

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS35313-LU-81 (3/13)**

Short Title: Amend Funeral Serv. Prac./Other Related Laws. (Public)

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Sponsors: Senator Atwater.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS PERTAINING TO THE PRACTICE OF  
FUNERAL SERVICE, MUTUAL BURIAL ASSOCIATIONS, PRENEED  
FUNERAL FUNDS, AND CREMATIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-210.18A reads as rewritten:

**"§ 90-210.18A. Board of Funeral Service created; qualifications; vacancies; removal.**

(a) The General Assembly declares that the practice of funeral service affects the public health, safety, and welfare and is subject to regulation and control in the public interest. The public interest requires that only qualified persons be permitted to practice funeral service in North Carolina and that the profession merit the confidence of the public. This Article shall be liberally construed to accomplish these ends.

(b) The North Carolina Board of Funeral Service is created and shall regulate the practice of funeral service in this State. The Board shall have nine members as follows:

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

(2) Two members appointed by the Governor from nominees recommended by the Funeral Directors & Morticians Association of North Carolina, Inc. These members shall be persons licensed under this Article.

(3) One member appointed by the Governor who is licensed under this Article and who is not affiliated with any funeral service trade association.

(4) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate. This

1 member shall be a person who is not licensed under this Article or  
2 employed by a person who is licensed under this Article.

- 3 (5) One member appointed by the General Assembly, upon the  
4 recommendation of the Speaker of the House of Representatives. This  
5 member shall be a person who is not licensed under this Article or  
6 employed by a person who is licensed under this Article.

7 Members of the Board shall serve staggered three-year terms, ending on ~~June~~  
8 30 December 1 of the last year of the term or when a successor has been duly appointed,  
9 whichever is later. No member may serve more than two complete consecutive terms.

10 (c) Vacancies. – A vacancy shall be filled in the same manner as the original  
11 appointment, except that all unexpired terms of Board members appointed by the  
12 General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill  
13 vacancies shall serve the remainder of the unexpired term and until their successors  
14 have been duly appointed and qualified.

15 (d) Removal. – The Board may remove any of its members for neglect of duty,  
16 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings  
17 as a licensee shall be disqualified from participating in the official business of the Board  
18 until the charges have been resolved."

19 **SECTION 2.** G.S. 90-210.20 reads as rewritten:

20 "**§ 90-210.20. Definitions.**

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

27 (b) "Board" means the North Carolina Board of Funeral Service.

28 (c) "Burial" includes interment in any form, cremation and the transportation of  
29 the dead human body as necessary therefor.

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

32 (d) "Embalmer" means any person engaged in the practice of embalming.

33 (e) "Embalming" means the preservation and disinfection or attempted  
34 preservation and disinfection of dead human bodies by application of chemicals  
35 externally or internally or both and the practice of restorative art including the  
36 restoration or attempted restoration of the appearance of a dead human body.  
37 Embalming shall not include the washing or use of soap and water to cleanse or prepare  
38 a dead human body for disposition by the authorized agents, family, or friends of the  
39 deceased who do so privately without pay or as part of the ritual washing and  
40 preparation of dead human bodies prescribed by religious practices; provided, that no  
41 dead human body shall be handled in a manner inconsistent with G.S. 130A-395.

42 (e1) "~~Funeral chapel~~" "Chapel" means a chapel or other facility separate from the  
43 funeral establishment premises for the primary purpose of reposing of dead human  
44 bodies, visitation or funeral ceremony that is owned, operated, or maintained by a

1 funeral establishment ~~or other licensee~~ under this Article, and that does not use the word  
2 "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in  
3 which or on the premises of which there is not displayed any caskets or other funeral  
4 merchandise; in which or on the premises of which there is not located any preparation  
5 room; and which no owner, operator, employee, or agent thereof represents the chapel  
6 to be a funeral establishment.

7 (f) "Funeral directing" means engaging in the practice of funeral service except  
8 embalming.

9 (g) "Funeral director" means any person engaged in the practice of funeral  
10 directing.

11 (h) "Funeral establishment" means every place or premises devoted to or used in  
12 the care, arrangement and preparation for the funeral and final disposition of dead  
13 human bodies and maintained for the convenience of the public in connection with dead  
14 human bodies or as the place for carrying on the ~~profession-practice~~ of funeral service.

15 (i) "Funeral service licensee" means a person who is duly licensed and engaged  
16 in the practice of funeral service.

17 (j) "Funeral service" means the aggregate of all funeral service licensees and  
18 their duties and responsibilities in connection with the funeral as an organized,  
19 purposeful, time-limited, flexible, group-centered response to death.

20 (k) "Practice of funeral service" means engaging in the care or disposition of  
21 dead human bodies or in the practice of disinfecting and preparing by embalming or  
22 otherwise dead human bodies for the funeral service, transportation, burial or cremation,  
23 or in the practice of funeral directing or embalming as presently known, whether under  
24 these titles or designations or otherwise. "Practice of funeral service" also means  
25 engaging in making arrangements for funeral ~~service,~~service or cremation, selling  
26 funeral supplies to the public or making financial arrangements for the rendering of  
27 such services or the sale of such supplies.

28 (l) "Resident trainee" means a person who is engaged in preparing to become  
29 licensed for the practice of funeral directing, embalming or funeral service under the  
30 personal supervision and instruction of a person duly licensed for the practice of funeral  
31 directing, embalming or funeral service in the State of North Carolina under the  
32 provisions of this Chapter, and who is duly registered as a resident trainee with the  
33 Board."

34 **SECTION 3.** G.S. 90-210.23 reads as rewritten:

35 **"§ 90-210.23. Powers and duties of the Board.**

36 (a) The Board is authorized to adopt and promulgate such rules and regulations  
37 for transaction of its business and for the carrying out and enforcement of the provisions  
38 of this Article as may be necessary and as are consistent with the laws of this State and  
39 of the United States.

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

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

9 (d) Every person licensed by the Board and every resident trainee shall furnish all  
10 information required by the Board reasonably relevant to the practice of the profession  
11 or business for which the person is a licensee or resident trainee. Every funeral service  
12 establishment and its records and every place of business where the practice of funeral  
13 service or embalming is carried on and its records shall be subject to inspection by the  
14 Board during normal hours of operation and periods shortly before or after normal hours  
15 of operation and shall furnish all information required by the Board reasonably relevant  
16 to the business therein conducted. Every licensee, resident trainee, embalming facility,  
17 and funeral service establishment shall provide the Board with a current post-office  
18 address which shall be placed on the appropriate register and all notices required by law  
19 or by any rule or regulation of the Board to be mailed to any licensee, resident trainee,  
20 embalming facility, or funeral service establishment shall be validly given when mailed  
21 to the address so provided.

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

25 In any show cause hearing before the Board held under the authority of Chapter  
26 150B of the General Statutes where the Board imposes discipline against a licensee, the  
27 Board may recover the costs, other than attorneys' fees, of holding the hearing against  
28 all respondents jointly, not to exceed five thousand dollars (\$5,000).

29 (e) The Board is empowered to regulate and inspect, according to law, funeral  
30 service establishments and embalming facilities, their operation, and the licenses under  
31 which they are operated, and to enforce as provided by law the rules, regulations, and  
32 requirements of the Division of Health Services and of the city, town, or county in  
33 which the funeral service establishment or embalming facility is maintained and  
34 operated. Any funeral establishment or embalming facility that, upon inspection, is  
35 found not to meet all of the requirements of this Article shall pay a reinspection fee to  
36 the Board for each additional inspection that is made to ascertain that the deficiency or  
37 other violation has been corrected. The Board is also empowered to enforce compliance  
38 with the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as  
39 amended from time to time.

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

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

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

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

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

16 (i) The Board may perform such other acts and exercise such other powers and  
17 duties as may be provided elsewhere in this Article or otherwise by law and as may be  
18 necessary to carry out the powers herein conferred."

19 **SECTION 4.** G.S. 90-210.25 reads as rewritten:

20 "**§ 90-210.25. Licensing.**

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

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

24 a. Be at least 18 years of age.

25 b. Be of good moral character.

26 c. Be a graduate of a Funeral Director Program at a mortuary  
27 science college approved by the Board or a school of mortuary  
28 science accredited by the American Board of Funeral Service  
29 Education. Have completed a minimum of 32 semester hours or  
30 48 quarter hours of instruction, including the subjects set out in  
31 sub-part e.1. of this subdivision, as prescribed by a mortuary  
32 science college approved by the Board or a school of mortuary  
33 science accredited by the American Board of Funeral Service  
34 Education.

35 d. Have completed 12 months of resident traineeship as a funeral  
36 director, pursuant to the procedures and conditions set out in  
37 G.S. 90-210.25(a)(4), either before or after satisfying the  
38 educational requirement under sub-subdivision c. of this  
39 subdivision.

40 e. Have passed an oral or written funeral director examination on  
41 the following subjects:

42 1. Psychology, sociology, pathology, funeral directing,  
43 business law, funeral law, funeral management, and  
44 accounting.

