

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 1435
Commerce, Small Business and Entrepreneurship Committee Substitute Adopted
7/27/07
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Short Title: Amend Funeral Serv. Prac./Other Related Laws.

(Public)

Sponsors:

Referred to:

March 26, 2007

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 December 31 of the last year of the term or when a successor has been duly
9 appointed, whichever is later. No member may serve more than two complete
10 consecutive terms.

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

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

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

21 **"§ 90-210.20. Definitions.**

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

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

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

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

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

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

43 (e1) ~~"Funeral chapel"~~ "Chapel" means a chapel or other facility separate from the
44 funeral establishment premises for the primary purpose of reposing of dead human

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

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

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

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

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

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

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

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

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

36 "**§ 90-210.23. Powers and duties of the Board.**

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

41 (b) The Board shall elect from its members a president, a vice-president and a
42 secretary, no two offices to be held by the same person. The president and
43 vice-president and secretary shall serve for one year and until their successors shall be

1 elected and qualified. The Board shall have authority to engage adequate staff as
2 deemed necessary to perform its duties.

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

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

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

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

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

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

1 any license, and may establish essential requirements and standards for such approval of
2 mortuary science or funeral service schools.

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

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

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

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

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

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

22 **"§ 90-210.25. Licensing.**

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

24 (1) To be licensed for the practice of funeral directing 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 a Funeral Director Program at a mortuary
29 science college approved by the Board or a school of mortuary
30 science accredited by the American Board of Funeral Service
31 Education. Have completed a minimum of 32 semester hours or
32 48 quarter hours of instruction, including the subjects set out in
33 sub-part e.1. of this subdivision, as prescribed by a mortuary
34 science college approved by the Board or a school of mortuary
35 science accredited by the American Board of Funeral Service
36 Education.

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

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

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

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

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

- 1 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
2 l. The Board shall register no more than one resident trainee at a
3 funeral establishment that served 100 or fewer families during
4 the 12 months immediately preceding the date of the
5 application, and shall register no more than one resident trainee
6 for each additional 100 families served at the funeral
7 establishment during the 12 months immediately preceding the
8 date of the application.
- 9 (5) The Board by regulation may recognize other examinations that the
10 Board deems equivalent to its own.
- 11 a. All licenses shall be signed by the president and secretary of the
12 Board and the seal of the Board affixed thereto. All licenses
13 shall be issued, renewed or duplicated for a period not
14 exceeding one year upon payment of the renewal fee, and all
15 licenses, renewals or duplicates thereof shall expire and
16 terminate the thirty-first day of December following the date of
17 their issue unless sooner revoked and canceled; provided, that
18 the date of expiration may be changed by unanimous consent of
19 the Board and upon 90 days' written notice of such change to all
20 persons licensed for the practice of funeral directing,
21 embalming and funeral service in this State.
- 22 b. The holder of any license issued by the Board who shall fail to
23 renew the same on or before February 1 of the calendar year for
24 which the license is to be renewed shall have forfeited and
25 surrendered the license as of that date. No license forfeited or
26 surrendered pursuant to the preceding sentence shall be
27 reinstated by the Board unless it is shown to the Board that the
28 applicant has, throughout the period of forfeiture, engaged full
29 time in another state of the United States or the District of
30 Columbia in the practice to which his North Carolina license
31 applies and has completed for each such year continuing
32 education substantially equivalent in the opinion of the Board to
33 that required of North Carolina licensees; or has completed in
34 North Carolina a total number of hours of accredited continuing
35 education computed by multiplying five times the number of
36 years of forfeiture; or has passed the North Carolina
37 examination for the forfeited license. No additional resident
38 traineeship shall be required. The applicant shall be required to
39 pay all delinquent annual renewal fees and a reinstatement fee.
40 The Board may waive the provisions of this section for an
41 applicant for a forfeiture which occurred during his service in
42 the armed forces of the United States provided he applies within
43 six months following severance therefrom.

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

1 in embalming. Any person having been previously licensed by
2 the Board as both a funeral director and an embalmer may upon
3 application therefor receive a license as a funeral service
4 licensee.

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

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

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

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

- 42 (1) Employed by a college of mortuary science; or
43 (2) The licensee:

- 1 a. Maintains all of his or her business records at a location made
2 known to the Board and available for inspection by the Board
3 under the same terms and conditions as the business records of
4 a licensed funeral establishment;
5 b. Complies with rules and regulations imposed on funeral
6 establishments and the funeral profession that are designed to
7 protect consumers, to include, but not be limited to, the Federal
8 Trade Commission's laws and rules requiring General Price
9 Lists and Statements of Goods and Services; and
10 c. Pays to the Board the funeral establishment license fee required
11 by law and set by the Board.

