

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 159
Judiciary I Committee Substitute Adopted 3/24/09
House Committee Substitute Favorable 6/2/09

Short Title: Update Funeral Expense Allowance/Estates.

(Public)

Sponsors:

Referred to:

February 12, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE AND CLARIFY THE SECOND AND THIRD CLASS PRIORITY
3 EXPENSES AND THE GRAVESTONE AUTHORIZATION IN PROBATE
4 PROCEEDINGS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 28A-19-6(a) reads as rewritten:

7 "(a) After payment of costs and expenses of administration, the claims against the estate
8 of a decedent must be paid in the following order:

9 First class. Claims which by law have a specific lien on property to an amount not
10 exceeding the value of such property.

11 Second class. Funeral expenses to the extent of ~~two thousand five hundred dollars (\$2,500).~~
12 three thousand five hundred dollars (\$3,500). This limitation shall not include ~~cemetery lot~~
13 burial place or gravestone. The preferential limitation herein granted shall be construed to be
14 only a limit with respect to preference of payment and shall not be construed to be a limitation
15 on reasonable funeral expenses which may be incurred; nor shall the preferential limitation of
16 payment in the amount of ~~two thousand five hundred dollars (\$2,500)~~ three thousand five
17 hundred dollars (\$3,500) be diminished by any Veterans Administration, social security or
18 other federal governmental benefits awarded to the estate of the decedent or to his or her
19 beneficiaries.

20 Third class. Costs associated with gravestones and reasonable costs for the purchase of a
21 suitable burial place as provided in G.S. 28A-19-9 to the extent of one thousand five hundred
22 dollars (\$1,500). The preferential limitation herein granted shall be construed to be only a limit
23 with respect to preference of payment and shall not be construed to be a limitation on
24 reasonable gravestone or burial place expenses which may be incurred; nor shall the
25 preferential limitation of payment in the amount of one thousand five hundred dollars (\$1,500)
26 be diminished by any Veterans Administration, social security or other federal governmental
27 benefits awarded to the estate of the decedent or to his or her beneficiaries.

28 ~~Third class.~~ Fourth class. All dues, taxes, and other claims with preference under the laws
29 of the United States.

30 ~~Fourth class.~~ Fifth class. All dues, taxes, and other claims with preference under the laws of
31 the State of North Carolina and its subdivisions.

32 ~~Fifth class.~~ Sixth class. Judgments of any court of competent jurisdiction within the State,
33 docketed and in force, to the extent to which they are a lien on the property of the decedent at
34 his death.

35 ~~Sixth class.~~ Seventh class. Wages due to any employee employed by the decedent, which
36 claim for wages shall not extend to a period of more than 12 months next preceding the death;



1 or if such employee was employed for the year current at the decease, then from the time of
2 such employment; for medical services within the 12 months preceding the decease; for drugs
3 and all other medical supplies necessary for the treatment of such decedent during the last
4 illness of such decedent, said period of last illness not to exceed 12 months.

5 ~~Seventh class.~~ Eighth class. A claim for equitable distribution.

6 ~~Eighth class.~~ Ninth class. All other claims."

7 **SECTION 2.** G.S. 28A-19-9 reads as rewritten:

8 "**§ 28A-19-9. Gravestone and burial place authorized.**

9 (a) It is lawful for a personal representative ~~representative~~ to provide a suitable
10 ~~gravestones~~ gravestone to mark the graves of their testators or intestates, ~~the testator or intestate~~
11 and to pay for the cost of erecting the same ~~same.~~ and the ~~The~~ cost thereof shall be paid as
12 ~~funeral expenses~~ treated as a third class claim under G.S. 28A-19-6 and credited as such in final
13 accounts. The costs thereof shall be in the sound discretion of the personal representative,
14 having due regard to the value of the estate and to the interests of creditors and needs of the
15 surviving spouse and the heirs and devisees of the estate. Where the personal representative
16 desires to spend more than four hundred dollars (\$400.00) ~~one thousand five hundred dollars~~
17 (\$1,500) for such purpose, ~~the purpose of a gravestone,~~ and the will does not grant specific
18 authority to the personal representative for such expenditures in excess of four hundred dollars
19 (\$400.00), ~~he~~ one thousand five hundred dollars (\$1,500), the personal representative shall file
20 his ~~a~~ petition before the clerk of the court, and such order as will be made by the court shall
21 specify the amount to be expended for such purpose. In specifying the amount, the clerk may
22 consider the value of the estate. ~~Provided, however, that if the net estate is of a value in excess~~
23 ~~of twenty five thousand dollars (\$25,000), the personal representative may, in his discretion,~~
24 ~~expend not more than eight hundred dollars (\$800.00) for this purpose without securing the~~
25 ~~order of the court required herein. If the estate is of a value in excess of twenty five thousand~~
26 ~~dollars (\$25,000) and the personal representative desires to spend more than eight hundred~~
27 ~~dollars (\$800.00) for such purpose, and the will does not grant specific authority for such~~
28 ~~expenditure he shall file his petition and secure the order of the court herein required before~~
29 ~~expending funds for such purpose. However, in no event may more than eight hundred dollars~~
30 ~~(\$800.00) be accounted as gravestone marker cost to be credited as a funeral expense in the~~
31 ~~final accounts.~~

32 (b) It is lawful for a personal representative to provide a suitable burial place for the
33 testator or intestate. The cost of a suitable burial place shall be in the sound discretion of the
34 personal representative, having due regard to the value of the estate and to the interests of
35 creditors and needs of the surviving spouse and the heirs and devisees of the estate, and shall be
36 treated as a third class claim under G.S. 28A-19-6."

37 **SECTION 3.** This act becomes effective October 1, 2009, and applies to estates of
38 individuals dying on or after that date.