- 1                                 2.     Repealed by Session Laws 1997-399, s. 5.  
2                                 3.     Laws of North Carolina and rules of the Board and other  
3   agencies dealing with the care, transportation and  
4   disposition of dead human bodies.
- 5             (2)   To be licensed for the practice of embalming under this Article, a  
6                     person must:
- 7                     a.     Be at least 18 years of age.  
8                     b.     Be of good moral character.  
9                     c.     Be a graduate of a mortuary science college approved by the  
10                                 Board.  
11                    d.     Have completed 12 months of resident traineeship as an  
12                                 embalmer pursuant to the procedures and conditions set out in  
13                                 G.S. 90-210.25(a)(4), either before or after satisfying the  
14                                 educational requirement under sub-subdivision c. of this  
15                                 subdivision.  
16                    e.     Have passed an oral or written embalmer examination on the  
17                                 following subjects:
- 18                                 1.     Embalming, restorative arts, chemistry, pathology,  
19   microbiology, and anatomy.  
20                                 2.     Repealed by Session Laws 1997-399, s. 6.  
21                                 3.     Laws of North Carolina and rules of the Board and other  
22   agencies dealing with the care, transportation and  
23   disposition of dead human bodies.
- 24             (3)   To be licensed for the practice of funeral service under this Article, a  
25                     person must:
- 26                     a.     Be at least 18 years of age.  
27                     b.     Be of good moral character.  
28                     c.     Be a graduate of and receive an associate degree from a  
29                                 mortuary science college approved by the Board or a school of  
30                                 mortuary science accredited by the American Board of Funeral  
31                                 Service Education. Have completed a minimum of 60 semester  
32                                 hours or 90 quarter hours of instruction, including the subjects  
33                                 set out in sub-part e.1. of this subdivision, as prescribed by a  
34                                 mortuary science college approved by the Board or a school of  
35                                 mortuary science accredited by the American Board of Funeral  
36                                 Service Education.  
37                    d.     Have completed 12 months of resident traineeship as a funeral  
38                                 service licensee, pursuant to the procedures and conditions set  
39                                 out in G.S. 90-210.25(a)(4), either before or after satisfying the  
40                                 educational requirement under sub-subdivison c. of this  
41                                 subdivision.  
42                    e.     Have passed an oral or written funeral service examination on  
43                                 the following subjects:

- 1 1. Psychology, sociology, funeral directing, business law,  
2 funeral law, funeral management, and accounting.
- 3 2. Embalming, restorative arts, chemistry, pathology,  
4 microbiology, and anatomy.
- 5 3. Repealed by Session Laws 1997-399, s. 7.
- 6 4. Laws of North Carolina and rules of the Board and other  
7 agencies dealing with the care, transportation and  
8 disposition of dead human bodies.
- 9 (4) a. A person desiring to become a resident trainee shall apply to the  
10 Board on a form provided by the Board. The application shall  
11 state that the applicant is not less than 18 years of age, of good  
12 moral character, and is the graduate of a high school or the  
13 equivalent thereof, and shall indicate the licensee under whom  
14 the applicant expects to train. A person training to become an  
15 embalmer may serve under either a licensed embalmer or a  
16 funeral service licensee. A person training to become a funeral  
17 director may serve under either a licensed funeral director or a  
18 funeral service licensee. A person training to become a funeral  
19 service licensee shall serve under a funeral service licensee. The  
20 application must be sustained by oath of the applicant and be  
21 accompanied by the appropriate fee. When the Board is  
22 satisfied as to the qualifications of an applicant it shall instruct  
23 the secretary to issue a certificate of resident traineeship.
- 24 b. ~~When~~ Within 30 days of a resident trainee ~~leaves~~ leaving the  
25 proctorship of the licensee under whom the trainee has worked,  
26 the licensee shall file with the Board an affidavit showing the  
27 length of time served with the licensee by the trainee, and the  
28 affidavit shall be made a matter of record in the Board's office.  
29 The licensee shall deliver a copy of the affidavit to the trainee.
- 30 c. A person who has not completed the traineeship and wishes to  
31 do so under a licensee other than the one whose name appears  
32 on the original certificate may reapply to the Board for  
33 approval.
- 34 d. A certificate of resident traineeship shall be signed by the  
35 resident trainee and upon payment of the renewal fee shall be  
36 renewable one year after the date of original registration; but  
37 the certificate may not be renewed more than two times. The  
38 Board shall mail to each registered trainee at his last known  
39 address a notice that the renewal fee is due and that, if not paid  
40 within 30 days of the notice, the certificate will be canceled. A  
41 late fee, in addition to the renewal fee, shall be charged for a  
42 late renewal, but the renewal of the registration of any resident  
43 trainee who is engaged in the active military service of the  
44 United States at the time renewal is due may, at the discretion

- 1 of the Board, be held in abeyance for the duration of that  
2 service without penalties. No credit shall be allowed for the  
3 12-month period of resident traineeship that shall have been  
4 completed more than five years preceding the examination for a  
5 license.
- 6 e. All registered resident trainees shall report to the Board at least  
7 once every month during traineeship upon forms provided by  
8 the Board listing the work which has been completed during the  
9 preceding month of resident traineeship. The data contained in  
10 the reports shall be certified as correct by the licensee under  
11 whom the trainee has served during the period and by the  
12 licensed person who is managing the funeral service  
13 establishment. Each report shall list the following:
- 14 1. For funeral director trainees, the conduct of any funerals  
15 during the relevant time period,
  - 16 2. For embalming trainees, the embalming of any bodies  
17 during the relevant time period,
  - 18 3. For funeral service trainees, both of the activities named  
19 in 1 and 2 of this subsection, engaged in during the  
20 relevant time period.
- 21 f. To meet the resident traineeship requirements of  
22 G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and  
23 G.S. 90-210.25(a)(3) the following must be shown by the  
24 affidavit(s) of the licensee(s) under whom the trainee worked:
- 25 1. That the funeral director trainee has, under supervision,  
26 assisted in directing at least 25 funerals during the  
27 resident traineeship,
  - 28 2. That the embalmer trainee has, under supervision,  
29 assisted in embalming at least 25 bodies during the  
30 resident traineeship,
  - 31 3. That the funeral service trainee has, under supervision,  
32 assisted in directing at least 25 funerals and, under  
33 supervision, assisted in embalming at least 25 bodies  
34 during the resident traineeship.
- 35 g. The Board may suspend or revoke a certificate of resident  
36 traineeship for violation of any provision of this Article.
- 37 h. Each sponsor for a registered resident trainee must during the  
38 period of sponsorship be actively employed with a funeral  
39 establishment. The traineeship shall be a primary vocation of  
40 the trainee.
- 41 i. Only one resident trainee may register and serve at any one time  
42 under any one person licensed under this Article.
- 43 j., k. Repealed by Session Laws 1991, c. 528, s. 4.



- 1                   1.       The Board shall register no more than one resident trainee at a  
2 funeral establishment that served 100 or fewer families during  
3 the 12 months immediately preceding the date of the  
4 application, and shall register no more than one resident trainee  
5 for each additional 100 families served at the funeral  
6 establishment during the 12 months immediately preceding the  
7 date of the application.
- 8                   (5)     The Board by regulation may recognize other examinations that the  
9 Board deems equivalent to its own.
- 10                  a.       All licenses shall be signed by the president and secretary of the  
11 Board and the seal of the Board affixed thereto. All licenses  
12 shall be issued, renewed or duplicated for a period not  
13 exceeding one year upon payment of the renewal fee, and all  
14 licenses, renewals or duplicates thereof shall expire and  
15 terminate the thirty-first day of December following the date of  
16 their issue unless sooner revoked and canceled; provided, that  
17 the date of expiration may be changed by unanimous consent of  
18 the Board and upon 90 days' written notice of such change to all  
19 persons licensed for the practice of funeral directing,  
20 embalming and funeral service in this State.
- 21                  b.       The holder of any license issued by the Board who shall fail to  
22 renew the same on or before February 1 of the calendar year for  
23 which the license is to be renewed shall have forfeited and  
24 surrendered the license as of that date. No license forfeited or  
25 surrendered pursuant to the preceding sentence shall be  
26 reinstated by the Board unless it is shown to the Board that the  
27 applicant has, throughout the period of forfeiture, engaged full  
28 time in another state of the United States or the District of  
29 Columbia in the practice to which his North Carolina license  
30 applies and has completed for each such year continuing  
31 education substantially equivalent in the opinion of the Board to  
32 that required of North Carolina licensees; or has completed in  
33 North Carolina a total number of hours of accredited continuing  
34 education computed by multiplying five times the number of  
35 years of forfeiture; or has passed the North Carolina  
36 examination for the forfeited license. No additional resident  
37 traineeship shall be required. The applicant shall be required to  
38 pay all delinquent annual renewal fees and a reinstatement fee.  
39 The Board may waive the provisions of this section for an  
40 applicant for a forfeiture which occurred during his service in  
41 the armed forces of the United States provided he applies within  
42 six months following severance therefrom.
- 43                  c.       All licensees now or hereafter licensed in North Carolina shall  
44 take continuing education courses in subjects relating to the

- 1 practice of the profession for which they are licensed, to the end  
2 that the benefits of learning and reviewing skills will be utilized  
3 and applied to assure proper service to the public.
- 4 d. As a prerequisite to the annual renewal of a license, the licensee  
5 must complete, during the year immediately preceding renewal,  
6 at least five hours of continuing education courses, of which the  
7 Board may require licensees to take up to two hours specified  
8 by the Board. All continuing education courses must be  
9 approved by the Board prior to enrollment. A licensee who  
10 completes more than five hours in a year may carry over a  
11 maximum of five hours as a credit to the following year's  
12 requirement. A licensee who is issued an initial license on or  
13 after July 1 does not have to satisfy the continuing education  
14 requirement for that year.
- 15 e. The Board shall not renew a license unless fulfillment of the  
16 continuing education requirement has been certified to it on a  
17 form provided by the Board, but the Board may waive this  
18 requirement for renewal in cases of certified illness or undue  
19 hardship or where the licensee lives outside of North Carolina  
20 and does not practice in North Carolina, and the Board shall  
21 waive the requirement for all licensees who were licensed on or  
22 before December 31, 2003, and have been licensed in North  
23 Carolina for a continuous period of 25 years or more, for all  
24 licensees who are licensed on or after January 1, 2004, who  
25 have been licensed for a continuous period of 25 years or more  
26 and have attained the age of 60 years, and for all licensees who  
27 are, at the time of renewal, members of the General Assembly.
- 28 f. The Board shall cause to be established and offered to the  
29 licensees, each calendar year, at least eight hours of continuing  
30 education courses. The Board may charge licensees attending  
31 these courses a reasonable registration fee in order to meet the  
32 expenses thereof and may also meet those expenses from other  
33 funds received under the provisions of this Article.
- 34 g. Any person who having been previously licensed by the Board  
35 as a funeral director or embalmer prior to July 1, 1975, shall not  
36 be required to satisfy the requirements herein for licensure as a  
37 funeral service licensee, but shall be entitled to have such  
38 license renewed upon making proper application therefor and  
39 upon payment of the renewal fee provided by the provisions of  
40 this Article. Persons previously licensed by the Board as a  
41 funeral director may engage in funeral directing, and persons  
42 previously licensed by the Board as an embalmer may engage  
43 in embalming. Any person having been previously licensed by  
44 the Board as both a funeral director and an embalmer may upon

1 application therefor receive a license as a funeral service  
2 licensee.

