

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1244
Finance Committee Substitute Adopted 6/17/04

Short Title: Amend NC Cemetery Act/Increase Fees.

(Public)

Sponsors:

Referred to:

May 24, 2004

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA CEMETERY COMMISSION
TO INCREASE CERTAIN FEES AND MAKING CLARIFYING CHANGES
UNDER THE NORTH CAROLINA CEMETERY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 65-54 reads as rewritten:

"§ 65-54. **Annual budget of Commission; collection of funds.**

The Commission shall prepare an annual budget and shall collect the sums of money required for this budget from yearly fees and from any other sources provided in this Article. On or before July 1 of each year, each licensed cemetery shall pay a license fee to be set by the Commission in an amount not to exceed ~~three hundred dollars (\$300.00)~~ six hundred dollars (\$600.00). In addition, each licensed cemetery shall pay to the Commission an inspection fee for each grave space, niche, or mausoleum crypt ~~sold when the certificate of interment right is issued~~ and shall pay a fee for each vault, ~~niche,~~ belowground crypt, ~~mausoleum crypt,~~ memorial, or opening and closing of a grave space that is included in a preneed cemetery contract. The inspection fee for each grave space, niche, or mausoleum crypt is payable when the ~~item is sold~~ certificate of interment right is issued and may not exceed ~~two dollars (\$2.00)~~ four dollars (\$4.00). The fee for each of the listed items that are included in a preneed cemetery contract is payable when the contract is made and may not exceed ~~five dollars (\$5.00)~~ ten dollars (\$10.00)."

SECTION 2. G.S. 65-55(c) reads as rewritten:

"(c) Upon receipt of the application and filing fee of ~~eight hundred dollars (\$800.00)~~ to be set by the Commission in an amount not to exceed one thousand six hundred dollars (\$1,600), the Commission shall cause an investigation to be made to establish the following criteria for approval of the application:

- (1) The creation of a legal entity to conduct cemetery business, and its proposed financial structure.

- 1 (2) A perpetual care trust fund agreement, with an initial deposit of not
2 less than fifty thousand dollars (\$50,000) and with a bank cashier's
3 check or certified check attached for the amount made payable to the
4 trustee. The trust fund agreement must be executed by the applicant,
5 accepted by the trustee, and conditioned only upon approval of the
6 application.
- 7 (3) A plat of the land to be used for the cemetery, showing the location of
8 the cemetery and the access roads to the cemetery.
- 9 (4) Designation by the legal entity wishing to establish a cemetery of a
10 general manager. The general manager must be a person of good moral
11 character and have at least one year's experience in cemeteries.
- 12 (5) Development plans sufficient to ensure the community that the
13 cemetery will provide adequate cemetery services and that the property
14 is suitable for use as a cemetery."

15 **SECTION 3.** G.S. 65-57(c) reads as rewritten:

16 "(c) The application shall be accompanied by an initial filing fee of ~~four hundred~~
17 ~~dollars (\$400.00)~~ to be set by the Commission in an amount not to exceed one thousand
18 dollars (\$1,000) for cemetery sales organization and cemetery management organization
19 and an initial filing fee of ~~two hundred dollars (\$200.00)~~ to be set by the Commission in
20 an amount not to exceed five hundred dollars (\$500.00) for a cemetery broker. If ninety
21 percent (90%) or more of the applicant is owned by an existing cemetery company
22 operating under the North Carolina Cemetery Act, then the initial filing fee shall be one
23 half of the sums set out herein. On or before July 1 of each year, each licensed cemetery
24 sales organization, cemetery management organization, or cemetery broker shall pay a
25 license renewal fee of ~~one hundred dollars (\$100.00)~~ to be set by the Commission in an
26 amount not to exceed six hundred dollars (\$600.00) per year."

27 **SECTION 4.** G.S. 65-58(c) reads as rewritten:

28 "(c) The application shall be accompanied by a filing fee of ~~fifteen dollars~~
29 ~~(\$15.00)~~ to be set by the Commission in an amount not to exceed one hundred dollars
30 (\$100.00) to cover the expenses of processing and investigation. After processing and
31 ~~investigation~~ investigation, the Commission shall grant, or refuse to grant, the license
32 applied for. The ~~annual~~ license fee for a two-year term shall be set by the Commission
33 but shall not exceed ~~ten dollars (\$10.00)~~ one hundred dollars (\$100.00)."