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

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

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

44 (c) Registration, Filing and Transportation. –

- 1 (1) The holder of any license granted by this State for those within the
2 funeral service profession or renewal thereof provided for in this
3 Article shall cause registration to be filed in the office of the board of
4 health of the county or city in which he practices his profession, or if
5 there be no board of health in such county or city, at the office of the
6 clerk of the superior court of such county. All such licenses,
7 certificates, duplicates and renewals thereof shall be displayed in a
8 conspicuous place in the funeral establishment where the holder
9 renders service.
- 10 (2) It shall be unlawful for any railway agent, express agency, baggage
11 master, conductor or other person acting as such, to receive the dead
12 body of any person for shipment or transportation by railway or other
13 public conveyance, to a point outside of this State, unless the body is
14 accompanied by a burial-transit permit.
- 15 (3) The "transportation or removal of a dead human body" shall mean the
16 removal of a dead human body for a fee from the location of the place
17 of death or discovery of death or the transportation of the body to or
18 from a medical facility, funeral establishment or facility, crematory or
19 related holding facility, place of final disposition, or place designated
20 by the Medical Examiner for examination or autopsy of the dead
21 human body.
- 22 (4) Any individual, not otherwise exempt from this subsection, shall apply
23 for and receive a permit from the Board before engaging in the
24 transportation or removal of a dead human body in this State. Unless
25 otherwise exempt from this subsection, no corporation or other
26 business entity shall engage in the transportation or removal of a dead
27 human body unless it has in its employ at least one individual who
28 holds a permit issued under this section. No individual permit holder
29 shall engage in the transportation or removal of a dead human body for
30 more than one person, firm, or corporation without first providing the
31 Board with written notification of the name and physical address of
32 each such employer.
- 33 (5) The following persons shall be exempt from the permit requirements
34 of this section but shall otherwise be subject to subdivision (9) of this
35 subsection and any rules relating to the proper handling, care, removal,
36 or transportation of a dead human body:
- 37 a. Licensees under this Article and their employees.
38 b. Employees of common carriers.
39 c. Except as provided in sub-subdivision (6)c. of this section,
40 employees of the State and its agencies and employees of local
41 governments and their agencies.
42 d. Funeral directors licensed in another state and their employees.
- 43 (6) The following persons shall be exempt from this section:

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

1 designed for common carrier transportation, and secure the casket or
2 container in the vehicle used for transportation. No person shall fail to
3 treat a dead human body with respect at all times. No person shall take
4 a photograph or video recording of a dead human body without the
5 consent of a member of the deceased's immediate family or next of kin
6 or other authorizing agent.

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

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

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

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

40 (d) Establishment Permit. –

41 (1) No person, firm or corporation shall conduct, maintain, manage or
42 operate a funeral establishment unless a permit for that establishment
43 has been issued by the Board and is conspicuously displayed in the
44 establishment. Each funeral establishment at a specific location shall

1 be deemed to be a separate entity and shall require a separate permit
2 and compliance with the requirements of this Article.

3 (2) A permit shall be issued when:

4 a. It is shown that the funeral establishment has in charge a
5 person, known as a manager, licensed for the practice of funeral
6 directing or funeral service, who shall not be permitted to
7 manage more than one funeral establishment. The manager
8 shall be charged with overseeing the daily operation of the
9 funeral establishment. If the manager leaves the employment of
10 the funeral establishment and is the only licensee employed
11 who is eligible to serve as manager, the funeral establishment
12 may operate without a manager for a period not to exceed 30
13 days so long as: (i) the funeral establishment retains one or
14 more licensees to perform all services requiring a license under
15 this Article; (ii) the licensees are not practicing under the
16 exception authorized by G.S. 90-210.25(a2) and would
17 otherwise be eligible to serve as manager; and (iii) the funeral
18 establishment registers the name of the licensees with the
19 Board.

20 b. The Board receives a list of the names of all part-time and
21 full-time licensees employed by the establishment.

22 c. It is shown that the funeral establishment satisfies the
23 requirements of G.S. 90-210.27A.

24 d. The Board receives payment of the permit fee.

25 (3) Applications for funeral establishment permits shall be made on forms
26 provided by the Board and filed with the Board by the owner, a
27 partner, a member of the limited liability company, or an officer of the
28 corporation by January 1 of each year, and shall be accompanied by
29 the application fee or renewal fee, as the case may be. All permits shall
30 expire on December 31 of each year. If the renewal application and
31 renewal fee are not received in the Board's office on or before
32 February 1, a late renewal fee, in addition to the regular renewal fee,
33 shall be charged.

34 (4) The Board may place on probation, refuse to issue or renew, suspend
35 suspend, or revoke a permit when an owner, partner, manager,
36 member, operator, or officer of the funeral establishment violates any
37 provision of this Article or any regulations of the Board, or when any
38 agent or employee of the funeral establishment, with the consent of
39 any person, firm or corporation operating the funeral establishment,
40 violates any of those provisions, rules or regulations. In any case in
41 which the Board is entitled to place a funeral establishment permittee
42 on a term of probation, the Board may also impose a penalty of not
43 more than five thousand dollars (\$5,000) in conjunction with the
44 probation. In any case in which the Board is entitled to suspend,

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

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

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

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

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

22 a. Conviction of a felony or a crime involving fraud or moral
23 turpitude.