- 3 h. The Department of Justice may provide a criminal record check  
4 to the Board for a person who has applied for a new or renewal  
5 license, or certification through the Board. The Board shall  
6 provide to the Department of Justice, along with the request, the  
7 fingerprints of the applicant, any additional information  
8 required by the Department of Justice, and a form signed by the  
9 applicant consenting to the check of the criminal record and to  
10 the use of the fingerprints and other identifying information  
11 required by the State or national repositories. The applicant's  
12 fingerprints shall be forwarded to the State Bureau of  
13 Investigation for a search of the State's criminal history record  
14 file, and the State Bureau of Investigation shall forward a set of  
15 the fingerprints to the Federal Bureau of Investigation for a  
16 national criminal history check. The Board shall keep all  
17 information pursuant to this subdivision privileged, in  
18 accordance with applicable State law and federal guidelines,  
19 and the information shall be confidential and shall not be a  
20 public record under Chapter 132 of the General Statutes.

21 The Department of Justice may charge each applicant a fee  
22 for conducting the checks of criminal history records authorized  
23 by this subdivision.

24 (a1) Inactive Licenses. – Any person holding a license issued by the Board for  
25 funeral directing, for embalming, or for the practice of funeral service may apply for an  
26 inactive license in the same category as the active license held. The inactive license is  
27 renewable annually. Continuing education is not required for the renewal of an inactive  
28 license. ~~The only activity that a holder of an inactive license may not engage in is to~~  
29 ~~vote pursuant to G.S. 90-210.18(e)(2).~~ any activity requiring an active license. The  
30 holder of an inactive license may apply for an active license in the same category, and  
31 the Board shall issue an active license if the applicant has completed ~~in North Carolina~~ a  
32 total number of hours of accredited continuing education equal to five times the number  
33 of years the applicant held the inactive license. No application fee is required for the  
34 reinstatement of an active license pursuant to this subsection. The holder of an inactive  
35 license who returns to active status shall surrender the inactive license to the Board.

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

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

41 (2) The licensee:

- 42 a. Maintains all of his or her business records at a location made  
43 known to the Board and available for inspection by the Board

1 under the same terms and conditions as the business records of  
2 a licensed funeral establishment;

- 3 b. Complies with rules and regulations imposed on funeral  
4 establishments and the funeral profession that are designed to  
5 protect consumers, to include, but not be limited to, the Federal  
6 Trade Commission's laws and rules requiring General Price  
7 Lists and Statements of Goods and Services; and
- 8 c. Pays to the Board the funeral establishment license fee required  
9 by law and set by the Board.

10 Nothing in this subdivision shall preclude a licensee from arranging  
11 cremations and cremating human remains while employed by a  
12 crematory.

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

- 14 (1) The Board shall grant licenses to funeral directors, embalmers and  
15 funeral service licensees, licensed in other states, territories, the  
16 District of Columbia, and foreign countries, when it is shown that the  
17 applicant holds a valid license as a funeral director, embalmer or  
18 funeral service licensee issued by the other jurisdiction, has  
19 demonstrated knowledge of the laws and rules governing the  
20 profession in North Carolina and has submitted proof of his good  
21 moral character; and either that the applicant has continuously  
22 practiced the profession in the other jurisdiction for at least three years  
23 immediately preceding his application, or the Board has determined  
24 that the licensing requirements for the other jurisdiction are  
25 substantially similar to those of North Carolina.
- 26 (2) The Board shall periodically review the mortuary science licensing  
27 requirements of other jurisdictions and shall determine which licensing  
28 requirements are substantially similar to the requirements of North  
29 Carolina.
- 30 (3) The Board may issue special permits, to be known as courtesy cards,  
31 permitting nonresident funeral directors, embalmers and funeral  
32 service licensees to remove bodies from and to arrange and direct  
33 funerals and embalm bodies in this State, but these privileges shall not  
34 include the right to establish a place of business in or engage generally  
35 in the business of funeral directing and embalming in this State.  
36 Except for special permits issued by the Board for teaching continuing  
37 education programs and for work in connection with disasters, no  
38 special permits may be issued to nonresident funeral directors,  
39 embalmers, and funeral service licensees from states that do not issue  
40 similar courtesy cards to persons licensed in North Carolina pursuant  
41 to this Article.

42 (c) Registration, Filing and Transportation. –

- 43 (1) The holder of any license granted by this State for those within the  
44 funeral service profession or renewal thereof provided for in this

1 Article shall cause registration to be filed in the office of the board of  
2 health of the county or city in which he practices his profession, or if  
3 there be no board of health in such county or city, at the office of the  
4 clerk of the superior court of such county. All such licenses,  
5 certificates, duplicates and renewals thereof shall be displayed in a  
6 conspicuous place in the funeral establishment where the holder  
7 renders service.

8 (2) It shall be unlawful for any railway agent, express agency, baggage  
9 master, conductor or other person acting as such, to receive the dead  
10 body of any person for shipment or transportation by railway or other  
11 public conveyance, to a point outside of this State, unless the body is  
12 accompanied by a burial-transit permit.

13 (3) The "transportation or removal of a dead human body" shall mean the  
14 removal of a dead human body for a fee from the location of the place  
15 of death or discovery of death or the transportation of the body to or  
16 from a medical facility, funeral establishment or facility, crematory or  
17 related holding facility, place of final disposition, or place designated  
18 by the Medical Examiner for examination or autopsy of the dead  
19 human body.

20 (4) Any individual, not otherwise exempt from this subsection, shall apply  
21 for and receive a permit from the Board before engaging in the  
22 transportation or removal of a dead human body in this State. Unless  
23 otherwise exempt from this subsection, no corporation or other  
24 business entity shall engage in the transportation or removal of a dead  
25 human body unless it has in its employ at least one individual who  
26 holds a permit issued under this section. No individual permit holder  
27 shall engage in the transportation or removal of a dead human body for  
28 more than one person, firm, or corporation without first providing the  
29 Board with written notification of the name and physical address of  
30 each such employer.

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

35 a. Licensees under this Article and their employees.

36 b. Employees of common carriers.

37 c. Except as provided in sub-subdivision (6)c. of this section,  
38 employees of the State and its agencies and employees of local  
39 governments and their agencies.

40 d. Funeral directors licensed in another state and their employees.

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

42 a. Emergency medical technicians, rescue squad workers,  
43 volunteer and paid firemen, and law enforcement

- 1                    ~~officers~~ officers while acting within the scope of their  
2                    employment.
- 3                    b. Employees of public or private hospitals, nursing homes, or  
4                    long-term care facilities, while handling a dead human body  
5                    within such facility or while acting within the scope of their  
6                    employment.
- 7                    c. State and county medical examiners and their investigators.
- 8                    d. Any individual transporting cremated remains.
- 9                    e. Any individual transporting or removing a dead human body of  
10                    their immediate family or next of kin.
- 11                    f. Any individual who has exhibited special care and concern for  
12                    the decedent.
- 13                    (7) Individuals eligible to receive a permit under this section for the  
14                    transportation or removal of a dead human body for a fee, shall:
- 15                    a. Be at least 18 years of age.
- 16                    b. Possess and maintain a valid drivers license issued by this State  
17                    and provide proof of all liability insurance required for the  
18                    registration of any vehicle in which the person intends to  
19                    engage in the business of the removal or transportation of a  
20                    dead human body.
- 21                    c. Affirmatively state under oath that the person has read and  
22                    understands the statutes and rules relating to the removal and  
23                    transportation of dead human bodies and any guidelines as may  
24                    be adopted by the Board.
- 25                    d. Provide three written character references on a form prescribed  
26                    by the Board, one of which must be from a licensed funeral  
27                    director.
- 28                    e. Be of good moral character.
- 29                    (8) The permit issued under this section shall expire on December 31 of  
30                    each year. The application fee for the individual permit shall not  
31                    exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed  
32                    one hundred dollars (\$100.00), in addition to the renewal fee not to  
33                    exceed seventy-five dollars (\$75.00), shall be charged for any  
34                    application for renewal received by the Board after February 1 of each  
35                    year.
- 36                    (9) No person shall transport a dead human body in the open cargo area or  
37                    passenger area of a vehicle or in any vehicle in which the body may be  
38                    viewed by the public. Any person removing or transporting a dead  
39                    human body shall either cover the body, place it upon a stretcher  
40                    designed for the purpose of transporting humans or dead human bodies  
41                    in a vehicle, and secure such stretcher in the vehicle used for  
42                    transportation, or shall enclose the body in a casket or container  
43                    designed for common carrier transportation, and secure the casket or  
44                    container in the vehicle used for transportation. No person shall fail to

1 treat a dead human body with respect at all times. No person shall take  
2 a photograph or video recording of a dead human body without the  
3 consent of a member of the deceased's immediate family or next of kin  
4 or other authorizing agent.

