

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 441

Short Title: Abolish Burial Commission/AB.

(Public)

Sponsors: Representatives Creech; and Davis.

Referred to: Business and Labor.

March 9, 1995

A BILL TO BE ENTITLED

**AN ACT TO ABOLISH THE MUTUAL BURIAL ASSOCIATION COMMISSION
AND TO TRANSFER ITS DUTIES TO THE BOARD OF MORTUARY SCIENCE.**

Whereas, mutual burial associations no longer provide an adequate funeral benefit for their members, considering the current cost of funerals, and have largely fulfilled their function; and

Whereas, many mutual burial associations have merged with or sold their assets to insurance companies, and others contemplate doing so; and

Whereas, a number of the remaining associations are not financially sound and have little likelihood of becoming so; and

Whereas, the number of associations remaining after all mergers are accomplished will be inadequate, in all likelihood, to support the activities of the Mutual Burial Association Commission; and

Whereas, as it is appropriate to provide for the merger or dissolution of associations which are not financially sound, to transfer the duties and responsibilities of the Commission for any remaining associations to the Board of Mortuary Science, and to abolish the Commission; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Part 13, Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

1 "§ 143B-472.29. Acquisition, merger, and liquidation of mutual burial association;
2 transfer of Commission's powers and duties to Board of Mortuary
3 Science.

4 (a) An insurance company which desires to purchase the assets of or to merge with
5 a burial association as provided in G.S. 143B-472.28 shall submit to the Administrator
6 and to the secretary of the association a written proposal containing the terms and
7 conditions of the proposed purchase or merger.

8 A proposal may be conditioned upon an increase in the assessments of an association
9 in the manner set out in subsection (b) of this section, in which event the issues of
10 purchase or merger and of increase in assessments may be considered at the same
11 meeting of the association.

12 Upon receipt of a written proposal:

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

16 (2) Within 10 days of receiving the order, the association shall give at least
17 10 days advance written notice of the meeting to each of its members.
18 The notice shall:

19 a. State the date, time, and place of the meeting;

20 b. State the purpose of the meeting;

21 c. Contain or have attached the proposal submitted by the insurance
22 company; and

23 d. Contain a statement limiting the time that each member will be
24 permitted to speak to the proposal, if the association deems it
25 advisable.

26 (3) A representative of the insurance company shall be permitted to attend
27 the meeting for the purposes of explaining the proposal and answering
28 any questions from the members. The officers of the association may
29 present their views concerning the proposal. Any member of the
30 association who wishes to speak to the proposal shall be permitted to do
31 so, subject to any time limitation stated in the notice of the meeting.

32 (4) The secretary of the association shall record the name of every member
33 who is present at the meeting and shall determine whether there is a
34 quorum. The presence of 15 paid-up members or fifteen percent (15%)
35 of the paid-up membership, whichever is less, shall constitute a quorum.
36 Acceptance or rejection of the proposal shall be by majority vote of the
37 members present and voting. Any paid-up member who is at least 18
38 years of age shall be permitted to vote. A parent or guardian of any
39 member who is under 18 years of age may vote on behalf of his or her
40 child or ward, but only one vote may be cast on behalf of that member.

41 (5) The secretary of the association shall certify the result of the vote and
42 the presence of a quorum to the Administrator within five days
43 following the meeting and shall include with the certification a copy of

1 the notice of the meeting which was sent to the members of the
2 association.

3 (6) The Administrator shall immediately review the certification, the notice,
4 and such other records as may be necessary to determine the adequacy
5 of notice, the presence of a quorum, and the validity of the vote. Upon
6 determining that the meeting and vote were regular and held following
7 proper notice and that a majority of a quorum of the paid-up members
8 voted in favor of the proposal, the Administrator shall issue an order
9 approving the purchase or merger and directing that the purchase or
10 merger proceed in accordance with the proposal.

11 (b) Any burial association whose current assessments are not, or within the next
12 ensuing three years are unlikely to be, adequate to reach or maintain a reserve of at least
13 twenty-one dollars (\$21.00) per member or are inadequate to meet the requirements of a
14 proposal from an insurance company to acquire the assets of, or to merge with, the
15 association may increase its assessments by an amount necessary to reach and maintain
16 the reserve or to meet the proposal if that increase is approved by a vote of the members
17 of the association at a regular meeting of the association or at a special meeting called for
18 the purpose in the following manner:

19 (1) Any officer or director of the association may call a special meeting for
20 this purpose, and the secretary-treasurer shall call a special meeting for
21 this purpose upon the request of at least ten percent (10%) of the
22 members or upon receipt of a proposal from an insurance company in
23 the manner set out in subsection (a) of this section.

