

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 550*
Commerce Committee Substitute Adopted 6/9/03
Finance Committee Substitute Adopted 6/23/03

Short Title: Crematory Act Changes.

(Public)

Sponsors:

Referred to:

March 27, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AND STRENGTHEN CREMATION LAW IN NORTH
3 CAROLINA AND TO IMPROVE AND MAKE TECHNICAL CORRECTIONS
4 TO THE FUNERAL LAW.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** The name of the North Carolina Board of Mortuary Science is
7 changed to the North Carolina Board of Funeral Service. The Revisor of Statutes is
8 authorized to substitute the term "Board of Funeral Service" for the term "Board of
9 Mortuary Science" wherever that term appears in the General Statutes.

10 **SECTION 2.** Article 13C of Chapter 90 of the General Statutes reads as
11 rewritten:

12 "Article 13C.

13 "Cremations.

14 **"§ 90-210.40. Short title.**

15 This Article shall be known and may be cited as the North Carolina Crematory Act.

16 **"§ 90-210.41. Definitions.**

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

18 (1) ~~"Authorizing agent" means a person legally entitled to order, or carry~~
19 ~~out the legal order for, the cremation of human remains. In the case of~~
20 ~~indigents or any other individuals whose final disposition is the~~
21 ~~responsibility of the State, a public official charged with arranging the~~
22 ~~final disposition of the deceased, if legally authorized, may serve as~~
23 ~~the authorizing agent. In the case of individuals whose death occurred~~
24 ~~in a nursing home or other private institution, and in which the~~
25 ~~institution is charged with making arrangements for the final~~
26 ~~disposition of the deceased, a representative of the institution, if~~
27 ~~legally authorized, may serve as the authorizing agent.~~

28 (2) ~~"Board" means the North Carolina State Board of Mortuary Science.~~

- 1 (3) ~~Repealed by Session Laws 1997-399, s. 16.~~
- 2 (4) ~~"Closed container" means any container in which cremated remains~~
3 ~~can be placed and closed in a manner so as to prevent leakage or~~
4 ~~spillage of cremated remains or the entrance of foreign material.~~
- 5 (5) ~~"Cremated remains" means all human remains recovered after the~~
6 ~~completion of the cremation process, including pulverization which~~
7 ~~leaves only bone fragments reduced to unidentifiable dimensions.~~
- 8 (6) ~~"Cremation" means the technical process, using heat, that reduces~~
9 ~~human remains to bone fragments.~~
- 10 (7) ~~"Cremation chamber" means the enclosed space within which the~~
11 ~~cremation process takes place. Cremation chambers covered by this~~
12 ~~Article shall be used exclusively for the cremation of human remains.~~
- 13 (8) ~~"Cremation container" means the container in which the human~~
14 ~~remains are placed in the cremation chamber for a cremation. A~~
15 ~~cremation container must meet all of the standards established by the~~
16 ~~rules adopted by the Board.~~
- 17 (9) ~~"Crematory" means the building or portion of a building that houses~~
18 ~~the cremation chamber and that may house the holding facility,~~
19 ~~business office or other part of the crematory business. A crematory~~
20 ~~must comply with any applicable public health laws and rules and~~
21 ~~must contain the equipment and meet all of the standards established~~
22 ~~by the rules adopted by the Board.~~
- 23 (10) ~~"Crematory authority" means the North Carolina Crematory Authority.~~
- 24 (11) ~~"Crematory operator" means the legal entity which is licensed by the~~
25 ~~Board to operate a crematory and perform cremations.~~
- 26 (12) ~~Repealed by Session Laws 1997-399, s. 16.~~
- 27 (13) ~~"Human remains" means the body of a deceased person, including a~~
28 ~~human fetus, regardless of the length of gestation, or part of a body~~
29 ~~that has been removed from a living or deceased person.~~
- 30 (14) ~~"Niche" means a compartment or cubicle for the memorialization or~~
31 ~~permanent placement of an urn containing cremated remains.~~
- 32 (1) 'Authorizing agent' means a person legally entitled to authorize the
33 cremation of human remains in accordance with G.S. 90-210.44.
- 34 (2) 'Board' means the North Carolina Board of Funeral Service.
- 35 (3) 'Body parts' means limbs or other portions of the anatomy that are
36 removed from a person or human remains for medical purposes during
37 treatment, surgery, biopsy, autopsy, or medical research; or human
38 bodies or any portion thereof that have been donated to science for
39 medical purposes.
- 40 (4) 'Casket' means a rigid container that is designed for the encasement of
41 human remains and that is usually constructed of wood, metal, or other
42 material and ornamented and lined with fabric, and which may or may
43 not be combustible.

