. 90-210.155.
34 (2) G.S. 90-210.25B is recodified as G.S. 90-210.156.
35 (3) G.S. 90-210.26 is recodified as G.S. 90-210.157.
36 (4) G.S. 90-210.27A is recodified as G.S. 90-210.158.
37 (5) G.S. 90-210.28 is recodified as G.S. 90-210.159.
38 (6) G.S. 90-210.29 is recodified as G.S. 90-210.160.
39 (7) G.S. 90-210.29B is recodified as G.S. 90-210.161.

40 **SECTION 9.** G.S. 65-54 through G.S. 65-71 are recodified as Part 4 of Article 13G
41 of Chapter 90 of the General Statutes, G.S. 90-210.165 through G.S. 90-210.184 to be entitled
42 "Cemetery License."

43 **SECTION 10.** G.S. 65-54, recodified as G.S. 90-210.165 by Section 8 of this act,
44 reads as rewritten:

45 "**§ 90-210.165. Annual budget of Commission; cemetery and inspection fee; collection of**
46 **funds.**

47 ~~The Commission shall prepare an annual budget and shall collect the sums of money~~
48 ~~required for this budget from yearly fees and from any other sources provided in this Article.~~
49 On or before July 1 of each year, each licensed cemetery shall pay a license fee to be set by the
50 ~~Commission Board~~ in an amount not to exceed six hundred dollars (\$600.00). In addition, each
51 licensed cemetery shall pay to the ~~Commission Board~~ an inspection fee for each grave space,

1 niche, or mausoleum crypt when the certificate of interment right is issued and shall pay a fee
2 for each vault, belowground crypt, memorial, or opening and closing of a grave space that is
3 included in a preneed cemetery contract. The inspection fee for each grave space, niche, or
4 mausoleum crypt is payable when the certificate of interment right is issued and may not
5 exceed four dollars (\$4.00). The fee for each of the listed items that are included in a preneed
6 cemetery contract is payable when the contract is made and may not exceed ten dollars
7 (\$10.00)."

8 **SECTION 11.** G.S. 65-55(a), as recodified as G.S. 90-210.166(a) by Section 8 of
9 this act, is repealed.

10 **SECTION 12.** G.S. 65-56, recodified as G.S. 90-210.167 by Section 8 of this act,
11 reads as rewritten:

12 **"§ 90-210.167. Existing companies; effect of Article.**

13 Existing cemetery companies at the time of the adoption of this Chapter shall continue in
14 full force and effect and be granted a license but shall hereafter be operated in accordance with
15 the provisions of Article ~~9-13G~~ of this Chapter."

16 **SECTION 13.** G.S. 90-210.29A, 65-72, and 65-73 are recodified as
17 G.S. 90-210.170 through G.S. 90-210.173 in Part 5 of Article 13G of Chapter 90 of the General
18 Statutes, to be entitled "Miscellaneous Provisions."

19 **SECTION 14.** G.S. 58-58-97 reads as rewritten:

20 **"§ 58-58-97. Provision of life insurance information upon notification of insured's death.**

21 (a) Any person licensed to practice funeral directing or any employee of a funeral
22 establishment licensed under the provisions of Article ~~13A-13G~~ of Chapter 90 of the General
23 Statutes providing funeral service, as that term is defined in G.S. 90-210.20, for a deceased
24 person insured or believed to be insured under a contract of life insurance or under a group life
25 insurance policy may request information regarding the deceased person's life insurance
26 contracts by providing an insurer with (i) a copy of a notification of death filed pursuant to
27 G.S. 130A-112, (ii) written authorization from the person or persons with legal authority to
28 direct disposition of the deceased's body as prescribed under G.S. 90-210.124 or
29 G.S. 130A-420, and (iii) in the case of a person covered or believed to be covered under a
30 group life insurance policy, the affiliation of the deceased entitling them to coverage under the
31 group life insurance policy. As soon as possible after receipt of the request, the life insurance
32 company shall inform the person authorized by this section to make an inquiry of the
33 following:

- 34 (1) The existence of any contract insuring the life of the deceased person.
- 35 (2) Any beneficiaries on record under any life insurance contract insuring the
36 life of the deceased person.
- 37 (3) The amount of any liens or loans outstanding on the policy.
- 38 (4) The amount of benefits payable to the beneficiaries.
- 39 (5) Whether the policy has been reinstated within the last 24 months.

40 The insurer shall provide a claim form to any person or assignee making the request.

41"

42 **SECTION 15.** G.S. 65-106 reads as rewritten:

43 **"§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate
44 filed; reinterment expenses; due care required.**

45 ...

46 (f) The party effecting the disinterment, removal, and reinterment of a decedent's
47 remains under the provisions of this Part shall ensure that the site in which reinterment is
48 accomplished shall be of such suitable dimensions to accommodate the remains of that
49 decedent only and that such site shall be reasonably accessible to all relatives of that decedent,
50 provided that the remains may be reinterred in a common grave where written consent is
51 obtained from the next of kin. If under the authority of this Part, disinterment, removal, and

1 reinterment are effected by the State of North Carolina or any of its agencies, public
2 institutions, or political subdivisions, the United States of America or any agency thereof, any
3 electric power or lighting company, then such disinterment, removal, and reinterment shall be
4 performed by a funeral director duly licensed as a "funeral director" or a "funeral service
5 licensee" under the provisions of Article ~~13A-13G~~ of Chapter 90 of the General Statutes.