24 a1. Denial, suspension, or revocation of an occupational or business
25 license by another jurisdiction.

26 b. Fraud or misrepresentation in obtaining or renewing a license or
27 in the practice of funeral service.

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

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

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

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

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

43 h. Aiding or abetting an unlicensed person to perform services
44 under this Article, including the use of a picture or name in

1 connection with advertisements or other written material
2 published or caused to be published by the licensee.

- 3 i. Failing to treat a dead human body with respect at all times.
4 j. Violating or cooperating with others to violate any of the
5 provisions of this ~~Article~~, Article or Articles 13D, 13E, or 13F
6 of Chapter 90 of the General Statutes, any rules and regulations
7 of the Board, or the standards set forth in Funeral Industry
8 Practices, 16 C.F.R. 453 (1984), as amended from time to time.
9 k. Violation of any State law or municipal or county ordinance or
10 regulation affecting the handling, custody, care or transportation
11 of dead human bodies.
12 l. Refusing to surrender promptly the custody of a dead human
13 body or cremated remains upon the express order of the person
14 lawfully entitled to the custody thereof.
15 m. Knowingly making any false statement on a certificate of
16 ~~death~~, death or violating or cooperating with others to violate
17 any provision of Article 4 or 16 of Chapter 130A of the General
18 Statutes or any rules or regulations promulgated under those
19 Articles as amended from time to time.
20 n. Indecent exposure or exhibition of a dead human body while in
21 the custody or control of a licensee.

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

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

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

1 No funeral service establishment shall accept a dead human body from any public
2 officer (excluding the State or county medical examiner or his agent), or employee or
3 from the official of any institution, hospital or nursing home, or from a physician or any
4 person having a professional relationship with a decedent, without having first made
5 due inquiry as to the desires of the persons who have the legal authority to direct the
6 disposition of the decedent's body. If any persons are found, their authority and
7 directions shall govern the disposal of the remains of the decedent. Any funeral service
8 establishment receiving the remains in violation of this subsection shall make no charge
9 for any service in connection with the remains prior to delivery of the remains as
10 stipulated by the persons having legal authority to direct the disposition of the body.
11 This section shall not prevent any funeral service establishment from charging and
12 being reimbursed for services rendered in connection with the removal of the remains of
13 any deceased person in case of accidental or violent death, and rendering necessary
14 professional services required until the persons having legal authority to direct the
15 disposition of the body have been notified.

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

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

39 (f) Unlawful Practices. – If any person shall practice or hold himself or herself
40 out as practicing the profession or art of embalming, funeral directing or practice of
41 funeral service or operating a funeral establishment without having complied with the
42 ~~licensing~~ provisions of this Article, ~~he~~ the person shall be guilty of a Class 2
43 misdemeanor.

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

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

12 **"§ 90-210.27A. Funeral establishments.**

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

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

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

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

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

34 (e) If a funeral establishment is solely owned by a natural person, that person
35 must be licensed by the Board as a funeral director or a funeral service licensee. If it is
36 owned by a partnership, at least one partner must be licensed by the Board as a funeral
37 director or a funeral service licensee. If it is owned by a corporation, the president,
38 vice-president, or the chairman of the board of directors must be licensed by the Board
39 as a funeral director or a funeral service licensee. If it is owned by a limited liability
40 company, at least one member must be licensed by the Board as a funeral director or a
41 funeral service licensee. The licensee required by this subsection must be actively
42 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	\$250.00 <u>\$400.00</u>
Annual renewal	150.00 <u>250.00</u>
Late renewal	100.00 <u>150.00</u>
Establishment and embalming facility inspection-reinspection fee	100.00
Courtesy card	
Application	75.00 <u>100.00</u>
Annual renewal	50.00 <u>75.00</u>
Out-of-state licensee	
Application	200.00 <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 to any person
 31 requesting examination scores whether or not the applicant has obtained a passing score
 32 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 the state where the preneed
5 contract beneficiary is domiciled. Upon receipt of the Board's order,
6 the 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).~~ and renewal fees, by rule. A funeral establishment receiving a new
20 preneed establishment license after January 1, 2008, or whose preneed establishment
21 license has lapsed or was terminated for any reason after January 1, 2008, shall obtain a
22 surety bond in an amount not less than fifty thousand dollars (\$50,000) for five years, or
23 upon demonstrating that it is solvent, no less than one year from the date the original
24 license is issued. The Board may extend the bonding requirement in the event there is a
25 claim paid from the bond.