5 (10) The Board may adopt rules under this section including permit  
6 application procedures and the proper procedures for the removal,  
7 handling, and transportation of dead human bodies. The Board shall  
8 consult with the Office of the Chief Medical Examiner before  
9 initiating rule making under this section and before adopting any rules  
10 pursuant to this section. Nothing in this section prohibits the Office of  
11 the Chief Medical Examiner from adopting policies and procedures  
12 regarding the removal, transportation, or handling of a dead human  
13 body under the jurisdiction of that office that are more stringent than  
14 the laws in this section or any rules adopted under this section. Any  
15 violation of this section or rules adopted under this section may be  
16 punished by the Board by a suspension or revocation of the permit to  
17 transport or remove dead human bodies or by a term of probation. The  
18 Board may, in lieu of any disciplinary measure, accept a penalty not to  
19 exceed five thousand dollars (\$5,000) per violation.

20 (11) Each applicant for a permit shall provide the Board with the applicant's  
21 home address, name and address of any corporation or business entity  
22 employing such individual for the removal or transportation of dead  
23 human bodies, and the make, year, model, and license plate number of  
24 any vehicle in which a dead human body is transported. A permittee  
25 shall provide written notification to the Board of any change in the  
26 information required to be provided to the Board by this section or by  
27 the application for a permit within 30 days after such change takes  
28 place.

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

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

38 (d) Establishment Permit. –

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

- 1 (2) A permit shall be issued when:  
2 a. It is shown that the funeral establishment has in charge a  
3 person, known as a manager, licensed for the practice of funeral  
4 directing or funeral service, who shall not be permitted to  
5 manage more than one funeral establishment. The manager  
6 shall be charged with overseeing the daily operation of the  
7 funeral establishment. If the manager leaves the employment of  
8 the funeral establishment and is the only licensee employed  
9 who is eligible to serve as manager, the funeral establishment  
10 may operate without a manager for a period not to exceed 30  
11 days so long as: (i) the funeral establishment retains one or  
12 more licensees to perform all services requiring a license under  
13 this Article; (ii) the licensees are not practicing under the  
14 exception authorized by G.S. 90-210.25(a2) and would  
15 otherwise be eligible to serve as manager; and (iii) the funeral  
16 establishment registers the name of the licensees with the  
17 Board.  
18 b. The Board receives a list of the names of all part-time and  
19 full-time licensees employed by the establishment.  
20 c. It is shown that the funeral establishment satisfies the  
21 requirements of G.S. 90-210.27A.  
22 d. The Board receives payment of the permit fee.
- 23 (3) Applications for funeral establishment permits shall be made on forms  
24 provided by the Board and filed with the Board by the owner, a  
25 partner, a member of the limited liability company, or an officer of the  
26 corporation by January 1 of each year, and shall be accompanied by  
27 the application fee or renewal fee, as the case may be. All permits shall  
28 expire on December 31 of each year. If the renewal application and  
29 renewal fee are not received in the Board's office on or before  
30 February 1, a late renewal fee, in addition to the regular renewal fee,  
31 shall be charged.
- 32 (4) The Board may place on probation, refuse to issue or renew, suspend  
33 suspend, or revoke a permit when an owner, partner, manager,  
34 member, operator, or officer of the funeral establishment violates any  
35 provision of this Article or any regulations of the Board, or when any  
36 agent or employee of the funeral establishment, with the consent of  
37 any person, firm or corporation operating the funeral establishment,  
38 violates any of those provisions, rules or regulations. In any case in  
39 which the Board is entitled to place a funeral establishment permittee  
40 on a term of probation, the Board may also impose a penalty of not  
41 more than five thousand dollars (\$5,000) in conjunction with the  
42 probation. In any case in which the Board is entitled to suspend,  
43 revoke, or refuse to renew a permit, the Board may accept from the  
44 funeral establishment permittee an offer to pay a penalty of not more



1 than five thousand dollars (\$5,000). The Board may either accept a  
2 penalty or revoke or refuse to renew a license, but not both. Any  
3 penalty under this subdivision may be in addition to any penalty  
4 assessed against one or more licensed individuals employed by the  
5 funeral establishment.

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

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

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

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

20 a. Conviction of a felony or a crime involving fraud or moral  
21 turpitude.

22 a1. Denial, suspension, or revocation of an occupational or business  
23 license by another jurisdiction.

24 b. Fraud or misrepresentation in obtaining or renewing a license or  
25 in the practice of funeral service.

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

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

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

35 f. The payment or offer of payment of a commission by the  
36 licensee, his agents, assistants or employees for the purpose of  
37 securing business except as authorized by Article 13D of this  
38 Chapter.

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

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

- 1 i. Failing to treat a dead human body with respect at all times.  
2 j. Violating or cooperating with others to violate any of the  
3 provisions of this ~~Article~~, Article or Articles 13D, 13E, or 13F  
4 of Chapter 90 of the General Statutes, any rules and regulations  
5 of the Board, or the standards set forth in Funeral Industry  
6 Practices, 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 or cremated remains upon the express order of the person  
12 lawfully entitled to the custody thereof.  
13 m. Knowingly making any false statement on a certificate of  
14 ~~death~~, death or violating or cooperating with others to violate  
15 any provision of Article 4 or 16 of Chapter 130A of the General  
16 Statutes or any rules or regulations promulgated under those  
17 Articles as amended from time to time.  
18 n. Indecent exposure or exhibition of a dead human body while in  
19 the custody or control of a licensee.

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

- 25 (2) Where the Board finds that a licensee is guilty of one or more of the  
26 acts or omissions listed in subdivision (e)(1) of this section but it is  
27 determined by the Board that the licensee has not thereby become unfit  
28 to practice, the Board may place the licensee on a term of probation in  
29 accordance with the procedures set out in Chapter 150B of the General  
30 Statutes. In any case in which the Board is entitled to place a licensee  
31 on a term of probation, the Board may also impose a penalty of not  
32 more than five thousand dollars (\$5,000) in conjunction with the  
33 probation. The Board may also require satisfactory completion of  
34 remedial or educational training as a prerequisite to license  
35 reinstatement or for completing the term of probation.

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

42 No funeral service establishment shall accept a dead human body from any public  
43 officer (excluding the State or county medical examiner or his agent), or employee or  
44 from the official of any institution, hospital or nursing home, or from a physician or any

1 person having a professional relationship with a decedent, without having first made  
2 due inquiry as to the desires of the persons who have the legal authority to direct the  
3 disposition of the decedent's body. If any persons are found, their authority and  
4 directions shall govern the disposal of the remains of the decedent. Any funeral service  
5 establishment receiving the remains in violation of this subsection shall make no charge  
6 for any service in connection with the remains prior to delivery of the remains as  
7 stipulated by the persons having legal authority to direct the disposition of the body.  
8 This section shall not prevent any funeral service establishment from charging and  
9 being reimbursed for services rendered in connection with the removal of the remains of  
10 any deceased person in case of accidental or violent death, and rendering necessary  
11 professional services required until the persons having legal authority to direct the  
12 disposition of the body have been notified.

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

20 At the time funeral arrangements are made and prior to the time of rendering the  
21 service and providing the merchandise, a funeral director or funeral service licensee  
22 shall give or cause to be given to the person or persons making such arrangements a  
23 written statement duly signed by a licensee of said funeral establishment showing the  
24 price of the service as selected and what services are included therein, the price of each  
25 of the supplemental items of services or merchandise requested, and the amounts  
26 involved for each of the items for which the funeral establishment will advance moneys  
27 as an accommodation to the person making arrangements, insofar as any of the above  
28 items can be specified at that time. If fees charged by a finance company for expediting  
29 payment of life insurance proceeds to the establishment will be passed on to the person  
30 or persons responsible for payment of the funeral expenses, information regarding the  
31 fees, including the total dollar amount of the fee, shall be disclosed on the written  
32 statement. The statement shall have printed, typed or stamped on the face thereof: "This  
33 statement of disclosure is provided under the requirements of North Carolina  
34 G.S. 90-210.25(e)." The Board may prescribe other disclosures that a licensee shall  
35 give to consumers upon finding that the disclosure is necessary to protect public health,  
36 safety, and welfare.

37 (e1) Except as otherwise authorized by law, no licensee under this Article, nor any  
38 of the licensee's agents, assistants, or employees, shall accept, solicit, or offer to accept  
39 any payment, gratuity, commission, or compensation of any kind in exchange for  
40 soliciting or taking human tissue from a dead human body for any person or entity  
41 engaging in the recovery of human tissue.

42 (f) Unlawful Practices. – If any person shall practice or hold himself or herself  
43 out as practicing the profession or art of embalming, funeral directing or practice of  
44 funeral service or operating a funeral establishment without having complied with the

1 licensing provisions of this Article, ~~he~~ the person shall be guilty of a Class 2  
2 misdemeanor.

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

13 **SECTION 5.** G.S. 90-210.27A reads as rewritten:

14 **"§ 90-210.27A. Funeral establishments.**

15 (a) Every funeral establishment shall contain a preparation room which is strictly  
16 private, of suitable size for the embalming of dead bodies. Each preparation room shall:

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

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

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

35 (d) Repealed by Session Laws 1997-399, s. 14.

36 (e) If a funeral establishment is solely owned by a natural person, that person  
37 must be licensed by the Board as a funeral director or a funeral service licensee. If it is  
38 owned by a partnership, at least one partner must be licensed by the Board as a funeral  
39 director or a funeral service licensee. If it is owned by a corporation, the president,  
40 vice-president, or the chairman of the board of directors must be licensed by the Board  
41 as a funeral director or a funeral service licensee. If it is owned by a limited liability  
42 company, at least one member must be licensed by the Board as a funeral director or a  
43 funeral service licensee. The licensee required by this subsection must be actively  
44 engaged 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 ~~or other licensee under this Article~~ shall own, operate, or maintain a ~~funeral~~ chapel without first having registered the name, location, and ownership thereof with the Board; own or maintain more than two ~~funeral~~ chapels, or own or maintain a ~~funeral~~ chapel outside of a radius of 50 miles from the funeral establishment. A duly licensed person may use a ~~funeral~~ chapel for making arrangements for funeral ~~service, services,~~ selling funeral supplies-merchandise to the ~~public, public by photograph, video, or computer based presentation,~~ or making financial arrangements for the rendering of ~~such-the~~ service or sale of supplies, provided that ~~such-the~~ uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, or funeral ceremony.

