

§ 65-69. Minimum acreage; sale or disposition of cemetery lands.

(a) Each licensee shall set aside a minimum of 30 acres of land for use by said licensee as a cemetery, and shall not sell, mortgage, lease or encumber the same.

(b) The fee simple title, or lesser estate, in any lands owned by licensee and dedicated for use by it as a cemetery, which are contiguous, adjoining, or adjacent to the minimum of 30 acres described in subsection (a), may be sold, conveyed, or disposed of, or any part thereof, by the licensee, for use by the new owner for other purposes than as a cemetery; provided that no bodies have been previously interred therein; and provided further, that any and all titles, interests, or burial rights which may have been sold or contracted to be sold in such lands which are the subject of such sale shall be conveyed to and revested in the licensee prior to consummation of any such sale, conveyance or disposition.

(c) Any licensee may convey and transfer to a municipality or county its real and personal property together with moneys deposited with the trustee; provided said municipality or county will accept responsibility for maintenance thereof and prior written approval of the Commission is first obtained.

(d) The provisions of subsections (a) and (b) of this section relating to the requirement for minimum acreage shall not apply to those cemeteries licensed by the Commission on or before July 1, 1967, which own or control a total of less than 30 acres of land; provided that such cemeteries shall not dispose of any of such lands. A nongovernment lien or other interest in land acquired in violation of this section is void.

(e) Notwithstanding subsection (a) of this section, cemeteries licensed by the Commission, or initially incorporated with the North Carolina Secretary of State, between July 2, 1967, and September 1, 1975, may sell, mortgage, lease, or encumber the minimum acres of land required by subsection (a) of this section, provided notice is given to the Commission 10 days prior to the transaction, if all of the following criteria are met:

- (1) At the time of licensure or initial incorporation, the population of the county in which the cemetery is located did not exceed 45,000 people according to the appropriate federal decennial census.
- (2) Another private or public cemetery is located within a five mile radius of the cemetery that is subject to the proposed transaction.
- (3) At least 15 acres of cemetery land remain for use by the licensee as a cemetery, without mortgage, lease, or encumbrance.
- (4) The purchaser of the land shall transfer to the perpetual care fund an amount equal to ten percent (10%) of the consideration or value of the interest conveyed, on up to 15 acres sold, within 60 days of the sale. (1975, c. 768, s. 1; 1991, c. 653, s. 8; 2016-83, s. 1.)