- 1 (5) 'Certificate of cremation' means a certificate provided by the crematory
2 manager who performed the cremation containing, at a minimum, the
3 following information:
4 a. Name of decedent;
5 b. Date of cremation;
6 c. Name and address of crematory; and
7 d. Signature of crematory manager or person acting as crematory
8 manager.
- 9 (6) 'Cremated remains' means all human remains recovered after the
10 completion of the cremation process, including pulverization which
11 leaves only bone fragments reduced to unidentifiable dimensions.
- 12 (7) 'Cremation' means the technical process, using intense heat and flame,
13 that reduces human remains to bone fragments. Cremation includes the
14 processing and may include the pulverization of the bone fragments.
- 15 (8) 'Cremation chamber' means the enclosed space within which the
16 cremation process takes place. Cremation chambers covered by this
17 Article shall be used exclusively for the cremation of human remains.
- 18 (9) 'Cremation container' means the container in which the human remains
19 are transported to the crematory or placed therein upon arrival for
20 storage and placement in a cremation chamber for cremation. A
21 cremation container shall comply with all of the following standards:
22 a. Be composed of readily combustible materials suitable for
23 cremation;
24 b. Be able to be closed in order to provide a complete covering for
25 the human remains;
26 c. Be resistant to leakage or spillage;
27 d. Be rigid enough for handling with ease;
28 e. Be able to provide protection for the health, safety, and personal
29 integrity of crematory personnel; and
30 f. Be easily identifiable. The covering of the cremation container
31 shall contain the following information:
32 1. The name of the decedent;
33 2. The date of death;
34 3. The sex of the decedent; and
35 4. The age at death of the decedent.
- 36 (10) 'Cremation interment container' means a rigid outer container
37 composed of concrete, steel, fiberglass, or some similar material in
38 which an urn is placed prior to being interred in the ground and which
39 is designed to withstand prolonged exposure to the elements and to
40 support the earth above the urn.
- 41 (11) 'Crematory' or 'crematorium' means the building or buildings or
42 portion of a building on a single site that houses the cremation
43 equipment, the holding and processing facilities, the business office,
44 and other parts of the crematory business. A crematory must comply

1 with all applicable public health and environmental laws and rules and
2 must contain the equipment and meet all of the standards established
3 by the rules adopted by the Board.

4 (12) 'Crematory licensee' means the individual or legal entity that is
5 licensed by the Board to operate a crematory and perform cremations.

6 (13) 'Crematory manager' means the person who is responsible for the
7 management and operation of the crematory. A crematory manager
8 must either be licensed to practice funeral directing or funeral service
9 and be qualified as a crematory technician or must obtain a crematory
10 manager permit issued by the Board. In order to receive a crematory
11 manager permit, a person must:

12 a. Be at least 18 years of age.

13 b. Be of good moral character.

14 c. Be qualified as a crematory technician.

15 Notwithstanding any other provision of law, a crematory that is
16 licensed by the Board prior to January 1, 2004, and as of that date is
17 not managed by a crematory manager who is licensed to practice
18 funeral directing or funeral service, or who has a crematory manager
19 permit, may continue to be managed by a crematory manager who is
20 not licensed to practice funeral directing or funeral service or who does
21 not have a crematory manager permit so long as there is no sale,
22 transfer, devise, bequest, gift, or any other disposal of a controlling
23 interest in the crematory.

24 (14) 'Crematory technician' means any employee of a crematory licensee
25 who has a certificate confirming that the crematory technician has
26 attended a training course approved by the Board. The Board shall
27 recognize the cremation certificate program that is conducted by the
28 Cremation Association of North America (CANA).