(h) All public health laws and rules apply to funeral establishments. In addition, all funeral establishments must comply with all of the standards established by the rules adopted by the Board.

(i) No funeral establishment shall use an unregistered or misleading name. Misleading names include, but are not limited to, names in the plural form when there is only one funeral ~~establishment~~ establishment, the use of names of deceased individuals, unless the establishment is licensed using the name at the time the new application is made, the use of names of individuals not associated with the establishment, and the use of the word "crematory" or "crematorium" in the name of a funeral establishment that does not own a crematory. If an owner of a funeral establishment owns more than one funeral establishment, the owner may not use the word "crematory" or "crematorium" in the name of more than one of its funeral establishments; except that each funeral home having a crematory on the premises may contain the term "crematory" or "crematorium" in its name.

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

**SECTION 6.** G.S. 90-210.28 reads as rewritten:

**"§ 90-210.28. Fees.**

The Board may set and collect fees, not to exceed the following amounts:

Establishment permit	
Application .....	<del>\$250.00</del> <u>\$400.00</u>
Annual renewal .....	<del>150.00</del> <u>250.00</u>
Late renewal .....	<del>100.00</del> <u>150.00</u>
Establishment and embalming facility <del>inspection</del> <u>re-inspection</u> fee .....	100.00
Courtesy card	
Application .....	<del>75.00</del> <u>100.00</u>
Annual renewal .....	<del>50.00</del> <u>75.00</u>
Out-of-state licensee	
Application .....	<del>200.00</del> <u>250.00</u>
Embalmer, funeral director, funeral service	
Application-North	

1	Carolina-Resident .....	150.00	200.00
2	-Non-Resident .....	200.00	250.00
3	Annual Renewal-embalmer or		
4	funeral director .....	40.00	75.00
5	Total fee, embalmer and funeral director		
6	when both are held by the same person .....	60.00	100.00
7	-funeral service .....	60.00	100.00
8	Inactive Status .....		50.00
9	Reinstatement fee .....		50.00
10	Resident trainee permit		
11	Application .....		50.00
12	Voluntary change in supervisor .....		50.00
13	Annual renewal .....		35.00
14	Late renewal .....		25.00
15	Duplicate license certificate .....		25.00
16	Chapel registration		
17	Application .....		150.00
18	Annual renewal .....		100.00
19	Late renewal .....		75.00

20 The Board shall provide, without charge, one copy of the current statutes and  
 21 regulations relating to ~~Mortuary Science~~ Funeral Service to every person applying for  
 22 and paying the appropriate fees for licensing pursuant to this Article. The Board may  
 23 charge all others requesting copies of the current statutes and regulations, and the  
 24 licensees or applicants requesting additional copies, a fee equal to the costs of  
 25 production and distribution of the requested documents."

26 **SECTION 7.** Article 13A of Chapter 90 of the General Statutes is amended  
 27 by adding a new section to read:

28 "**§ 90-210.29A-1. Examination scores not public record.**

29 The examination scores of applicants for licensure shall not be subject to the  
 30 provisions of Chapter 132 of the General Statutes. The Board shall release examination  
 31 scores to any person requesting examination scores whether or not the applicant has  
 32 obtained a passing score at the time of the request."

33 **SECTION 8.** G.S. 90-210.62 reads as rewritten:

34 "**§ 90-210.62. Types of preneed funeral contracts; forms.**

35 (a) A preneed licensee may offer standard preneed funeral contracts and  
 36 inflation-proof preneed funeral contracts. A standard preneed funeral contract applies  
 37 the trust funds or insurance proceeds to the purchase price of funeral services and  
 38 merchandise at the time of death of the contract beneficiary without a  
 39 ~~guarantee~~ protection against potential future price increases. An inflation-proof contract  
 40 establishes a ~~fixed price~~ an agreement between the preneed licensee and the purchaser  
 41 for funeral services and merchandise without regard to potential future price increases.  
 42 Upon written disclosure to the purchaser of a preneed funeral contract, inflation-proof  
 43 contracts may permit the preneed licensee to retain all of the preneed funeral contract  
 44 trust funds on deposit, and all insurance proceeds, even those in excess of the retail cost

1 of goods and services provided, when the preneed licensee has fully performed the  
2 preneed funeral contract. Preneed funeral contracts may be revocable or irrevocable, at  
3 the option of the preneed funeral contract purchaser.

4 (b) The Board ~~shall approve~~ all may prescribe forms for preneed funeral  
5 ~~contracts.~~ contracts consistent with this Article. All contracts must be in ~~writing, and no~~  
6 ~~form shall be used without prior approval of the Board.~~ writing on forms prescribed by  
7 the Board. Any use or attempted use of any oral preneed funeral contract or any written  
8 contract in a form not ~~approved~~ prescribed by the Board shall be deemed a violation of  
9 this Article."

10 **SECTION 9.** Article 13D of Chapter 90 of the General Statutes is amended  
11 by adding a new section to read:

12 "**§ 90-210.63A. Amendment of preneed funeral contracts.**

13 (a) Unless otherwise provided by this Article, preneed funeral contracts may be  
14 modified by mutual consent of the contracting preneed funeral establishment and the  
15 preneed contract purchaser, or after the death of the preneed contract purchaser, the  
16 preneed contract beneficiary or his or her legal representative.

17 (b) When the preneed contract purchaser and preneed contract beneficiary are the  
18 same, the preneed contract purchaser may designate one or more individuals to change  
19 the arrangements or performing funeral establishment, or may designate that the  
20 arrangements or performing funeral establishment may not be changed without an order  
21 from the clerk of superior court in the county where probate proceedings are instituted  
22 upon a finding that the change is in the best interest of the estate.

23 (c) If the preneed purchaser, or after his or her death, the preneed contract  
24 beneficiary or his or her legal representative, and the contracting preneed funeral  
25 establishment agree to modify any goods or services selected under an inflation-proof  
26 contract, the preneed licensee shall not be required to guarantee the price of the  
27 modified goods and services at the time of death and all other funeral goods and service  
28 selected shall remain guaranteed. If the modifications increase the purchase price, the  
29 provisions of G.S. 90-210.64(b) shall apply as if the modified contract had been  
30 executed on the original date. If the modifications decrease the purchase price, the  
31 preneed licensee shall refund all monies according to the provisions of  
32 G.S. 90-210.64(d)."

33 **SECTION 10.** G.S. 90-210.64 reads as rewritten:

34 "**§ 90-210.64. Death of preneed funeral contract beneficiary; disposition of funds.**

35 (a) After the death of a preneed funeral contract beneficiary and full performance  
36 of the preneed funeral contract by the preneed licensee, the preneed licensee shall  
37 promptly complete a certificate of performance and present it to the financial institution  
38 that holds funds in trust under G.S. 90-210.61(a)(1) or to the insurance company that  
39 issued a preneed insurance policy pursuant to G.S. 90-210.61(a)(3). Upon receipt of the  
40 certificate of performance or similar claim form, the financial institution shall pay the  
41 trust funds to the contracting preneed licensee and the insurance company shall pay the  
42 insurance proceeds according to the terms of the policy. Within 10 days after receiving  
43 payment, the preneed licensee shall ~~mail~~ file a copy of the certificate of performance or  
44 other claim form to the Board.

1 (b) Unless otherwise specified in the preneed funeral contract, the preneed  
2 licensee shall have no obligation to deliver merchandise or perform any services for  
3 which payment in full has not yet been deposited with a financial institution or that will  
4 not be provided by the proceeds of a prearrangement insurance policy. Any such  
5 amounts received which do not constitute payment in full shall be refunded to the estate  
6 of the deceased preneed funeral contract beneficiary or credited against the cost of  
7 merchandise or services contracted for by a representative of the deceased. Any balance  
8 remaining after payment for the merchandise and services as set forth in the preneed  
9 funeral contract shall be paid to the estate of the preneed funeral contract beneficiary or  
10 the prearrangement insurance policy beneficiary named to receive any such balance.  
11 Provided, however, unless the parties agree to the contrary, there shall be no refund to  
12 the estate of the preneed funeral contract beneficiary of an inflation-proof preneed  
13 funeral ~~contract~~ contract except as required by G.S. 90-210.63A(c).

14 (c) In the event that any person other than the contracting preneed licensee  
15 performs any funeral service or provides any merchandise as a result of the death of the  
16 preneed funeral contract beneficiary, the financial institution shall pay the trust funds to  
17 the contracting preneed licensee and the insurance company shall pay the insurance  
18 proceeds according to the terms of the policy. The preneed licensee shall, subject to the  
19 provisions of G.S. 90-210.65(d), immediately pay the monies so received to the other  
20 provider.

21 (d) When the balance of a preneed funeral fund is one hundred dollars (\$100.00)  
22 or less and is payable to the estate of a deceased preneed funeral contract beneficiary  
23 and there has been no representative of the estate appointed, the balance due may be  
24 paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a  
25 preneed funeral fund exceeds one hundred dollars (\$100.00) or is not payable to the  
26 estate, the balance must be paid into the office of the clerk of superior court in the  
27 county where probate proceedings could be filed for the deceased preneed funeral  
28 contract beneficiary.