26 If the license is granted, the application fee shall be applied to the annual license fee
27 for the first year or part thereof. Upon receipt of the application and payment of the
28 application fee, the Board shall issue a renewable preneed funeral establishment license
29 unless it determines that the applicant has violated any provision of G.S. 90-210.69(c)
30 or has made false statements or representations in the application, or is insolvent, or has
31 conducted or is about to conduct, its business in a fraudulent manner, or is not duly
32 authorized to transact business in this State. The license shall expire on December 31
33 and each preneed funeral establishment licensee shall pay annually to the Board on or
34 before that date a license renewal fee of not more than ~~one hundred fifty dollars~~
35 ~~(\$150.00).~~ two hundred fifty dollars (\$250.00). On or before the first day of February
36 immediately following expiration, a license may be renewed without paying a late fee.
37 After that date, a license may be renewed by paying a late fee of not more than one
38 hundred dollars (\$100.00) in addition to the annual renewal fee."

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

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

1 Financial institutions that accept preneed funeral trust funds and insurance
2 companies that assign policy proceeds or designate a preneed funeral establishment as
3 beneficiary shall also forward an account balance to the contracting preneed funeral
4 establishment at the end of each calendar year."

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

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

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

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

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

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

1 on a term of probation, the Board may also impose a penalty of not more than five
2 thousand dollars (\$5,000) in conjunction with such probation."

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

4 "**§ 90-210.102. Hearing by Board of dispute over liability for funeral benefits;**
5 **appeal.**

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

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

19 "**§ 90-210.107. Acquisition, merger, dissolution, and liquidation of mutual burial**
20 **associations.**

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

28 (b) Upon receipt of a written proposal:

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

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

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

36 b. State the purpose of the meeting.

37 c. Contain or have attached the proposal submitted by the
38 insurance company.

39 d. Contain a statement limiting the time that each member will be
40 permitted to speak to the proposal, if the association deems it
41 advisable.

42 e. Contain a written proxy form and instructions concerning the
43 proxy prescribed by the Board.

1 (c) A representative of the insurance company shall be permitted to attend the
2 meeting held by the association for the purposes of explaining the proposal and
3 answering any questions from the members. The officers of the association may present
4 their views concerning the proposal. Any member of the association who wishes to
5 speak to the proposal shall be permitted to do so subject to any time limitation stated in
6 the notice of the meeting.

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

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

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

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

34 (1) Any officer or director of the association may call a special meeting
35 for the purpose of increasing assessments, and the secretary shall call a
36 special meeting for such purpose upon the request of at least ten
37 percent (10%) of the members or upon receipt of a proposal from an
38 insurance company that is conditioned upon an increase in
39 assessments.

40 (2) Written notice setting out the date, time, place, and the purpose of the
41 meeting shall be hand delivered or sent by first-class mail, postage
42 prepaid, to the last known address of each member of the association at
43 least 10 days in advance of the meeting.

1 (3) No vote may be had on the question of an increase in assessments
2 unless a quorum of the members of the association is present at the
3 meeting. A quorum shall be conclusively presumed if 15 members or
4 ten percent (10%) of the membership of the association, whichever is
5 greater, is present at the meeting.

6 (4) The proposal to increase the assessments shall be approved by an
7 affirmative vote of a majority of the members present and voting.

8 (5) The secretary of the association within five days following the meeting
9 shall certify the result of the vote and the presence of a quorum to the
10 Board in the manner and for the purposes set out in subsections (e) and
11 (f) of this section.

12 (h) Upon a written request from an association that has held a valid meeting and
13 voted for voluntary dissolution in accordance with G.S. 90-210.81, the Board shall issue
14 an order of liquidation for that association.

15 (i) Upon receipt of a request for voluntary dissolution under subsection ~~(h)~~, (h) of
16 this section or if the sponsoring funeral establishment has its permit revoked or ceases
17 operation for any reason, the Board shall issue an order of liquidation. The Board's
18 order may direct that the agreements for members' benefits be transferred to a
19 financially sound mutual burial association, as well as all records, property, and
20 unexpended balances of funds of the association to be liquidated, if the financially
21 sound mutual burial association agrees in writing to accept the transfer. The Board's
22 order shall direct the burial association to complete the liquidation and to file a final
23 report with the Board no later than December 31 of the year of the liquidation. Upon
24 receipt of the order of liquidation, the burial association shall:

25 (1) Cease accepting new members.

26 (2) Collect all debts owed to the association and pay all debts owed by the
27 association from monies on hand, including the reserve.

28 (3) Distribute pro rata any remaining monies on hand and in the reserve
29 among those who were members of the association and whose transfer
30 could not be accomplished on the date that the liquidation order was
31 issued by the Board. Each member's distributive share shall be
32 determined by dividing the amount of the member's benefit by the
33 aggregate benefits of all members of the association and then
34 multiplying the total amount of money available for distribution by the
35 percentage so derived. Assessments owed by the members to the
36 association at the time of distribution shall be taken into account and
37 shall be offset against the members' distributive shares.