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

28 (3) No vote may be had on the question of an increase in assessments unless
29 a quorum of the paid-up members of the association is present at the
30 meeting. A quorum shall be conclusively presumed if 15 paid-up
31 members or fifteen percent (15%) of the paid-up membership of the
32 association, whichever is less, is present at the meeting.

33 (4) The proposal to increase the assessments shall be approved by an
34 affirmative vote of a simple majority of the paid-up members present
35 and voting.

36 (5) The secretary of the association, within five days following the meeting,
37 shall certify the result of the vote and the presence of a quorum to the
38 Administrator in the manner and for the purposes set out in subsection
39 (a) of this section.

40 (c) Every association shall submit to the Administrator on or before the first day of
41 June 1996, and thereafter as may be required by the Administrator, but not more
42 frequently than once each calendar year, a written report of financial soundness prepared
43 by a qualified actuary as to the adequacy of reserves and to other items to pay current and

1 future claims of deceased members and shall reflect a consideration of at least the
2 following factors:

- 3 (1) The current number of members of the association;
- 4 (2) The age of the members;
- 5 (3) The sex of the members;
- 6 (4) The amount of the association's annual assessments;
- 7 (5) The amount of the association's current reserves;
- 8 (6) The projected amount of the association's reserves for each of the next
9 three years;
- 10 (7) The net gain in membership of the association during the preceding
11 three years;
- 12 (8) The projected net gain in membership of the association for each of the
13 next three years;
- 14 (9) The association's current liability for benefits to its members; and
- 15 (10) The association's projected net liability for benefits to its members for
16 each of the next three years.

17 (d) The Administrator shall issue an order of liquidation to every association
18 which has not been acquired by or merged with an insurance company if the association
19 is not financially sound on June 1, 1997, as shown by the actuary's report required by
20 subsection (c) of this section. The Administrator's order may direct that all members in
21 good standing be transferred to a financially sound association, together with all records,
22 property, and unexpended balances of funds of the association to be liquidated, if the
23 financially sound association agrees in writing to accept the transfer. The order shall
24 direct the association to complete the liquidation and to file a final account with the
25 Administrator by December 31, 1997. In the event that a transfer of members cannot be
26 accomplished, the association, upon receipt of an order of liquidation, shall:

- 27 (1) Cease accepting new members;
- 28 (2) Collect all debts owed to the association and pay all debts owed by the
29 association from monies on hand, including the reserve;
- 30 (3) Distribute any remaining monies on hand and in the reserve pro rata
31 among those who were members of the association on the date the
32 liquidation order was issued by the Administrator;

33 Each member's distributive share shall be determined by dividing the
34 amount of that member's benefit by the aggregate benefits of all
35 members of the association and then multiplying the total amount of
36 money available for distribution by the percentage so derived.

37 Assessments owed by the members to the association at the time of
38 distribution shall be taken into account and shall be offset against the
39 members's distributive shares; and

- 40 (4) File a final account with the Administrator on or before December 31,
41 1997, which shall show all receipts and disbursements, including the
42 amount distributed to each member, since the last annual report of the
43 association was filed with the Administrator.

1 (e) The Administrator shall immediately review the final report and shall notify
2 the association whether the report has been accepted. All licenses issued to soliciting
3 agents of the association pursuant to G.S. 143B-472.4 and the written authority to operate
4 issued by the Commission to the association pursuant to G.S. 143B-472.6 are
5 automatically canceled as a matter of law upon acceptance of the final report by the
6 Administrator.

7 (f) No new association may be authorized, organized, or licensed pursuant to this
8 Part 13 on or after the first day of January 1996, but associations existing on that date
9 may merge or consolidate as provided in G.S. 143B-472.2 and G.S. 143B-472.28."