29 (e) Upon the fulfillment of a preneed contract, all of the following items shall be  
30 completed within 30 days:

- 31 (1) The contracting preneed licensee must submit a certificate of  
32 performance or similar claim form to the financial institution holding  
33 the preneed trust funds and close the preneed account.
- 34 (2) The proceeds of this trust account shall be distributed according to the  
35 terms of the preneed contract.
- 36 (3) A completed copy of the certificate of performance or similar claim  
37 form evidencing the final disposition of any financial institution  
38 preneed trust account funds must be filed with the Board by the  
39 contracting licensee."

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

41 "(e) This section shall not apply to irrevocable preneed funeral contracts.  
42 Irrevocable preneed funeral contracts may ~~not only~~ be revoked ~~nor or~~ any proceeds  
43 refunded ~~except by~~ by the order of a court of competent ~~jurisdiction~~ jurisdiction, except  
44 as follows:



1           (1)    The Board may order an irrevocable contract revoked when the  
2           preneed contract beneficiary is no longer domiciled in this State and  
3           has submitted a written copy to the Board of a new preneed funeral  
4           contract executed under the laws of state where the preneed contract  
5           beneficiary is domiciled. Upon receipt of the Board's order, the  
6           original contracting preneed licensee shall immediately follow the  
7           provisions of G.S. 90-210.63 to transfer the funds to the successor  
8           firm.

9           (2)    ~~Notwithstanding the previous sentence, irrevocable~~Irrevocable preneed  
10          funeral contracts purchased pursuant to G.S. 90-210.61(a)(3) shall also  
11          be revocable when the underlying insurance policy lapses or is  
12          otherwise cancelled and the lapsed or cancelled policy no longer  
13          provides any funding for the preneed funeral contract."

14          **SECTION 12.** G.S. 90-210.67(b) reads as rewritten:

15          "(b) An application for a preneed funeral establishment license shall be  
16          accompanied by a nonrefundable application fee of not more than ~~one hundred fifty~~  
17          ~~dollars (\$150.00).~~four hundred dollars (\$400.00). The Board shall set the amounts of the  
18          application fees and renewal fees by rule, but the fees shall not exceed ~~one hundred fifty~~  
19          ~~dollars (\$150.00).~~four hundred dollars (\$400.00). A funeral establishment receiving a  
20          permit after January 1, 2008, or whose license has lapsed or was terminated for any  
21          reason after January 1, 2008, shall obtain a surety bond in an amount not less than fifty  
22          thousand dollars (\$50,000) for five years, or upon demonstrating that it is solvent, no  
23          less than one year from the date the original license is issued. The Board may extend the  
24          bonding requirement in the event there is a claim paid from the bond.

25          If the license is granted, the application fee shall be applied to the annual license fee  
26          for the first year or part thereof. Upon receipt of the application and payment of the  
27          application fee, the Board shall issue a renewable preneed funeral establishment license  
28          unless it determines that the applicant has violated any provision of G.S. 90-210.69(c)  
29          or has made false statements or representations in the application, or is insolvent, or has  
30          conducted or is about to conduct, its business in a fraudulent manner, or is not duly  
31          authorized to transact business in this State. The license shall expire on December 31  
32          and each preneed funeral establishment licensee shall pay annually to the Board on or  
33          before that date a license renewal fee of not more than ~~one hundred fifty dollars~~  
34          ~~(\$150.00).~~four hundred dollars (\$400.00). On or before the first day of February  
35          immediately following expiration, a license may be renewed without paying a late fee.  
36          After that date, a license may be renewed by paying a late fee of not more than one  
37          hundred dollars (\$100.00) in addition to the annual renewal fee."

38          **SECTION 13.** G.S. 90-210.68(d) reads as rewritten:

39          "(d) Financial institutions that accept preneed funeral trust funds and insurance  
40          companies that issue prearrangement insurance policies shall, upon request by the Board  
41          or its inspectors or examiners, disclose any information regarding preneed funeral trust  
42          accounts held or prearrangement insurance policies issued by it for a preneed licensee.

43          Financial institutions that accept preneed funeral trust funds and insurance  
44          companies that assign policy proceeds or designate a preneed funeral establishment as

1 beneficiary shall also forward an account balance to the contracting preneed funeral  
2 establishment at the end of each calendar year."

3 **SECTION 14.** G.S. 90-210.68(e) reads as rewritten:

4 "(e) In the event that any preneed licensee is unable or unwilling or is for any  
5 reason relieved of its responsibility to perform as trustee or to perform any preneed  
6 funeral contract, the ~~Board, with the written consent of the purchaser of the preneed~~  
7 ~~funeral contract, or after the purchaser's death or incapacity, the preneed funeral contract~~  
8 beneficiary Board shall order the contract and any amounts retained pursuant to  
9 G.S. 90-210.61(a)(2) to be assigned to a substitute preneed licensee provided that ~~the~~  
10 ~~substitute licensee agrees to accept such assignment, neither the substitute preneed~~  
11 ~~licensee or preneed contract purchaser, or after the death of the preneed contract~~  
12 purchaser, the preneed contract beneficiary or his or her legal representative, shall be  
13 obligated to perform the agreement without executing a new preneed funeral contract.  
14 Any lapse or transfer of a preneed contract pursuant to this section shall not be grounds  
15 to revoke an irrevocable preneed funeral contract."

16 **SECTION 15.** G.S. 90-210.69(c) reads as rewritten:

17 "(c) In accordance with the provisions of Chapter 150B of the General Statutes, if  
18 the Board finds that a licensee, an applicant for a license or an applicant for license  
19 renewal is guilty of one or more of the following, the Board may refuse to issue or  
20 renew a license or may suspend or revoke a license or place the holder thereof on  
21 probation upon conditions set by the Board, with revocation upon failure to comply with  
22 the conditions:

- 23 (1) Offering to engage or engaging in activities for which a license is  
24 required under this Article but without having obtained such a license.
- 25 (2) Aiding or abetting an unlicensed person, firm, partnership, association,  
26 corporation or other entity to offer to engage or engage in such  
27 activities.
- 28 (3) A crime involving fraud or moral turpitude by conviction thereof.
- 29 (4) Fraud or misrepresentation in obtaining or receiving a license or in  
30 preneed funeral planning.
- 31 (5) False or misleading advertising.
- 32 (6) Violating or cooperating with others to violate any provision of this  
33 Article, the rules and regulations of the Board, or the standards set  
34 forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended  
35 from time to time.
- 36 (7) Denial, suspension, or revocation of an occupational or business  
37 license by another jurisdiction.

38 In any case in which the Board is authorized to take any of the actions permitted  
39 under this subsection, the Board may instead accept an offer in compromise of the  
40 charges whereby the accused shall pay to the Board a penalty of not more than five  
41 thousand dollars (\$5,000). In any case in which the Board is entitled to place a licensee  
42 on a term of probation, the Board may also impose a penalty of not more than five  
43 thousand dollars (\$5,000) in conjunction with such probation."

44 **SECTION 16.** G.S. 90-210.102 reads as rewritten:

1 **"§ 90-210.102. Hearing by Board of dispute over liability for funeral benefits;**  
2 **appeal.**

3 In case of a disagreement between the representative of a deceased member of any  
4 burial association and such deceased member's burial association a hearing may be held  
5 by the Board of Funeral Service, on request of either party, to determine whether the  
6 association is liable for the benefits set forth in the policy issued to the said deceased  
7 member of said burial association. The Board of Funeral Service shall render a decision  
8 which shall have the same force and effect as judgments rendered by courts of  
9 competent jurisdiction in North Carolina. Either party may appeal from the decision of  
10 the Board of Funeral Service. Appeal shall be to the district court division of the  
11 General Court of Justice in the county in which the burial association is located. The  
12 procedure for appeal shall be the same as the appeal procedure set forth in Article 19 of  
13 Chapter 7A of the General Statutes of North Carolina regulating appeals from the  
14 magistrate to the district court. ~~Upon appeal trial shall be de novo."~~

15 **SECTION 17.** G.S. 90-210.107 reads as rewritten:

16 **"§ 90-210.107. Acquisition, merger, dissolution, and liquidation of mutual burial**  
17 **associations.**

18 (a) Any insurance company which desires to purchase the assets of or to merge  
19 with a burial association as provided in G.S. 90-210.106 shall submit to the Board of  
20 Funeral Service and to the secretary of the association a written proposal containing the  
21 terms and conditions of the proposed purchase or merger. A proposal may be  
22 conditioned upon an increase in the assessments of an association in the manner set out  
23 in subsection (g) of this section. In such a case, the issues of purchase or merger and an  
24 increase in assessments may be considered at the same meeting of the association.

25 (b) Upon receipt of a written proposal:

26 (1) The Board shall issue an order directing the association to hold a  
27 meeting of the membership within 30 days following receipt of the  
28 order for the purpose of voting on the proposal.

29 (2) Within 10 days of receiving the order from the Board, the association  
30 shall give at least 10 days' written notice of the meeting to each of its  
31 members. The notice shall:

32 a. State the date, time, and place of the meeting.

33 b. State the purpose of the meeting.

34 c. Contain or have attached the proposal submitted by the  
35 insurance company.

36 d. Contain a statement limiting the time that each member will be  
37 permitted to speak to the proposal, if the association deems it  
38 advisable.

39 e. Contain a written proxy form and instructions concerning the  
40 proxy prescribed by the Board.

41 (c) A representative of the insurance company shall be permitted to attend the  
42 meeting held by the association for the purposes of explaining the proposal and  
43 answering any questions from the members. The officers of the association may present  
44 their views concerning the proposal. Any member of the association who wishes to

1 speak to the proposal shall be permitted to do so subject to any time limitation stated in  
2 the notice of the meeting.

3 (d) The secretary of the association shall record the name of every member who  
4 is present at the meeting or has issued a written proxy pursuant to G.S. 55A-7-24 and  
5 shall determine whether there is a quorum. The presence of 15 members or ten percent  
6 (10%) of the membership, whichever is greater, shall constitute a quorum. Acceptance  
7 or rejection of the proposal shall be by majority vote of the members ~~present and~~ voting.  
8 Any member who is at least 18 years of age shall be permitted to vote. A parent or  
9 guardian of any member who is under 18 years of age may vote on behalf of his or her  
10 child or ward, but only one vote may be cast on behalf of that member.