38 (4) Issue a certificate to members in an amount that equals the difference
39 between the distributive share issued in subdivision (3) of this
40 subsection and the full amount of the member's association benefit.
41 Any certificate issued shall supersede and supplant any other
42 certificate already issued by the association. The certificate shall be on
43 a form prescribed by the Board and shall be prepared and distributed
44 by the association at its expense.

1 (5) File a final report with the Board on or before December 31 in the year
2 in which the order of liquidation was issued. This report shall show all
3 receipts and disbursements, including the amount distributed to each
4 member, since the last annual report of the association was filed with
5 the Board.

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

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

18 **SECTION 18.** G.S. 90-210.121 reads as rewritten:

19 **"§ 90-210.121. Definitions.**

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

- 21 (1) "Authorizing agent" means a person legally entitled to authorize the
22 cremation of human remains in accordance with G.S. 90-210.124.
- 23 (2) "Board" means the North Carolina Board of Funeral Service.
- 24 (3) "Body parts" means limbs or other portions of the anatomy that are
25 removed from a person or human remains for medical purposes during
26 treatment, surgery, biopsy, autopsy, or medical research; or human
27 bodies or any portion thereof that have been donated to science for
28 medical purposes.
- 29 (4) "Casket" means a rigid container that is designed for the encasement of
30 human remains and that is usually constructed of wood, metal, or other
31 material and ornamented and lined with fabric, and which may or may
32 not be combustible.
- 33 (5) "Certificate of cremation" means a certificate provided by the
34 crematory manager who performed the cremation containing, at a
35 minimum, the following information:
- 36 a. Name of decedent;
37 b. Date of cremation;
38 c. Name and address of crematory; and
39 d. Signature of crematory manager or person acting as crematory
40 manager.
- 41 (6) "Cremated remains" means all human remains recovered after the
42 completion of the cremation process, including pulverization which
43 leaves only bone fragments reduced to unidentifiable dimensions.

- 1 (7) "Cremation" means the technical process, using intense heat and
2 flame, that reduces human remains to bone fragments. Cremation
3 includes the processing and may include the pulverization of the bone
4 fragments.
- 5 (8) "Cremation chamber" means the enclosed space within which the
6 cremation process takes place. Cremation chambers covered by this
7 Article shall be used exclusively for the cremation of human remains.
- 8 (9) "Cremation container" means the container in which the human
9 remains are transported to the crematory or placed therein upon arrival
10 for storage and placement in a cremation chamber for cremation. A
11 cremation container shall comply with all of the following standards:
12 a. Be composed of readily combustible materials suitable for
13 cremation;
14 b. Be able to be closed in order to provide a complete covering for
15 the human remains;
16 c. Be resistant to leakage or spillage;
17 d. Be rigid enough for handling with ease;
18 e. Be able to provide protection for the health, safety, and personal
19 integrity of crematory personnel; and
20 f. Be easily identifiable. The covering of the cremation container
21 shall contain the following information:
22 1. The name of the decedent;
23 2. The date of death;
24 3. The sex of the decedent; and
25 4. The age at death of the decedent.
- 26 (10) "Cremation interment container" means a rigid outer container
27 composed of concrete, steel, fiberglass, or some similar material in
28 which an urn is placed prior to being interred in the ground and which
29 is designed to withstand prolonged exposure to the elements and to
30 support the earth above the urn.
- 31 (11) "Crematory" or "crematorium" means the building or buildings or
32 portion of a building on a single site that houses the cremation
33 equipment, the holding and processing facilities, the business office,
34 and other parts of the crematory business. A crematory must comply
35 with all applicable public health and environmental laws and rules and
36 must contain the equipment and meet all of the standards established
37 by the rules adopted by the Board.
- 38 (12) "Crematory licensee" means the individual or legal entity that is
39 licensed by the Board to operate a crematory and perform cremations.
- 40 (13) "Crematory manager" means the person who is responsible for the
41 management and operation of the crematory. A crematory manager
42 must either be licensed to practice funeral directing or funeral service
43 and be qualified as a crematory technician or must obtain a crematory

1 manager permit issued by the Board. In order to receive a crematory
2 manager permit, a person must:

- 3 a. Be at least 18 years of age.
- 4 b. Be of good moral character.
- 5 c. Be qualified as a crematory technician.

6 Notwithstanding any other provision of law, a crematory that is
7 licensed by the Board prior to January 1, 2004, and as of that date is
8 not managed by a crematory manager who is licensed to practice
9 funeral directing or funeral service, or who has a crematory manager
10 permit, may continue to be managed by a crematory manager who is
11 not licensed to practice funeral directing or funeral service or who does
12 not have a crematory manager permit so long as there is no sale,
13 transfer, devise, bequest, gift, or any other disposal of a controlling
14 interest in the crematory.