10 Sec. 2. The authority, powers, duties, and functions vested in the North
11 Carolina Mutual Burial Association Commission and in the Burial Association
12 Administrator by Part 13, Article 10 of Chapter 143B of the General Statutes are
13 transferred to the North Carolina Board of Mortuary Science, created by Article 13A of
14 Chapter 90 of the General Statutes, and the North Carolina Mutual Burial Association
15 Commission is abolished, all effective the first day of January 1998; and on and after that
16 date, the Board of Mortuary Science shall be responsible for the administration of Part
17 13, Article 10 of Chapter 143B of the General Statutes.

18 Sec. 3. G.S. 143B-472 and G.S. 143B-472.1 are repealed effective the first day
19 of January 1998.

20 Sec. 4. G.S. 143B-472.3 reads as rewritten:

21 **"§ 143B-472.3. Requirements as to rules and bylaws.**

22 All burial associations now operating within the State of North Carolina, ~~and all burial~~
23 ~~associations hereafter organized and operating within the State of North Carolina~~ Carolina shall
24 have and maintain rules and bylaws embodying the following:

25 Article 1. The name of this association shall be, which shall indicate that said
26 association is a mutual burial association.

27 Article 2. The objects and purposes for which this association is formed and the
28 purposes for which it has been organized, and the methods and plan of operation of this
29 association shall be to provide a plan for each member of this association for the payment
30 of one funeral benefit for each member, which shall consist of a funeral benefit in cash or
31 merchandise and service, with no free embalming or free ambulance service included in
32 this benefit. No other free service or any other thing free shall be held out, promised or
33 furnished, in any case. Such funeral benefit shall be in the amount of one hundred dollars
34 (\$100.00) of cash or merchandise and service, without free embalming or free ambulance
35 service, for persons of the age of 10 years and over, or in the amount of fifty dollars
36 (\$50.00) for persons under the age of 10 years; provided, however, that any member of
37 this association of the age of 10 years or more may purchase a double benefit (for a total
38 benefit of two hundred dollars (\$200.00)), and provided further, however, that any
39 member of this association under the age of 10 years may purchase a double benefit (for a
40 total benefit of one hundred dollars (\$100.00)) or a quadruple benefit (for a total benefit
41 of two hundred dollars (\$200.00)); however, any additional benefit (as set out herein)
42 shall be based on the assessment rate, as provided in Article 6 of this section, at the
43 attained age of applicant at the time the additional benefit takes effect. The purchase of

1 an additional benefit shall not be available to any member who cannot fulfill the
2 requirements as set forth in Article 3 of this section.

3 Provided, further, that mutual burial associations organized and operating pursuant to
4 this Article may offer for sale to its members in good standing, funeral benefits payable
5 only in cash in excess of two hundred dollars (\$200.00), but those sales shall be subject to
6 all applicable insurance laws of this State and shall in no manner be subject to the
7 provisions of this Article or impair whatsoever funds heretofore or hereafter collected and
8 held by that Association pursuant to this Article. All mutual burial association policies
9 heretofore or hereafter sold in this State in an amount of two hundred dollars (\$200.00) or
10 less shall continue to be administered by the Burial Association Administrator and shall
11 be subject to all provisions of this Article.

12 Article 3. Any person who has passed his or her first birthday, and who has not
13 passed his or her sixty-fifth birthday, and who is in good health and not under treatment
14 of any physician, nor confined in any institution for the treatment of mental or other
15 disease, may become a member of this burial association by the payment by such person,
16 or for such person, of a membership fee in accordance with the provisions of this Article
17 and the first assessment due on the membership issued for such member in accordance
18 with the provisions of Article 6 herein. The membership fee for any person joining prior
19 to July 1, 1975, is twenty-five cents (25¢). The membership fee of any person joining
20 after July 1, 1975, is twenty-five cents (25¢) for each one hundred dollars (\$100.00) of
21 benefits provided in such membership, with a minimum membership fee of twenty-five
22 cents (25¢). The payment of the membership fee, without the payment of the first
23 quarterly assessment due on the membership, shall not authorize the issuance of a
24 certificate of membership in this burial association, and a certificate of membership for
25 such person shall not be issued until the first such assessment is paid. Any member of
26 this association joining after July 1, 1975, and who shall thereafter purchase an increased
27 benefit shall pay an additional membership fee in accordance with this Article so that the
28 total membership fee paid by such person shall equal twenty-five [cents] (25¢) for each
29 one hundred dollars (\$100.00) of benefits in such member's membership; provided, that
30 any member with a fifty-dollar (\$50.00) benefit who increases his benefit from fifty
31 dollars (\$50.00) to one hundred dollars (\$100.00) shall not be required to pay any
32 additional membership fee. The payment of any additional membership fee, without the
33 payment of the first additional assessment due for the increased benefit, shall not make
34 such member eligible for any additional benefit, and such member shall not be eligible
35 for any additional benefit until the first such additional assessment due for such
36 additional benefit is paid. Notwithstanding the foregoing, the provisions of the last
37 paragraph of Article 6, hereinafter set out, shall control the increase of benefits from fifty
38 dollars (\$50.00) to one hundred dollars (\$100.00) for any member of this association
39 joining under the age of 10 whose benefits in force upon such member attaining his or her
40 tenth birthday are in the amount of fifty dollars (\$50.00).