11 (e) The secretary of the association shall certify the result of the vote and the  
12 presence of a quorum to the Board within five days following the meeting and shall  
13 include with the certification a copy of the notice of the meeting that was sent to the  
14 members of the association.

15 (f) The Board shall immediately review the certification, the notice, and any  
16 other records that may be necessary to determine the adequacy of notice, the presence of  
17 a quorum, and the validity of the vote. Upon determining that the meeting and vote were  
18 regular and held following proper notice and that a majority of a quorum of the  
19 members voted in favor of the proposal, the Board shall issue an order approving the  
20 purchase or merger and directing that the purchase or merger proceed in accordance  
21 with the proposal.

22 (g) Any burial association whose current assessments are not, or are unlikely to  
23 be within the next three years, adequate to reach or maintain a reserve of at least  
24 twenty-one dollars (\$21.00) per member or are inadequate to meet the requirements of a  
25 proposal from an insurance company to acquire the assets of or to merge with the  
26 association may increase its assessments by an amount necessary to reach and maintain  
27 the reserve or to meet the proposal. The increase shall be approved by a vote of the  
28 members of the association at a regular meeting of the association or at a special  
29 meeting called for the purpose of increasing assessments.

- 30 (1) Any officer or director of the association may call a special meeting  
31 for the purpose of increasing assessments, and the secretary shall call a  
32 special meeting for such purpose upon the request of at least ten  
33 percent (10%) of the members or upon receipt of a proposal from an  
34 insurance company that is conditioned upon an increase in  
35 assessments.
- 36 (2) Written notice setting out the date, time, place, and the purpose of the  
37 meeting shall be hand delivered or sent by first-class mail, postage  
38 prepaid, to the last known address of each member of the association at  
39 least 10 days in advance of the meeting.
- 40 (3) No vote may be had on the question of an increase in assessments  
41 unless a quorum of the members of the association is present at the  
42 meeting. A quorum shall be conclusively presumed if 15 members or  
43 ten percent (10%) of the membership of the association, whichever is  
44 greater, is present at the meeting.

- 1 (4) The proposal to increase the assessments shall be approved by an  
2 affirmative vote of a majority of the members present and voting.
- 3 (5) The secretary of the association within five days following the meeting  
4 shall certify the result of the vote and the presence of a quorum to the  
5 Board in the manner and for the purposes set out in subsections (e) and  
6 (f) of this section.
- 7 (h) Upon a written request from an association that has held a valid meeting and  
8 voted for voluntary dissolution in accordance with G.S. 90-210.81, the Board shall issue  
9 an order of liquidation for that association.
- 10 (i) Upon receipt of a request for voluntary dissolution under subsection ~~(h)~~,(h) of  
11 this section or if the sponsoring funeral establishment has its permit revoked or ceases  
12 operation for any reason, the Board shall issue an order of liquidation. The Board's  
13 order may direct that the agreements for members' benefits be transferred to a  
14 financially sound mutual burial association, as well as all records, property, and  
15 unexpended balances of funds of the association to be liquidated, if the financially  
16 sound mutual burial association agrees in writing to accept the transfer. The Board's  
17 order shall direct the burial association to complete the liquidation and to file a final  
18 report with the Board no later than December 31 of the year of the liquidation. Upon  
19 receipt of the order of liquidation, the burial association shall:
- 20 (1) Cease accepting new members.
- 21 (2) Collect all debts owed to the association and pay all debts owed by the  
22 association from monies on hand, including the reserve.
- 23 (3) Distribute pro rata any remaining monies on hand and in the reserve  
24 among those who were members of the association and whose transfer  
25 could not be accomplished on the date that the liquidation order was  
26 issued by the Board. Each member's distributive share shall be  
27 determined by dividing the amount of the member's benefit by the  
28 aggregate benefits of all members of the association and then  
29 multiplying the total amount of money available for distribution by the  
30 percentage so derived. Assessments owed by the members to the  
31 association at the time of distribution shall be taken into account and  
32 shall be offset against the members' distributive shares.
- 33 (4) Issue a certificate to members in an amount that equals the difference  
34 between the distributive share issued in subdivision (3) of this  
35 subsection and the full amount of the member's association benefit.  
36 Any certificate issued shall supersede and supplant any other  
37 certificate already issued by the association. The certificate shall be on  
38 a form prescribed by the Board and shall be prepared and distributed  
39 by the association at its expense.
- 40 (5) File a final report with the Board on or before December 31 in the year  
41 in which the order of liquidation was issued. This report shall show all  
42 receipts and disbursements, including the amount distributed to each  
43 member, since the last annual report of the association was filed with  
44 the Board.

1 (j) A certificate issued under subsection (i) of this section may be used as a  
2 credit toward the cost of funeral services, facilities, and merchandise at any funeral  
3 establishment that agrees on forms prescribed by the Board to accept such certificates.  
4 A funeral establishment that agrees to accept certificates shall do so until the agreement  
5 with the Board expires. The Board shall maintain and distribute to the public a list of  
6 funeral establishments that will accept certificates.

7 (k) Upon receipt of the final report of dissolution by the association, which is  
8 required by subsection (i) of this section, the Board shall immediately review the final  
9 report and shall notify the association whether the report is complete and has been  
10 accepted. Upon acceptance of the final report by the Board, all licenses issued to  
11 soliciting agents of the association pursuant to G.S. 90-210.84 are automatically  
12 cancelled."

13 **SECTION 18.** G.S. 90-210.121(22) is repealed.

14 **SECTION 19.** G.S. 90-210.121 is amended by adding the following new  
15 subdivisions to read:

16 "**§ 90-210.121. Definitions.**

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

18 ...

19 (13a) "Cremation society" means any person, firm, corporation, or  
20 organization that is affiliated with a crematory licensed under this  
21 Article and provides cremation information to consumers.

22 ...

23 (17a) "Initial container" means a receptacle for cremated remains, for which  
24 the intended use and design is to hold cremated remains, usually  
25 composed of cardboard, plastic, or similar material that can be closed  
26 in a manner so as to prevent the leakage or spillage of the cremated  
27 remains or the entrance of foreign material and is a single container of  
28 sufficient size to hold the cremated remains.

29 ...."

30 **SECTION 20.** G.S. 90-210.122(c) reads as rewritten:

31 "(c) The initial terms of the members of the Crematory Authority shall be  
32 staggered by the appointing authorities so that the terms of three members (two of  
33 which shall be appointees of the Governor) expire December 31, 1991, the terms of two  
34 members (both of which shall be appointees of the Governor) expire December 31,  
35 1992, and the terms of the remaining two members (one of which shall be an appointee  
36 of the Governor) expire December 31, 1993.

37 As the terms of the members appointed by the Governor expire, their successors  
38 shall be elected from among a list of nominees in an election conducted by the Board in  
39 which all licensed crematory operators are eligible to vote. The Board ~~may shall~~  
40 conduct the election for members of the Crematory Authority ~~simultaneously with the~~  
41 ~~election for members of the Board or at any other time.~~ The Board and shall prescribe  
42 the procedures and establish the time and date for nominations and elections to the  
43 Crematory Authority. A nominee who receives a majority of the votes cast shall be

1 declared elected. The Board shall appoint the successors to the two positions for which  
2 it makes initial appointments pursuant to this section.

3 The terms of the elected members of the Crematory Authority shall be three years.  
4 The terms of the members appointed by the Board, including the members initially  
5 appointed pursuant to this subsection, shall be coterminous with their terms on the  
6 Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term  
7 by majority vote of the remaining members of the Crematory Authority. Any vacancy  
8 occurring in a seat appointed by the Governor shall be filled by the Governor. Any  
9 vacancy occurring in a seat appointed by the Board shall be filled by the Board."

10 **SECTION 21.** G.S. 90-210.123(g) is amended by adding a new subdivision  
11 to read:

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

19 ...

20 (1a) Denial, suspension, or revocation of an occupational or business  
21 license by another jurisdiction.

22 ...."

23 **SECTION 22.** G.S. 90-210.123(i) reads as rewritten:

24 "(i) The Board may hold hearings in accordance with the provisions of this  
25 Article and Chapter 150B of the General Statutes. The Board shall conduct any such  
26 hearing. The Board shall constitute an "agency" under Article 3A of Chapter 150B of  
27 the General Statutes with respect to proceedings initiated pursuant to this Article. The  
28 Board is empowered to regulate and inspect crematories and crematory licensees and to  
29 enforce as provided by law the provisions of this Article and the rules adopted  
30 hereunder. Any crematory that, upon inspection, is found not to meet any of the  
31 requirements of this Article shall pay a reinspection fee to the Board for each additional  
32 inspection that is made to ascertain whether the deficiency or other violation has been  
33 corrected. The Board may obtain preliminary and final injunctions whenever a violation  
34 of this Article has occurred or threatens to occur.

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

44 **SECTION 23.** G.S. 90-210.124(a) reads as rewritten:

1 **"§ 90-210.124. Authorizing agent.**

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

4 (1) ~~An individual at least 18 years of age may authorize the cremation and~~  
5 ~~disposition of the individual's own dead body in a written will,~~  
6 ~~pursuant to health care power of attorney to the extent provided in~~  
7 ~~Article 3 of Chapter 32 of the General Statutes, pursuant to a preneed~~  
8 ~~funeral contract executed pursuant to Article 13D of Chapter 90 of the~~  
9 ~~General Statutes, pursuant to a cremation authorization form executed~~  
10 ~~pursuant to Article 13F of Chapter 90 of the General Statutes, or in a~~  
11 ~~written statement signed by the individual and witnessed by two~~  
12 ~~persons who are at least 18 years old.~~An individual at least 18 years of  
13 age may authorize the type, place, and method of disposition of the  
14 individual's own dead body by methods in the following order:

15 a. Pursuant to a preneed funeral contract executed pursuant to  
16 Article 13D of Chapter 90 of the General Statutes or pursuant to  
17 a cremation authorization form executed pursuant to Article  
18 13C of Chapter 90 of the General Statutes.