15 (13a) "Cremation society" means any person, firm, corporation, or
16 organization that is affiliated with a crematory licensed under this
17 Article and provides cremation information to consumers.

18 (14) "Crematory technician" means any employee of a crematory licensee
19 who has a certificate confirming that the crematory technician has
20 attended a training course approved by the Board. The Board shall
21 recognize the cremation certificate program that is conducted by the
22 Cremation Association of North America (CANA).

23 (15) "Final disposition" means the cremation and the ultimate interment,
24 entombment, inurnment, or scattering of the cremated remains or the
25 return of the cremated remains by the crematory licensee to the
26 authorizing agent or such agent's designee as provided in this Article.
27 Upon the written direction of the authorizing agent, cremated remains
28 may take various forms.

29 (16) "Holding and processing facility" means an area or areas that are
30 designated for the retention of human remains prior to, and the
31 retention and processing of cremated remains after, cremation; that
32 comply with all applicable public health and environmental laws;
33 preserve the health and safety of the crematory technician and other
34 personnel of the crematory; and that are secure from access by anyone
35 other than authorized persons. A holding facility and processing
36 facility must be located in a crematory.

37 (17) "Human remains" means the body of a deceased person, including a
38 separate human fetus, regardless of the length of gestation, or body
39 parts.

40 (17a) "Initial container" means a receptacle for cremated remains, for which
41 the intended use and design is to hold cremated remains, usually
42 composed of cardboard, plastic, or similar material that can be closed
43 in a manner so as to prevent the leakage or spillage of the cremated

1 remains or the entrance of foreign material and is a single container of
2 sufficient size to hold the cremated remains.

3 (18) "Niche" means a compartment or cubicle for the memorialization or
4 final disposition of an urn or container containing cremated remains.

5 (19) "Processing" means the removal of bone fragments from the cremation
6 chamber for the reduction in size, labeling and packaging, and placing
7 in an urn or ~~temporary~~ initial container.

8 (20) "Pulverization" means the reduction of identifiable or unidentifiable
9 bone fragments after the completion of the cremation to granulated
10 particles by mechanical means.

11 (21) "Scattering area" means an area permitted by North Carolina law
12 including, but not limited to, an area designated by a cemetery and
13 located on dedicated cemetery property where cremated remains that
14 have been removed from their container can be mixed with or placed
15 on top of the soil or ground cover.

16 ~~(22) "Temporary container" means a receptacle for cremated remains,~~
17 ~~usually composed of cardboard, plastic, or similar material which can~~
18 ~~be closed in a manner so as to prevent the leakage or spillage of the~~
19 ~~cremated remains or the entrance of foreign material and which is a~~
20 ~~single container of sufficient size to hold the cremated remains until an~~
21 ~~urn is acquired or the cremated remains are scattered.~~

22 (23) "Urn" means a receptacle designed to permanently encase the
23 cremated remains."

24 **SECTION 19.** G.S. 90-210.122(c) reads as rewritten:

25 "(c) The initial terms of the members of the Crematory Authority shall be
26 staggered by the appointing authorities so that the terms of three members (two of
27 which shall be appointees of the Governor) expire December 31, 1991, the terms of two
28 members (both of which shall be appointees of the Governor) expire December 31,
29 1992, and the terms of the remaining two members (one of which shall be an appointee
30 of the Governor) expire December 31, 1993.

31 As the terms of the members appointed by the Governor expire, their successors
32 shall be elected from among a list of nominees in an election conducted by the Board in
33 which all licensed crematory operators are eligible to vote. The Board ~~may~~ shall
34 conduct the election for members of the Crematory Authority ~~simultaneously with the~~
35 ~~election for members of the Board or at any other time. The Board~~ and shall prescribe
36 the procedures and establish the time and date for nominations and elections to the
37 Crematory Authority. A nominee who receives a majority of the votes cast shall be
38 declared elected. The Board shall appoint the successors to the two positions for which
39 it makes initial appointments pursuant to this section.

40 The terms of the elected members of the Crematory Authority shall be three years.
41 The terms of the members appointed by the Board, including the members initially
42 appointed pursuant to this subsection, shall be coterminous with their terms on the
43 Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term
44 by majority vote of the remaining members of the Crematory Authority. Any vacancy

1 occurring in a seat appointed by the Governor shall be filled by the Governor. Any
2 vacancy occurring in a seat appointed by the Board shall be filled by the Board."

3 **SECTION 20.** G.S. 90-210.123(g) is amended by adding a new subdivision
4 to read:

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

12 ...

13 (1a) Denial, suspension, or revocation of an occupational or business
14 license by another jurisdiction.