41 Applicant's birthday must be written in the application and subject to verification by
42 any record the Burial Association Administrator may deem necessary to prove or
43 establish a true date of the birth of any applicant.

1 Article 4. The annual meeting of the association shall be held at (here insert the
2 place, date and hour); each member shall have one vote at said annual meeting and 15
3 members of the association shall constitute a quorum. There shall be elected at the
4 annual meeting of said association a board of directors of seven members, each of whom
5 shall serve for a period of from one to five years as the membership may determine and
6 until his or her successor shall have been elected and qualified. Any member of the
7 board of directors who shall fail to maintain his or her membership, as provided in the
8 rules and bylaws of said association, shall cease to be a member of the board of directors
9 and a director shall be appointed by the president of said association for the unexpired
10 term of such disqualified member. There shall be at least an annual meeting of the board
11 of directors, and such meeting shall be held immediately following the annual meeting of
12 the membership of the association. The directors of the association may, by a majority
13 vote, hold other meetings of which notice shall be given to each member by mailing such
14 notice five days before the meeting to be held. At the annual meetings of the directors of
15 the association, the board of directors shall elect a president, a vice-president, and a
16 secretary-treasurer. The president and vice-president shall be elected from among the
17 directors, but the secretary-treasurer may be selected from the director membership or
18 from the membership of the association, it being provided that it is not necessary that the
19 secretary-treasurer shall be a member of the board of directors. Among other duties that
20 the secretary-treasurer may perform, he shall be chargeable with keeping an accurate and
21 faithful roll of the membership of this association at all times and he shall be chargeable
22 with the duty of faithfully preserving and faithfully applying all moneys coming into his
23 hands by virtue of his said office. The president, vice-president and secretary-treasurer
24 shall constitute a board of control who shall direct the affairs of the association in
25 accordance with these Articles and bylaws of the association, and subject to such
26 modification as may be made or authorized by an act of the General Assembly. The
27 secretary-treasurer shall keep a record of all assessments made, dues collected and
28 benefits paid. The books of the association, together with all records and bank accounts
29 shall be at all times open to the inspection of the Burial Association Administrator or his
30 duly constituted auditors or representatives. It shall be the duty of the secretary or
31 secretary-treasurer of each association to keep the books of the association posted up-to-
32 date so that the financial standing of the association may be readily ascertained by the
33 Burial Association Administrator or any auditor or representative employed by him.
34 Upon the failure of any secretary or secretary-treasurer to comply with this provision, it
35 shall be the duty of the Burial Association Administrator to take charge of the books of
36 the association and do whatever work is necessary to bring the books up-to-date. The
37 actual costs of said work may be charged the burial association and shall be paid from the
38 thirty percent (30%) allowed by law for the operation of the burial association.

39 Whenever in the opinion of the Burial Association Administrator, it is necessary to
40 audit the books of any burial association more than once in any calendar year, the Burial
41 Association Commission shall have authority to assess such burial association the actual
42 cost of any audit in excess of one per calendar year, provided that no more than one audit
43 may be deemed necessary unless a discrepancy exists at the last regular audit. Such cost

1 shall be paid from the thirty percent (30%) allowed by law for the operation of the burial
 2 association.