29 (15) 'Final disposition' means the cremation and the ultimate interment,
30 entombment, inurnment, or scattering of the cremated remains or the
31 return of the cremated remains by the crematory licensee to the
32 authorizing agent or such agent's designee as provided in this Article.
33 Upon the written direction of the authorizing agent, cremated remains
34 may take various forms.

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

- 1 (17) 'Human remains' means the body of a deceased person, including a
2 separate human fetus, regardless of the length of gestation, or body
3 parts.
- 4 (18) 'Niche' means a compartment or cubicle for the memorialization or
5 final disposition of an urn or container containing cremated remains.
- 6 (19) 'Processing' means the removal of bone fragments from the cremation
7 chamber for the reduction in size, labeling and packaging, and placing
8 in an urn or temporary container.
- 9 (20) 'Pulverization' means the reduction of identifiable or unidentifiable
10 bone fragments after the completion of the cremation to granulated
11 particles by mechanical means.
- 12 (21) 'Scattering area' means an area permitted by North Carolina law
13 including, but not limited to, an area designated by a cemetery and
14 located on dedicated cemetery property where cremated remains that
15 have been removed from their container can be mixed with or placed
16 on top of the soil or ground cover.
- 17 (22) 'Temporary container' means a receptacle for cremated remains,
18 usually composed of cardboard, plastic, or similar material which can
19 be closed in a manner so as to prevent the leakage or spillage of the
20 cremated remains or the entrance of foreign material and which is a
21 single container of sufficient size to hold the cremated remains until an
22 urn is acquired or the cremated remains are scattered.
- 23 (23) 'Urn' means a receptacle designed to permanently encase the cremated
24 remains.

25 **"§ 90-210.42. Crematory Authority established.**

26 (a) The North Carolina Crematory Authority is established as a Committee
27 within the Board. The Crematory Authority shall suggest rules to the Board for the
28 carrying out and enforcement of the provisions of this Article.

29 (b) The Crematory Authority shall initially consist of five members appointed by
30 the Governor and two members of the Board appointed by the Board. The Governor
31 may consider a list of recommendations from the Cremation Association of North
32 Carolina.

33 (c) The initial terms of the members of the Crematory Authority shall be
34 staggered by the appointing authorities so that the terms of three members (two of
35 which shall be appointees of the Governor) expire December 31, 1991, the terms of two
36 members (both of which shall be appointees of the Governor) expire
37 December 31, 1992, and the terms of the remaining two members (one of which shall be
38 an appointee of the Governor) expire December 31, 1993.

39 As the terms of the members appointed by the Governor expire, their successors
40 shall be elected from among a list of nominees in an election conducted by the Board in
41 which all licensed crematory operators are eligible to vote. The Board may conduct the
42 election for members of the Crematory Authority simultaneously with the election for
43 members of the Board or at any other time. The Board shall prescribe the procedures
44 and establish the time and date for nominations and elections to the Crematory

1 Authority. A nominee who receives a majority of the votes cast shall be declared
2 elected. The Board shall appoint the successors to the two positions for which it makes
3 initial appointments pursuant to this section.

4 The terms of the elected members of the Crematory Authority shall be three years.
5 The terms of the members appointed by the Board, including the members initially
6 appointed pursuant to this subsection, shall be coterminous with their terms on the
7 Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term
8 by majority vote of the remaining members of the Crematory Authority. Any vacancy
9 occurring in a seat appointed by the Governor shall be filled by the Governor. Any
10 vacancy occurring in a seat appointed by the Board shall be filled by the Board.

11 (d) The members of the Crematory Authority shall receive per diem and
12 necessary travel and subsistence expenses in accordance with the provisions of G.S.
13 93B-5 for all time actually spent upon the business of the Crematory Authority. All
14 expenses, salaries and per diem provided for in this Article shall be paid from funds
15 received ~~under the provisions of this Article and Article 13A~~ and shall in no manner be
16 an expense to the State.

