

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 403
Commerce Committee Substitute Adopted 5/9/13

Short Title: Amend Uniform Prudent Investor Act.

(Public)

Sponsors:

Referred to:

March 26, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS REGULATING INVESTMENTS OF CEMETERIES
3 AND PRENEED FUNERAL FUNDS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 65-60.1(e) reads as rewritten:

6 "(e) Any trustee shall invest and reinvest cemetery trust funds ~~in the same manner as~~
7 ~~provided by law for the investment of trust funds by the clerk of the superior court; provided,~~
8 ~~however, that this subsection does not apply to a perpetual trust fund described in G.S. 65-64 or~~
9 ~~cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e),~~
10 ~~which may be invested and reinvested in accordance with G.S. 32-71.~~ Article 9 of Chapter 36C
11 of the General Statutes."

12 **SECTION 2.** G.S. 90-210.61(a)(1) reads as rewritten:

13 "(a) Preneed funeral funds are subject to the provisions of this Article and shall be
14 deposited or applied as follows:

- 15 (1) If the preneed funeral contract purchaser chooses to fund the preneed funeral
16 contract by a trust deposit or deposits, the preneed licensee shall deposit all
17 preneed funeral funds with in an insured account in a financial institution, in
18 trust, in the preneed licensee's name as trustee within five business days and
19 invest and reinvest funds in accordance with Article 9 of Chapter 36C of the
20 General Statutes. The preneed licensee, at the time of making the deposit as
21 trustee, shall furnish to the financial institution the name of each preneed
22 funeral contract purchaser and the amount of payment on each for which the
23 deposit is being made. The preneed licensee may establish an individual trust
24 fund for each preneed funeral ~~contract~~ contract but also is specifically
25 authorized to establish commingled trust accounts for investment and
26 reinvestment of preneed funeral funds of multiple preneed funeral contracts.
27 ~~or a common trust fund for all preneed funeral contracts.~~ The trust accounts
28 shall be carried in the name of the preneed licensee as trustee, but in all
29 cases, accounting records shall be maintained for each individual preneed
30 funeral contract purchaser showing the amounts deposited and invested, and
31 interest, dividends, increases, ~~and accretions earned accretions, decreases,~~
32 and the taxes and expenses which may be charged under this subdivision.
33 Except as provided in this Article, all interest, dividends, increases, or
34 accretions earned by the funds shall remain ~~with the principal in the trust~~
35 account. The trust fund may be charged with applicable taxes and for
36 reasonable charges paid by the trustee to itself or others for the preparation



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1 of fiduciary tax returns. Penalties charged by a financial institution for early
2 withdrawals caused by a transfer pursuant to G.S. 90-210.63 shall be paid by
3 the preneed licensee. Penalties charged as a result of other early withdrawals
4 as permitted by this Article shall be paid from the trust fund, and the
5 financial institution shall give the preneed funeral contract purchaser prompt
6 notice of these penalties."

7 **SECTION 3.** This act is effective when it becomes law.