19 b. Pursuant to a written will.

20 c. Pursuant to a written statement other than a will signed by the  
21 individual and witnessed by two persons who are at least 18  
22 years old.

23 d. Pursuant to a health care power of attorney to the extent  
24 provided in Article 3 of Chapter 32A of the General Statutes.

25 When an individual has authorized his or her own cremation and disposition in  
26 accordance with this subsection, the individual or institution designated by that  
27 individual shall act as the authorizing agent for that individual.

28 (2) If a decedent has left no written authorization for the cremation and  
29 disposition of the decedent's body as permitted under subdivision (1)  
30 of this subsection, the following competent persons in the order listed  
31 may authorize the type, method, place, cremation, and disposition of  
32 the decedent's body:

33 a. The surviving spouse.

34 b. A majority of the surviving children who are at least 18 years of  
35 age and can be located after reasonable efforts.

36 c. The surviving parents.

37 d. A majority of the surviving siblings who are at least 18 years of  
38 age and can be located after reasonable efforts.

39 e. A majority of the persons in the classes of the next degrees of  
40 kinship, in descending order, who, under State law, would  
41 inherit the decedent's estate if the decedent died intestate who  
42 are at least 18 years of age and can be located after reasonable  
43 efforts.



- 1 f. A person who has exhibited special care and concern for the  
2 decedent and is willing and able to make decisions about the  
3 cremation and disposition.
- 4 g. In the case of indigents or any other individuals whose final  
5 disposition is the responsibility of the State or any of its  
6 instrumentalities, a public administrator, medical examiner,  
7 coroner, State-appointed guardian, or any other public official  
8 charged with arranging the final disposition of the decedent  
9 may serve as the authorizing agent.
- 10 h. In the case of individuals who have donated their bodies to  
11 science or whose death occurred in a nursing home or private  
12 institution and in which the institution is charged with making  
13 arrangements for the final disposition of the decedent, a  
14 representative of such institution may serve as the authorizing  
15 agent in the absence of any of the above.
- 16 i. In the absence of any of the above, any person willing to  
17 assume responsibility as authorizing agent, as specified in this  
18 act.

19 This subsection does not grant to any person the right to cancel a preneed funeral  
20 contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to  
21 cause or prohibit the substitution of a preneed licensee as authorized under  
22 G.S. 90-210.63-90-210.63 or permit modification of preneed contracts under  
23 G.S. 90-210.63A. If a person under this subsection is incompetent at the time of the  
24 decedent's death, the person shall be treated as if he or she predeceased the decedent. An  
25 attending physician may certify the incompetence of a person and the certification shall  
26 apply to the rights under this subsection only. Any person under this subsection may  
27 waive his or her rights under this subsection by any written statement notarized by a  
28 notary public or signed by two witnesses."

29 **SECTION 24.** G.S. 90-210.129 is amended by adding the following new  
30 subsections to read:

31 "(o) Unless the death falls under the jurisdiction of the Medical Examiner, before  
32 the cremation of fetal remains of less than 20 weeks gestation, the crematory licensee  
33 shall receive a written statement, on a form prescribed by the Board and signed by the  
34 attending physician, acknowledging the circumstances, date, and time of the delivery of  
35 the fetal remains from the mother.

36 (p) Before the cremation of fetal remains of 20 completed weeks gestation or  
37 greater, the crematory licensee shall receive a fetal report of death as prescribed in  
38 G.S.130A-114.

39 (q) Before the cremation of amputated body parts, the crematory licensee shall  
40 receive a written statement, on a form prescribed by the Board and signed by the  
41 attending physician acknowledging, the circumstances of the amputation. This section  
42 does not apply to the disposition of body parts cremated pursuant to Part 3 of Article 16  
43 of Chapter 130A of the General Statutes."

44 **SECTION 25.** G.S. 90-210.130(b) reads as rewritten:

1       "(b) The authorizing agent is responsible for the disposition of the cremated  
2 remains. If, after a period of 30 days from the date of cremation, the authorizing agent  
3 or the agent's representative has not specified the final disposition or claimed the  
4 cremated remains, the crematory licensee or the person in possession of the cremated  
5 remains may release the cremated remains to another family member upon written  
6 notification to the authorizing agent delivered by certified mail or dispose of the  
7 cremated remains only in a manner permitted in this section. The authorizing agent shall  
8 be responsible for reimbursing the crematory licensee for all reasonable expenses  
9 incurred in disposing of the cremated remains pursuant to this section. A record of such  
10 disposition shall be made and kept by the person making the disposition. Upon  
11 disposing of cremated remains in accordance with this section, the crematory licensee or  
12 person in possession of the cremated remains shall be discharged from any legal  
13 obligation or liability concerning such cremated remains."

14       **SECTION 26.** Article 13F of Chapter 90 of the General Statutes is amended  
15 by adding the following new section to read:

16 **"§ 90-210.135. Cremation Societies.**

17       (a) No person, firm, or corporation licensed as a crematory under the provisions  
18 of this Article may operate a cremation society without first registering the name of the  
19 cremation society with the Board."

20       **SECTION 27.** G.S. 130A-420 reads as rewritten:

21 **"§ 130A-420. Authority to dispose of body or body parts.**

22       (a) An individual at least 18 years of age may authorize the type, place, and  
23 method of disposition of the individual's own dead body in a written will, pursuant to a  
24 health care power of attorney to the extent provided in Article 3 of Chapter 32A of the  
25 General Statutes, pursuant to a preneed funeral contract executed pursuant to Article  
26 13D of Chapter 90 of the General Statutes, pursuant to a cremation authorization form  
27 executed pursuant to Article 13C of Chapter 90 of the General Statutes, or in a written  
28 statement signed by the individual and witnessed by two persons who are at least 18  
29 years old by methods in the following order:

30       (1) Pursuant to a preneed funeral contract executed pursuant to Article  
31 13D of Chapter 90 of the General Statutes or pursuant to a cremation  
32 authorization form executed pursuant to Article 13C of Chapter 90 of  
33 the General Statutes.

34       (2) Pursuant to a written will.

35       (3) Pursuant to a written statement other than a will signed by the  
36 individual and witnessed by two persons who are at least 18 years old.

37       (4) Pursuant to a health care power of attorney to the extent provided in  
38 Article 3 of Chapter 32A of the General Statutes.

39       An individual may also delegate his or her right to dispose of his or her own dead  
40 human body to any person by any means authorized in subdivisions (1) through (3) of  
41 this subsection.

42       (b) If a decedent has left no written authorization for the disposal of the  
43 decedent's body as permitted under subsection (a) of this section, the following

1 competent persons in the order listed may authorize the type, method, place, and  
2 disposition of the decedent's body:

- 3 (1) The surviving spouse.
- 4 (2) A majority of the surviving ~~children~~children over 18 years of age,  
5 who can be located after reasonable efforts.
- 6 (3) The surviving parents.
- 7 (4) A majority of the surviving ~~siblings~~siblings over 18 years of age, who  
8 can be located after reasonable efforts.
- 9 (5) A majority of the persons in the classes of the next degrees of kinship,  
10 in descending order, who, under State law, would inherit the  
11 decedent's estate if the decedent died ~~intestate~~intestate who are at least  
12 18 years of age and can be located after reasonable efforts.
- 13 (6) A person who has exhibited special care and concern for the decedent  
14 and is willing and able to make decisions about the disposition.
- 15 (7) In the case of indigents or any other individuals whose final  
16 disposition is the responsibility of the State or any of its  
17 instrumentalities, a public administrator, medical examiner, coroner,  
18 State-appointed guardian, or any other public official charged with  
19 arranging the final disposition of the decedent.
- 20 (8) In the case of individuals who have donated their bodies to science or  
21 whose death occurred in a nursing home or private institution and in  
22 which the institution is charged with making arrangements for the final  
23 disposition of the decedent, a representative of the institution.
- 24 (9) In the absence of any of the persons described in subdivisions (1)  
25 through (8) of this subsection, any person willing to assume  
26 responsibility for the disposition of the body.

27 This subsection does not grant to any person the right to cancel a preneed funeral  
28 contract executed pursuant to Article 13D of Chapter 90 of the General ~~Statutes or~~  
29 Statutes, to prohibit the substitution of a preneed licensee as authorized under  
30 G.S. ~~90-210.63~~90-210.63, or to permit modification of preneed contracts under  
31 G.S. 90-210.63A. If an individual is incompetent at the time of the decedent's death, the  
32 individual shall be treated as if he or she predeceased the decedent. An attending  
33 physician may certify the incompetence of an individual and the certification shall apply  
34 to the rights under this section only. Any individual under this section may waive his or  
35 her rights under this subsection by any written statement notarized by a notary public or  
36 signed by two witnesses.

37 (b1) A person who does not exercise his or her right to dispose of the decedent's  
38 body under subsection (b) of this section within five days of notification or 10 days  
39 from the date of death, whichever is earlier, shall be deemed to have waived his or her  
40 right to authorize disposition of the decedent's body or contest disposition in accordance  
41 with this section.

42 (c) An individual at least 18 years of age may, in a writing signed by the  
43 individual, authorize the disposition of one or more of the individual's body parts that  
44 has been or will be removed. If the individual does not authorize the disposition, a

1 person listed in subsection (b) of this section may authorize the disposition as if the  
2 individual was deceased.

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

7 **SECTION 28.** This act is effective when it becomes law.