3 Every burial association shall file with the North Carolina Mutual Burial Association
 4 Commission an annual report of its financial condition on a form furnished to it by the
 5 North Carolina Burial Association Administrator. Such report shall be filed on or before
 6 February 15 of each calendar year and shall cover the complete financial condition of the
 7 burial association for the immediate preceding calendar year. The Burial Association
 8 Commission shall levy and collect a penalty of twenty-five dollars (\$25.00) for each day
 9 after February 15 that the report called for herein is not filed. The Commission may, in
 10 its discretion, grant any reasonable extension of the above filing date without the penalty
 11 provided in this section. Such penalty shall be paid from the thirty percent (30%) allowed
 12 by law for the operation of the burial association. Any secretary or secretary-treasurer
 13 who fails to file such financial report on or before February 15 of each calendar year or
 14 on or before the last day of any period of extension for the filing of such report granted
 15 by the Commission to the burial association of such secretary or secretary-treasurer shall
 16 be guilty of a Class 3 misdemeanor. Each day after February 15, or the last day of any
 17 period of extension for the filing of the report granted by the Commission to the burial
 18 association of such secretary or secretary-treasurer, that said report is not filed by the
 19 secretary or secretary-treasurer of a burial association, shall constitute a separate offense.

20 Article 5. Upon the death of any officer, his successor shall be elected by the board of
 21 directors for the unexpired term. The president, vice-president and secretary-treasurer
 22 shall be elected for a term of from one to five years, and shall hold office until his
 23 successor is elected and qualified, subject to the power of the board of directors to
 24 remove any officer for good cause shown; provided, that any officer removed by the
 25 board of directors shall have the right of appeal to the membership of the association,
 26 such appeal to be heard at the next ensuing annual meeting of said membership.

27 Article 6. Each member shall be assessed according to the following schedule for the
 28 benefit indicated (or in multiples thereof for additional benefit) at the age of entry of the
 29 member.

30 **ASSESSMENT RATE FOR AGE GROUPS:**

| | |
|-------------------------------------|--------------------|
| 31 First to tenth birthday | |
| 32 (\$50.00) benefit | five cents (5¢) |
| 33 Tenth to thirtieth birthday | |
| 34 (\$100.00) benefit | ten cents (10¢) |
| 35 Thirtieth to fiftieth birthday | |
| 36 (\$100.00) benefit | twenty cents (20¢) |
| 37 Fiftieth to sixty-fifth birthday | |
| 38 (\$100.00) benefit | thirty cents (30¢) |

39 (Ages shall be defined as having passed a certain birthday instead of nearest birthday.)
 40 Assessment shall always be made on the entire membership in good standing.

41 Any member joining under the age of 10 shall, upon attaining his or her tenth
 42 birthday, pay thereafter the assessment for a member age 10 as set out above.

1 Any member joining under the age of 10 whose benefits in force upon such member
2 attaining his or her tenth birthday are in the amount of fifty dollars (\$50.00) shall, if such
3 member is in good standing upon attaining his or her tenth birthday, thereafter have
4 benefits in force in the amount of one hundred dollars (\$100.00) without the necessity of
5 making application for such increased benefit. Assessments made thereafter for such
6 member shall be the same as an assessment for a member age 10 as set out above. Such
7 one-hundred-dollar (\$100.00) benefit shall be in full force and effect for any such
8 member in good standing immediately upon such member attaining his or her tenth
9 birthday even though the increased assessment provided for herein shall not yet be due
10 and payable, it being the intent of this Article that, notwithstanding any other provisions
11 in these Articles, any member in good standing with a fifty-dollar (\$50.00) benefit shall
12 immediately upon attainment of his or her tenth birthday have a one-hundred-dollar
13 (\$100.00) benefit in force whether or not the increased assessment is then due and
14 payable by such member in accordance with the assessment period of this association.

15 Article 7. No benefit will be paid for natural death occurring within 30 days from the
16 date of the certificate of membership, which certificate shall express the true date such
17 person becomes a member of this association, and the certificate issued shall be in
18 acknowledgment of membership in this association. Benefits will be paid for death
19 caused by accidental means occurring any time after date of membership certificate. No
20 benefits will be paid in case of suicidal death of any member within one year from the
21 date of the membership certificate. No agent or other person shall have authority to issue
22 membership certificates in the field, but such membership certificates shall be issued at
23 the home office of the association by duly authorized officers: the president, vice-
24 president or secretary, and a record thereof duly made.