17 (e) The Crematory Authority shall select from its members a chairman, a vice
18 chairman and a secretary who shall serve for one year or until their successors are
19 elected and qualified. No two offices may be held by the same person. The Crematory
20 Authority, with the concurrence of the Board, shall have the authority to engage
21 adequate staff as deemed necessary to perform its duties.

22 (f) The Crematory Authority shall hold at least one meeting in each year. In
23 addition, the Crematory Authority may meet as often as the proper and efficient
24 discharge of its duties shall require. ~~Five~~ Four members shall constitute a quorum.

25 **"§ 90-210.43. Licensing and inspection.**

26 ~~(a) Any person doing business in this State, or any cemetery, funeral~~
27 ~~establishment, corporation, partnership, joint venture, voluntary organization or any~~
28 ~~other entity may erect, maintain and conduct a crematory in this State and may provide~~
29 ~~the necessary appliances and facilities for the cremation of human remains, provided~~
30 ~~that such person has secured a license as a crematory operator in accordance with the~~
31 ~~provisions of this Article.~~

32 ~~(b) A crematory may be constructed on or adjacent to any cemetery, on or~~
33 ~~adjacent to any funeral establishment that is zoned commercial or industrial, or at any~~
34 ~~other location consistent with local zoning regulations.~~

35 ~~(c) Application for a license as a crematory operator shall be made on forms~~
36 ~~furnished and prescribed by the Board. The Board shall examine the premises and~~
37 ~~structure to be used as a crematory and shall issue a renewable license to the crematory~~
38 ~~operator if the applicant meets all the requirements and standards of the Board and the~~
39 ~~requirements of this Article.~~

40 ~~(d) Every application for licensure shall identify the individual who is~~
41 ~~responsible for overseeing the management and operation of the crematory. The~~
42 ~~crematory operator shall keep the Board informed at all times of the name and address~~
43 ~~of the manager.~~

1 ~~(d1) All licenses shall expire on the last day of December of each year. A license~~
2 ~~may be renewed without paying a late fee on or before the first day of February~~
3 ~~immediately following expiration. After that date, a license may be renewed by paying a~~
4 ~~late fee as provided in G.S. 90-210.48 in addition to the annual renewal fee. Licenses~~
5 ~~that remain expired six months or more require a new application for renewal. Licenses~~
6 ~~are not transferable. A new application for a license shall be made to the Board within~~
7 ~~30 days following a change of ownership of more than fifty percent (50%) of the~~
8 ~~business.~~

9 ~~(e) No person, cemetery, funeral establishment, corporation, partnership, joint~~
10 ~~venture, voluntary organization or any other entity shall cremate any human remains,~~
11 ~~except in a crematory licensed for this express purpose and under the limitations~~
12 ~~provided in this Article, or unless otherwise permitted by statute.~~

13 ~~(f) Whenever the Board finds that an owner, partner, manager, member, or~~
14 ~~officer of a crematory operator or an applicant to become a crematory operator, or that~~
15 ~~any agent or employee of a crematory operator or an applicant to become a crematory~~
16 ~~operator, with the direct or implied permission of such owner, partner, manager,~~
17 ~~member, or officer, has violated any provision of this Article, or is guilty of any of the~~
18 ~~following acts, and when the Board also finds that the crematory operator or applicant~~
19 ~~has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue~~
20 ~~or renew the license, in accordance with the procedures of Chapter 150B:~~

- 21 ~~(1) Conviction of a felony or a crime involving fraud or moral turpitude.~~
- 22 ~~(2) Fraud or misrepresentation in obtaining or renewing a license or in the~~
23 ~~practice of cremation.~~
- 24 ~~(3) False or misleading advertising.~~
- 25 ~~(4) Gross immorality, including being under the influence of alcohol or~~
26 ~~drugs while performing cremation services.~~
- 27 ~~(5) Using profane, indecent or obscene language in the presence of a dead~~
28 ~~human body, and within the immediate hearing of the family or~~
29 ~~relatives of a deceased, whose body has not yet been cremated or~~
30 ~~otherwise disposed of.~~
- 31 ~~(6) Violating or cooperating with others to violate any of the provisions of~~
32 ~~this Article or of the rules of the Board.~~
- 33 ~~(7) Violation of any State law or municipal or county ordinance or~~
34 ~~regulation affecting the handling, custody, care or transportation of~~
35 ~~dead human bodies.~~
- 36 ~~(8) Refusing to surrender promptly the custody of a dead human body or~~
37 ~~cremated remains upon the express order of the person lawfully~~
38 ~~entitled to the custody thereof, except as provided in G.S.~~
39 ~~90-210.47(e).~~
- 40 ~~(9) Indecent exposure or exhibition of a dead human body while in the~~
41 ~~eustody or control of a licensee.~~