6"

7 **SECTION 16.** G.S. 90-210.60 reads as rewritten:

8 **"§ 90-210.60. Definitions.**

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

- 10 (1) "Board" means the North Carolina ~~Board of Funeral Service and Cemetery~~
11 Board as created pursuant to Article ~~13A-13G~~ of Chapter 90 of the General
12 Statutes;

13"

14 **SECTION 17.** G.S. 90-210.67 reads as rewritten:

15 **"§ 90-210.67. Application for license.**

16 (a) No person may offer or sell preneed funeral contracts or offer to make or make any
17 funded funeral prearrangements without first securing a license from the Board.
18 Notwithstanding any other provision of law, any person who offers to sell or sells a casket, to
19 be furnished or delivered at a time determinable by the death of the person whose body is to be
20 disposed of in the casket, shall first comply with the provisions of this Article. There shall be
21 two types of licenses: a preneed funeral establishment license and a preneed sales license. Only
22 funeral establishments holding a valid establishment permit pursuant to ~~G.S. 90-210.25(d)~~
23 G.S. 90-210.155(d) shall be eligible for a preneed funeral establishment license. Employees and
24 agents of such entities, upon meeting the qualifications to engage in preneed funeral planning
25 as established by the Board, shall be eligible for a preneed sales license. The Board shall
26 establish the preneed funeral planning activities that are permitted under a preneed sales
27 license. The Board shall adopt rules establishing such qualifications and activities no later than
28 12 months following the ratification of this act [Session Laws 1991 (Reg. Sess., 1992), c. 901,
29 s. 2]. Preneed sales licensees may sell preneed funeral contracts, prearrangement insurance
30 policies, and make funded funeral prearrangements only on behalf of one preneed funeral
31 establishment licensee; provided, however, they may sell preneed funeral contracts,
32 prearrangement insurance policies, and make funeral prearrangements for any number of
33 licensed preneed funeral establishments that are wholly owned by or affiliated with, through
34 common ownership or contract, the same entity; provided further, in the event they engage in
35 selling prearrangement insurance policies, they shall meet the licensing requirements of the
36 Commissioner of Insurance. Every preneed funeral contract shall be signed by a person
37 licensed as a funeral director or funeral service licensee pursuant to Article ~~13A-13G~~ of
38 Chapter 90 of the General Statutes.

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

46"

47 **SECTION 18.** G.S. 130A-33.31 read as rewritten:

48 **"§ 130A-33.31. Commission of Anatomy – Members; selection; term; chairman; quorum;
49 meetings.**

50 (a) The Commission of Anatomy shall consist of five members, one representative from
51 the field of mortuary science, and one each from The University of North Carolina School of

1 Medicine, East Carolina University School of Medicine, Duke University School of Medicine,
2 and Bowman Gray School of Medicine. The dean of each school shall make recommendations
3 and the Secretary shall appoint from such recommendations a member to the Commission. The
4 president of the ~~State Board of Funeral Service~~ North Carolina Funeral Service and Cemetery
5 Board shall appoint the representative from the field of mortuary science to the Commission.
6 The members shall serve terms of four years except two of the original members shall serve a
7 term of one year, one shall serve a term of two years, one shall serve a term of three years, and
8 one shall serve a term of four years. The Secretary shall determine the terms of the original
9 members.

10"

11 **SECTION 18.(a)** The terms of members appointed to the North Carolina Funeral
12 Service and Cemetery Board and serving as of July 1, 2013, shall expire on December 31,
13 2013.

14 **SECTION 18.(b)** Notwithstanding any other provision of law, the terms of the two
15 of the members appointed to the North Carolina Funeral Service and Cemetery Board by the
16 Governor pursuant to G.S. 90-210.135(1), as amended by this act, shall expire December 31,
17 2013.

18 **SECTION 18.(c)** Notwithstanding the provisions of G.S. 90-210.145, as enacted
19 by Section 6 of this act, to establish staggered terms for the three members appointed to the
20 North Carolina Funeral Service and Cemetery Board (Board) pursuant to this act, appointments
21 to the Board shall be as follows:

- 22 (1) The members appointed by the Governor pursuant to G.S. 90-210.145(3a),
23 as enacted by Section 7 of this act, shall be appointed for two-year terms to
24 commence January 1, 2014, and expire December 31, 2016.
- 25 (2) The member appointed by the General Assembly upon the recommendation
26 of the President Pro Tempore of the Senate, who owns or manages a
27 cemetery in North Carolina pursuant to G.S. 90-210.145, as enacted by
28 Section 7 of this act, shall be appointed for a one-year term to commence
29 January 1, 2014, and to expire December 31, 2014.
- 30 (3) The member appointed by the General Assembly upon the recommendation
31 of the Speaker of the House of Representatives, who owns or manages a
32 cemetery in North Carolina pursuant to G.S. 90-210.145, as enacted by
33 Section 7 of this act, shall be appointed for a three-year term to commence
34 January 1, 2014, and to expire December 31, 2016.

35 Members described in this section shall serve for the terms for which they were appointed and
36 until their successors are appointed and qualified.

37 **SECTION 19.** The Revisor of Statutes shall change the word "Commission" or the
38 phrase "Cemetery Commission" to the word "Board" wherever it appears in Article 13G of
39 Chapter 90 of the General Statutes.

40 **SECTION 20.** The Revisor of Statutes shall change the phrase "this Article" to the
41 phrase "this Part" wherever it appears in Parts 2, 3, and 4 of Article 13G of Chapter 90 of the
42 General Statutes.

43 **SECTION 21.** The Revisor of Statutes shall change the phrase "Board of Funeral
44 Service" or "State Board of Funeral Service" with the phrase "Funeral Service and Cemetery
45 Board" wherever it appears in Articles 13B through 13F of Chapter 90 of the General Statutes.

46 **SECTION 22.** The Revisor of Statutes shall, on or after the effective date of this
47 act, correct any reference or citation in the General Statutes that is amended by this act by
48 deleting the incorrect references and substituting correct references.

49 **SECTION 23.** Unless otherwise provided, this act becomes effective December 31,
50 2013.