25 Article 8. Any member failing to pay any assessment within 30 days after notice shall
26 be in bad standing, and unless and until restored, shall not be entitled to benefits. Notice
27 shall be presumed duly given when mailed, postage paid, to the last known address of
28 such members: Provided, moreover, that notice to the head of a family shall be construed
29 as notice to the entire membership of such family in said association. Any member or
30 head of a family changing his or her address shall give notice to the secretary-treasurer in
31 writing of such change, giving the old address as well as the new, and the head of a
32 family notifying the secretary-treasurer of change in address shall list with the secretary
33 in such notice all the members of his or her family having membership in said
34 association. Any member in bad standing may, within 90 days after the date of an
35 assessment notice, be reinstated to good standing by the payment of all delinquent dues
36 and assessments: Provided such person shall at the same time submit to the secretary-
37 treasurer satisfactory evidence of good health, in writing, and no benefit will be paid for
38 natural death occurring within 30 days after reinstatement. In case of death caused by
39 accidental means, benefit will be in force immediately after reinstatement. Any person
40 desiring to discontinue his membership for any reason shall communicate such desire to
41 the secretary-treasurer immediately and surrender his or her certificate of membership.
42 Any adult member who is the head of a family and who, with his family, has become in

1 bad standing, shall furnish to the secretary-treasurer satisfactory evidence of the good
2 health of each member desired to be reinstated in writing.

3 Article 9. The benefits herein provided are for the purpose of furnishing a funeral and
4 burial benefit, in cash or merchandise and service, for a deceased member. The funeral
5 and burial benefit, if furnished in merchandise and service, shall be in keeping with and
6 similar to the merchandise and service sold and furnished at the same price by reputable
7 funeral directors of this or other like communities.

8 Article 10. It is understood and stipulated that the benefits provided for shall be
9 payable only to a funeral establishment which provides a funeral service for a deceased
10 member and which, if located in North Carolina, is a funeral establishment registered
11 under the provisions of G.S. 90-210.17 or which, if located in any other state, territory or
12 foreign country, is a funeral establishment recognized by and operating in conformity
13 with the laws of such other state, territory or foreign country. Upon the death of any
14 member, it shall be the duty of the person or persons making the funeral arrangements for
15 such deceased member to notify the secretary of the member's burial association of the
16 death of such member. The person or persons making the funeral arrangements for such
17 deceased member shall have 30 days from the date of the death of such member in which
18 to make demand upon the burial association for the funeral benefits to which such
19 member is entitled.

20 The benefits provided for are to be paid by the burial association to the funeral
21 director providing such funeral and burial service either in cash or in merchandise and
22 service as elected by the person or persons making the funeral arrangements for such
23 deceased member. If the burial association shall fail, on demand, to provide the benefits
24 to which the deceased member was entitled to the funeral establishment which provided
25 the funeral service for the deceased member, then the benefits shall be paid in cash to the
26 representative of the deceased member qualified under law to receive such benefits.

27 Article 11. Assessments shall be made as provided in G.S. 143B-472.18. Whenever
28 possible, assessments will be made at definitely stated intervals so as to reduce the cost of
29 collection and to prevent lapse.

30 Article 12. In the event the proceeds of the annual assessments imposed on the entire
31 membership for one year, as provided in G.S. 143B-472.18, do not prove sufficient at any
32 time to yield the benefit provided for in these bylaws, then the secretary-treasurer shall
33 notify the North Carolina Burial Association Administrator who shall be authorized,
34 unless the membership is increased to that point where such assessments are sufficient, to
35 cause liquidation of said association, and may transfer all members in good standing to a
36 like organization or association.

37 Article 13. (a) All legitimate operating expenses of the association shall be paid out
38 of the assessments, but in no case shall the entire expenses exceed thirty percent (30%) of
39 the total of the assessments collected and the investment income of the burial association
40 in one calendar year.

41 (b) Each burial association shall establish and maintain a reserve account for the
42 payment of member's benefits. On the thirty-first day of December following July 1,
43 1975, each burial association shall transfer to such burial association's reserve account

1 established in accordance with this Article all funds which such burial association is
2 maintaining on that date in an account designated by such burial association as either a
3 surplus account or a reserve account. Thereafter, beginning on January 1, 1976, each
4 burial association shall place in such reserve account five percent (5%) of the
5 assessments collected from and after that date and five percent (5%) of the investment
6 income of the association earned from and after that date. These sums shall continue to
7 be placed in the association's reserve account until the association's reserve account shall
8 equal twenty-one dollars (\$21.00) per member. Thereafter if the reserve account shall
9 fall below twenty-one dollars (\$21.00) per member, such sums shall again be deposited in
10 the account until such time as the reserve account shall again be equal to twenty-one
11 dollars (\$21.00) per member. If the reserve account shall at any time exceed twenty-one
12 dollars (\$21.00) per member, amounts in excess of twenty-one dollars (\$21.00) per
13 member may be withdrawn from the reserve account.