42 ~~In any case in which the Board is authorized to take any of the actions permitted~~
43 ~~under this subsection, the Board may instead accept an offer in compromise of the~~

1 ~~charges whereby the accused shall pay to the Board a penalty of not more than one~~
2 ~~thousand dollars (\$1,000).~~

3 ~~(g) The Board and Crematory Authority may hold hearings in accordance with~~
4 ~~the provisions of this Article and Chapter 150B. Any such hearing shall be conducted~~
5 ~~jointly by the Board and the Crematory Authority. The Board and the Crematory~~
6 ~~Authority shall jointly constitute an "agency" under Article 3A of Chapter 150B of the~~
7 ~~General Statutes with respect to proceedings initiated pursuant to this Article. The~~
8 ~~Board is empowered to regulate and inspect crematories and crematory operators and to~~
9 ~~enforce as provided by law the provisions of this Article and the rules adopted~~
10 ~~hereunder. Any crematory that, upon inspection, is found not to meet any of the~~
11 ~~requirements of this Article shall pay a reinspection fee to the Board for each additional~~
12 ~~inspection that is made to ascertain whether the deficiency or other violation has been~~
13 ~~corrected.~~

14 ~~In addition to the powers enumerated in Chapter 150B of the General Statutes, the~~
15 ~~Board shall have the power to administer oaths and issue subpoenas requiring the~~
16 ~~attendance of persons and the production of papers and records before the Board in any~~
17 ~~hearing, investigation or proceeding conducted by it or conducted jointly with the~~
18 ~~Crematory Authority. Members of the Board's staff or the sheriff or other appropriate~~
19 ~~official of any county of this State shall serve all notices, subpoenas and other papers~~
20 ~~given to them by the President of the Board for service in the same manner as process~~
21 ~~issued by any court of record. Any person who neglects or refuses to obey a subpoena~~
22 ~~issued by the Board shall be guilty of a Class 1 misdemeanor.~~

23 (a) Any person doing business in this State, or any cemetery, funeral
24 establishment, corporation, partnership, joint venture, voluntary organization, or any
25 other entity may erect, maintain, and operate a crematory in this State and may provide
26 the necessary employees, facilities, structure, and equipment for the cremation of human
27 remains, provided that the person or entity has secured a license as a crematory licensee
28 in accordance with this Article.

29 (b) A crematory may be constructed on or adjacent to any cemetery, on or
30 adjacent to any funeral establishment that is zoned commercial or industrial, or at any
31 other location consistent with local zoning and environmental regulations.

32 (c) Application for a license as a crematory licensee shall be made on forms
33 furnished and prescribed by the Board. The Board shall inspect the premises, facilities,
34 structure, and equipment to be used as a crematory, confirm that the crematory
35 manager's and crematory technician's educational certificate is valid, and issue a
36 renewable license to the crematory licensee if the applicant meets all the requirements
37 and standards of the Board and the requirements of this Article.

38 (d) Every application for licensure shall identify the crematory manager and all
39 crematory technicians employed by the crematory licensee providing that nothing in this
40 Article shall prohibit the designation and identification by the crematory licensee of one
41 individual to serve as a crematory manager and crematory technician. Each crematory
42 licensed in North Carolina shall employ on a full-time basis at least one crematory
43 technician. Every application for licensure and renewal thereof shall include all
44 crematory technicians' educational certificates. The crematory licensee shall keep the

1 Board informed at all times of the names and addresses of the crematory manager and
2 all crematory technicians. In the event a licensee is in the process of replacing its only
3 crematory technician at the time of license renewal, the licensee may continue to
4 operate the crematory for a reasonable time period not to exceed 180 days.