15"

16 **SECTION 21.** G.S. 90-210.123(i) reads as rewritten:

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

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

37 **SECTION 22.** G.S. 90-210.124(a) reads as rewritten:

38 "**§ 90-210.124. Authorizing agent.**

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

41 (1) ~~An individual at least 18 years of age may authorize the cremation and~~
42 ~~disposition of the individual's own dead body in a written will,~~
43 ~~pursuant to health care power of attorney to the extent provided in~~
44 ~~Article 3 of Chapter 32 of the General Statutes, pursuant to a preneed~~

1 ~~funeral contract executed pursuant to Article 13D of Chapter 90 of the~~
2 ~~General Statutes, pursuant to a cremation authorization form executed~~
3 ~~pursuant to Article 13F of Chapter 90 of the General Statutes, or in a~~
4 ~~written statement signed by the individual and witnessed by two~~
5 ~~persons who are at least 18 years old.~~An individual at least 18 years of
6 age may authorize the type, place, and method of disposition of the
7 individual's own dead body by methods in the following order:

- 8 a. Pursuant to a preneed funeral contract executed pursuant to
9 Article 13D of Chapter 90 of the General Statutes or pursuant to
10 a cremation authorization form executed pursuant to Article
11 13C of Chapter 90 of the General Statutes.
12 b. Pursuant to a written will.
13 c. Pursuant to a written statement other than a will signed by the
14 individual and witnessed by two persons who are at least 18
15 years old.
16 d. Pursuant to a health care power of attorney to the extent
17 provided in Article 3 of Chapter 32A of the General Statutes.

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

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

- 26 a. The surviving spouse.
27 b. A majority of the surviving children who are at least 18 years of
28 age and can be located after reasonable efforts.
29 c. The surviving parents.
30 d. A majority of the surviving siblings who are at least 18 years of
31 age and can be located after reasonable efforts.
32 e. A majority of the persons in the classes of the next degrees of
33 kinship, in descending order, who, under State law, would
34 inherit the decedent's estate if the decedent died intestate who
35 are at least 18 years of age and can be located after reasonable
36 efforts.
37 f. A person who has exhibited special care and concern for the
38 decedent and is willing and able to make decisions about the
39 cremation and disposition.
40 g. In the case of indigents or any other individuals whose final
41 disposition is the responsibility of the State or any of its
42 instrumentalities, a public administrator, medical examiner,
43 coroner, State-appointed guardian, or any other public official

1 charged with arranging the final disposition of the decedent
2 may serve as the authorizing agent.

3 h. In the case of individuals who have donated their bodies to
4 science or whose death occurred in a nursing home or private
5 institution and in which the institution is charged with making
6 arrangements for the final disposition of the decedent, a
7 representative of such institution may serve as the authorizing
8 agent in the absence of any of the above.

9 i. In the absence of any of the above, any person willing to
10 assume responsibility as authorizing agent, as specified in this
11 act.

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

22 **SECTION 23.** G.S. 90-210.129 reads as rewritten:

23 **"§ 90-210.129. Cremation procedures.**

24 (a) In deaths certified by the attending physician, the body shall not be cremated
25 before the crematory licensee receives a death certificate signed by the attending
26 physician, which shall contain at a minimum the following information:

- 27 (1) Decedent's name;
- 28 (2) Date of death;
- 29 (3) Date of birth;
- 30 (4) Sex;
- 31 (5) Place of death;
- 32 (6) Facility name (if not institution, give street and number);
- 33 (7) County of death;
- 34 (8) City of death; and
- 35 (9) Time of death (if known).

36 (b) When required by G.S. 130A-388 and the rules adopted pursuant to that
37 section or by successor statute and the rules pursuant to it, a cremation authorization
38 form signed by a medical examiner shall be received by the crematory prior to
39 cremation.

40 (c) In deaths coming under full investigation by the Office of the Chief Medical
41 Examiner, a burial-transit permit/cremation authorization form must be received by the
42 crematory before cremation.

43 (d) No body shall knowingly be cremated with a pacemaker or defibrillator or
44 other potentially hazardous implant or condition in place. The authorizing agent for the

1 cremation of the human remains shall be responsible for taking all necessary steps to
2 ensure that any pacemaker or defibrillator or other potentially hazardous implant or
3 condition is removed or corrected prior to cremation. If an authorizing agent informs the
4 funeral director and the crematory licensee on the cremation authorization form of the
5 presence of a pacemaker or defibrillator or other potentially hazardous implant or
6 condition in the human remains, then the funeral director shall be responsible for
7 ensuring that all necessary steps have been taken to remove the pacemaker or
8 defibrillator or other potentially hazardous implant or to correct the hazardous condition
9 before delivering the human remains to the crematory.

10 (e) Human remains shall not be cremated within 24 hours after the time of death,
11 unless such death was a result of an infectious, contagious, or communicable and
12 dangerous disease as listed by the Commission of Health Services, pursuant to
13 G.S. 130A-134, and unless such time requirement is waived in writing by the medical
14 examiner, county health director, or attending physician where the death occurred.