14 Article 14. Special meetings of the association membership may be called by the
15 secretary-treasurer when by him deemed necessary or advisable, and he shall call a
16 meeting when petitioned to do so by sixty-six and two-thirds percent (66 2/3%) of the
17 members of said association who are in good standing.

18 Article 15. The secretary-treasurer shall, upon satisfactory evidence that membership
19 was granted to any person not qualified at the time of entry as provided under Article 3 of
20 these bylaws, refund any amounts paid as assessment, and shall remove the name from
21 the membership roll.

22 Article 16. Any member may pay any number of assessments in advance, in which
23 case such member will not be further assessed until a like number of assessments shall
24 have been levied against the remaining membership.

25 Article 17. No person may maintain active membership in two or more separate
26 burial associations. Any person who is found to have membership in two or more
27 separate burial associations shall forfeit all benefits and fees paid in all associations of
28 which he is a member except in the association which he first joined and of which he is
29 still then a member. A person is not a member of an association for purposes of this
30 Article if he has discontinued his membership in such association or if such association
31 has been placed in liquidation.

32 Article 18. Each year, before the annual meeting of the membership of this
33 association, the association shall cause to be published in a newspaper of general
34 circulation in the county in which such association has its principal place of business, or
35 shall cause to be mailed to each member in good standing a statement showing total
36 income collected, expenses paid and burial benefits provided for by such association
37 during the next preceding year.

38 Article 19. These rules and bylaws shall not be modified, canceled or abridged by
39 any association or other authority except by act of the General Assembly of North
40 Carolina."

41 Sec. 5. Effective January 1, 1998, G.S. 143B-472.2 reads as follows:
42 "**§ 143B-472.2. Duties of ~~Commission~~; Board; ~~meetings~~; meetings. ~~Burial~~
43 Administrator; ~~secretary~~.**"

1 It shall be the duty of the ~~North Carolina Mutual Burial Association Commission~~ State
2 Board of Mortuary Science to supervise, pursuant to this Article, all burial associations
3 authorized by this Article to operate in North Carolina, to determine that such
4 associations are operated in conformity with this Article and the rules ~~and regulations~~
5 adopted pursuant to this Article; to assist the Burial Association Administrator with
6 prosecution of violations of this Article or rules ~~and regulations~~ adopted pursuant thereto;
7 ~~to counsel with and advise the Burial Association Administrator in the performance of his duties~~
8 and to protect the interest of members of mutual burial associations.

9 ~~The North Carolina Mutual Burial Association Commission,~~ The State Board of Mortuary
10 Science, after a public hearing, may promulgate reasonable rules and regulations for the
11 enforcement of this Article and in order to carry out the intent thereof. The ~~Commission~~
12 Board is authorized and directed to adopt specific rules ~~and regulations~~ to provide for the
13 orderly transfer of a member's benefits in cash or merchandise and services from the
14 funeral director sponsoring the member's association to the funeral establishment which
15 furnishes a funeral service, or merchandise, or both, for the burial of the member,
16 provided that any funeral establishment to which the member's benefits are transferred in
17 accordance with such rules ~~and regulations~~ shall, if located in North Carolina, be a funeral
18 establishment registered and permitted under the provisions of ~~G.S. 90-210.17~~ G.S. 90-
19 210.25 or shall, if located in any other state, territory or foreign country, be a funeral
20 establishment recognized by and operating in conformity with the laws of such other
21 state, territory or foreign country. One or more burial associations operating in North
22 Carolina may merge into another burial association operating in North Carolina and two
23 or more burial associations operating in North Carolina may consolidate into a new burial
24 association provided that any such plan of merger or plan of consolidation shall be
25 adopted and carried out in accordance with rules ~~and regulations~~ adopted by the
26 ~~Commission Board~~ pursuant to this Article.