34 **SECTION 5.** G.S. 65-59 reads as rewritten:

35 **"§ 65-59. Application for a change of control; filing fee.**

36 A person who proposes to acquire control of an existing cemetery company, whether
37 by purchasing the capital stock of the company, purchasing an owner's interest in the
38 company, or otherwise acting to effectively change the control of the company, shall
39 first make application on a form supplied by the Commission for a certificate of
40 approval of the proposed change of control. The application shall contain the name and
41 address of each proposed new owner. The Commission shall issue a certificate of
42 approval only after it determines that the proposed new owners are qualified by
43 character, experience, and financial responsibility to control and operate the cemetery
44 company in a legal and proper manner, and that the interest of the public generally will

1 not be jeopardized by the proposed change in control. An application for approval of a
2 change of control must be completed and accompanied by a filing fee of ~~two hundred~~
3 ~~dollars (\$200.00)~~ to be set by the Commission in an amount not to exceed one thousand
4 six hundred dollars (\$1,600)."

5 **SECTION 6.** G.S. 65-63 reads as rewritten:

6 "**§ 65-63. Requirements for perpetual care fund.**

7 A cemetery company may not cause or permit advertising of a perpetual care fund in
8 connection with the sale or offer for sale of its property unless the amount deposited in
9 the fund is at least ~~forty dollars (\$40.00)~~ one hundred dollars (\$100.00) or ten percent
10 (10%) of the retail sale price, whichever is greater, per grave space, niche, or
11 mausoleum crypt sold. Nothing may prohibit an individual cemetery from requiring a
12 perpetual care deposit for grave memorial markers to be deposited in the perpetual care
13 fund so long as the same assessment is uniformly applied to all grave memorial markers
14 installed in the cemetery."

15 **SECTION 7.** G.S. 65-64(a) reads as rewritten:

16 "(a) Deposits to the care and maintenance trust fund must be made by the
17 cemetery company holding title to the subject cemetery lands on or before the last day
18 of the calendar month following the calendar month in which final payment is received
19 as provided herein; however the entire amount required to be deposited into the fund
20 shall be paid within four years from the date of any contract requiring such payment
21 regardless of whether all amounts have been received by the cemetery company. If the
22 cemetery company fails to make timely deposit, the Commission may levy and collect a
23 ~~penalty~~ a late filing fee of one dollar (\$1.00) per day for each day the deposit is
24 delinquent on each grave space, niche or mausoleum crypt sold. The care and
25 maintenance trust fund shall be invested and reinvested by the trustee in the same
26 manner as provided by law for the investment of other trust funds by the clerk of the
27 superior court except that such investments may be made through means of a common
28 trust fund as described in G.S. 36A-90; provided, further, that cemetery trust funds held
29 in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e) may be invested and
30 reinvested in accordance with G.S. 36A-2. The fees and other expenses of the trust fund
31 shall be paid by the trustee from the net income thereof and may not be paid from the
32 corpus. To the extent that the said net income is not sufficient to pay such fees and other
33 expenses, the same shall be paid by the cemetery company."

34 **SECTION 8.** G.S. 65-64(b) reads as rewritten:

35 "(b) When a municipal, church-owned or fraternal cemetery converts to a private
36 cemetery as defined in G.S. 65-48, then said cemetery shall establish and maintain a
37 care and maintenance trust fund pursuant to this section; provided, however, the initial
38 deposit for establishment of this trust fund shall be an amount equal to ~~ten dollars~~
39 ~~(\$10.00)~~ fifty dollars (\$50.00) per space for all spaces either previously sold or
40 contracted for sale in said cemetery at the time of conversion or ~~twenty five thousand~~
41 ~~dollars (\$25,000)~~ fifty thousand dollars (\$50,000), whichever sum is greater."

42 **SECTION 9.** G.S. 65-66(l) reads as rewritten:

1 "(1) If any report is not received within the time stipulated by the Commission or
2 herein, the Commission may levy and collect a ~~penalty~~ late filing fee of twenty-five
3 dollars (\$25.00) ~~per day for each day~~ per month for each month of delinquency."

4 **SECTION 10.** This act is effective when it becomes law.