15 (f) No unauthorized person shall be permitted in view of the cremation chamber
16 or in the holding and processing facility while any human remains are being removed
17 from the cremation container, processed, or pulverized. Relatives of the deceased and
18 their invitees, the authorizing agent and the agent's invitees, medical examiners,
19 Inspectors of the North Carolina Board of Funeral Service, and law enforcement
20 officers in the execution of their duties shall be authorized to have access to the
21 crematory area, subject to the rules adopted by the crematory licensee governing the
22 safety of such individuals.

23 (g) Human remains shall be cremated only while enclosed in a cremation
24 container. Upon completion of the cremation, and insofar as is possible, all of the
25 recoverable residue of the cremation process shall be removed from the cremation
26 chamber. Insofar as is possible, all residue of the cremation process shall then be
27 separated from any foreign residue or anything else other than bone fragments and then
28 be processed by pulverization so as to reduce the cremated remains to unidentifiable
29 particles. Any foreign residue and anything other than the particles of the cremated
30 remains shall be removed from the cremated remains as far as possible and shall be
31 disposed of by the crematory licensee. This section does not apply where law otherwise
32 provides for commingling of human remains. The fact that there is incidental and
33 unavoidable residue in the cremation chamber used in a prior cremation is not a
34 violation of this subsection.

35 (h) The simultaneous cremation of the human remains of more than one person
36 within the same cremation chamber is forbidden.

37 (i) Every crematory shall have a holding and processing facility, within the
38 crematory, designated for the retention of human remains prior to cremation. The
39 holding and processing facility must comply with any applicable public health laws and
40 rules and must meet all of the standards established pursuant to rules adopted by the
41 Board.

42 (j) Crematory licensees shall comply with standards established by the Board for
43 the processing and pulverization of human remains by cremation.

1 (k) Nothing in this Article shall require a crematory licensee to perform a
2 cremation that is impossible or impractical to perform.

3 (l) The cremated remains with proper identification shall be placed in a
4 ~~temporary~~an initial container or the urn selected or provided by the authorizing agent.
5 The ~~temporary~~initial container or urn contents shall not be contaminated with any other
6 object, unless specific authorization has been received from the authorizing agent or as
7 provided in subsection (g) of this section.

8 (m) If the cremated remains are greater than the dimensions of a ~~temporary~~an
9 initial container or urn, the excess cremated remains shall be returned to the authorizing
10 agent or its representative in a separate container or urn.

11 (n) If the cremated remains are to be shipped, the ~~temporary~~initial container or
12 urn shall be packed securely in a suitable shipping container that complies with the
13 requirements of the shipper. Cremated remains shall be shipped only by a method which
14 has an internal tracing system available and which provides a receipt signed by the
15 person accepting delivery, unless otherwise authorized in writing by the authorizing
16 agent. Cremated remains shall be shipped to the proper address as stated on the
17 cremation authorization form signed by the authorizing agent.

18 (o) Unless the provisions of G.S. 130A-114 apply, before cremation the
19 crematory licensee shall receive a written statement, on a form prescribed by the Board
20 and signed by the attending physician, acknowledging the circumstances, date, and time
21 of the delivery of the fetal remains from the mother. If after reasonable efforts no
22 physician can be identified with knowledge and information sufficient to complete the
23 written statement required by this subsection, the crematory licensee shall obtain
24 documentation of the circumstances, date, and time of delivery of the fetal remains
25 prepared by a hospital, medical facility, law enforcement agency, or other entity.
26 Notwithstanding any other provision of law, health care providers may release to a
27 licensee, in accordance with the federal Standards for Privacy of Individually
28 Identifiable Health Information under the Health Insurance Portability and
29 Accountability Act of 1996 (HIPAA), medical records that document the circumstances,
30 date, and time of delivery of fetal remains. If the crematory licensee cannot identify
31 documents sufficient to meet the requirements of this subsection, the licensee shall
32 report to the local medical examiner pursuant to G.S. 130A-383(a).

33 (p) If the provisions of Article 4 of Chapter 130A of the General Statutes apply,
34 the crematory licensee shall receive a fetal report of death as prescribed in
35 G.S. 130A-114.

36 (q) Before the cremation of amputated body parts, the crematory licensee shall
37 receive a written statement, on a form prescribed by the Board and signed by the
38 attending physician, acknowledging the circumstances of the amputation. If after
39 reasonable efforts no physician can be identified with knowledge and information
40 sufficient to complete the written statement required by this subsection, the crematory
41 licensee shall notify the local medical examiner pursuant to G.S. 130A-383(b). This
42 section does not apply to the disposition of body parts cremated pursuant to Part 3 of
43 Article 16 of Chapter 130A of the General Statutes."

44 **SECTION 24.** 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 25.** 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 26.** 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 27.** This act is effective when it becomes law.