27 All rules ~~and regulations~~ heretofore adopted by the Burial Association Administrator or
28 the Mutual Burial Association Commission in accordance with prior law and which have
29 not been amended, rescinded, revoked or otherwise changed, or which have not been
30 nullified or made inoperative or unenforceable because of any statute enacted after the
31 adoption of any such rule, shall remain in full force and effect until amended, rescinded,
32 revoked or otherwise changed by action of the ~~Burial Association Commission~~ State Board
33 of Mortuary Science as set out above, or until nullified or made inoperative or
34 unenforceable because of statutory enactment or court decision.

35 ~~The Commission shall elect its own chairman, who shall vote only when the~~
36 ~~Commission is evenly divided.~~

37 ~~The Commission shall hold regular meetings at least twice each year, and more often~~
38 ~~if called by the chairman in Raleigh, or such place in North Carolina as the chairman may~~
39 ~~direct. Special meetings of the Commission may also be called in Raleigh or such other~~
40 ~~place in North Carolina as they may direct, by a majority of the Commission.~~

41 ~~The Burial Association Administrator shall serve as secretary of the Commission and~~
42 ~~shall keep minutes of all regular and special meetings.~~

1 All regular or special meetings of the Commission, unless a majority of the members
2 of the Commission vote otherwise, shall be open to the public. All regular meetings shall
3 be advertised in at least three newspapers having intercounty circulation in North
4 Carolina.

5 Members of the ~~Commission Board~~ shall receive, when attending such regular or
6 special meetings such per diem, expense allowance and travel allowance as are allowed
7 other commissions and boards of the State. The legal adviser to the ~~Commission Board~~
8 shall be entitled to actual expenses when attending regular or special meetings of the
9 ~~Commission Board~~ held other than in Raleigh. All expenses of the ~~Commission Board~~ shall
10 be paid from funds coming to the ~~Administrator Board~~ pursuant to this ~~Article~~ Article or
11 appropriated for this purpose."

12 Sec. 6. The phrases "North Carolina Mutual Burial Association Commission",
13 "Mutual Burial Association Commission", and "Burial Association Administrator" are
14 deleted and replaced by the phrase "State Board of Mortuary Science", and the words
15 "Commission" and "Administrator" are deleted and replaced by the word "Board" wherever
16 they occur in Part 13, Article 10 of Chapter 145B of the General Statutes, effective the
17 first day of January 1996.

18 Sec. 7. The pronouns "he" and "his", when referring to the Burial Association
19 Administrator, are deleted wherever they occur in Part 13, Article 10 of Chapter 143B of
20 the General Statutes and are replaced, respectively, by the pronouns "it" and "its",
21 effective the first day of January 1998.

22 Sec. 8. (a) References in the Session Laws to the North Carolina Mutual Burial
23 Association Commission or the Burial Association Administrator shall be deemed to
24 refer to the State Board of Mortuary Science on and after the first day of January 1998.
25 Every Session Law which refers to the North Carolina Mutual Burial Association
26 Commission or the Burial Association Administrator and which relates to any power,
27 duty, function, or obligation of the Commission or the Administrator which continues in
28 effect after the provisions of this act become effective shall be construed in a manner
29 consistent with this act.

30 (b) The Revisor of Statutes may, on and after the effective date of this act, correct
31 any reference or citation in the General Statutes to any portion of the General Statutes
32 which is amended by this act by deleting incorrect references and substituting correct
33 references.

34 (c) The Revisor of Statutes may, on and after the first day of January 1998, delete
35 any reference to the North Carolina Mutual Burial Association Commission or to the
36 Burial Association Administrator in any portion of the General Statutes to which
37 conforming amendments are not made by this act and substitute, as appropriate and
38 consistent with this act, any of the following terms: North Carolina Board of Mortuary
39 Science, State Board of Mortuary Science, Board of Mortuary Science, or Board.

40 Sec. 9. All statutory authority, powers, duties, functions, records, property,
41 and unexpended balances of funds of the North Carolina Mutual Burial Association
42 Commission and the Burial Association Administrator are transferred in their entirety to

1 the State Board of Mortuary Science by this act, to become effective the first day of
2 January 1998.

3 Sec. 10. Every act of the North Carolina Mutual Burial Association
4 Commission and the Burial Association Administrator which occurred prior to the date
5 this act was ratified or to the date that provisions of this act become effective and which
6 is otherwise valid continues to be valid and effective, notwithstanding any change in
7 name or transfer of authority, powers, duties, and functions by this act.

8 Sec. 11. This act is effective upon ratification.