5 (e) All licenses and permits shall expire on the last day of December of each
6 year. A license or permit may be renewed without paying a late fee on or before the first
7 day of February immediately following expiration. After that date, a license or permit
8 may be renewed by paying a late fee as provided in G.S. 90-210.52 in addition to the
9 annual renewal fee. Licenses and permits that remain expired six months or more
10 require a new application for renewal. Licenses and permits are not transferable. A new
11 application for a license or permit shall be made to the Board within 30 days following a
12 change of ownership of more than fifty percent (50%) of the business.

13 (f) No person, cemetery, funeral establishment, corporation, partnership, joint
14 venture, voluntary organization, or any other entity shall cremate any human remains,
15 except in a crematory licensed for this express purpose and operated by a crematory
16 licensee subject to the restrictions and limitations of this Article or unless otherwise
17 permitted by statute.

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

- 25 (1) Conviction of a felony or a crime involving fraud or moral turpitude.
- 26 (2) Fraud or misrepresentation in obtaining or renewing a license or in the
27 practice of cremation.
- 28 (3) False or misleading advertising.
- 29 (4) Solicitation of dead human bodies by the licensee, his agents,
30 assistants, or employees; but this subdivision shall not be construed to
31 prohibit general advertising by the licensee.
- 32 (5) Employment directly or indirectly of any agent, assistant, or other
33 person on a part-time or full-time basis or on commission for the
34 purpose of calling upon individuals or institutions by whose influence
35 dead human bodies may be turned over to a particular licensee.
- 36 (6) The direct or indirect payment or offer of payment of a commission by
37 the licensee or the licensee's agent, assistant, or employees for the
38 purpose of securing business.
- 39 (7) Gross immorality, including being under the influence of alcohol or
40 drugs while performing cremation services.
- 41 (8) Aiding or abetting an unlicensed person to perform services under this
42 Article, including the use of a picture or name in connection with
43 advertisements or other written material published or caused to be
44 published by the licensee.

- 1 (9) Failing to treat a dead human body with respect at all times.
2 (10) Violating or cooperating with others to violate any of the provisions of
3 this Article or of the rules of the Board.
4 (11) Violation of any State law or municipal or county ordinance or
5 regulation affecting the handling, custody, care, or transportation of
6 dead human bodies.
7 (12) Refusing to surrender promptly the custody of a dead human body or
8 cremated remains upon the express order of the person lawfully
9 entitled to the custody thereof, except as provided in G.S.
10 90-210.51(e).
11 (13) Indecent exposure or exhibition of a dead human body while in the
12 custody or control of a licensee.
13 (14) Practicing funeral directing, embalming, or funeral service without a
14 license.

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

19 (h) Where the Board finds a licensee is guilty of one or more of the acts or
20 omissions listed in subsection (g) of this section but it is determined by the Board that
21 the licensee has not thereby become unfit to practice, the Board may place the licensee
22 on a term of probation in accordance with the procedures set out in Chapter 150B of the
23 General Statutes. In any case in which the Board is entitled to place a licensee on a term
24 of probation, the Board may also impose a penalty of not more than five thousand
25 dollars (\$5,000) in conjunction with the probation.

26 (i) The Board may hold hearings in accordance with the provisions of this
27 Article and Chapter 150B of the General Statutes. The Board shall conduct any such
28 hearing. The Board shall constitute an "agency" under Article 3A of Chapter 150B of
29 the General Statutes with respect to proceedings initiated pursuant to this Article. The
30 Board is empowered to regulate and inspect crematories and crematory licensees and to
31 enforce as provided by law the provisions of this Article and the rules adopted
32 hereunder. Any crematory that, upon inspection, is found not to meet any of the
33 requirements of this Article shall pay a reinspection fee to the Board for each additional
34 inspection that is made to ascertain whether the deficiency or other violation has been
35 corrected.

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

1 **§ 90-210.44. Authorizing agent.**

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

4 (1) An individual at least 18 years of age may authorize the cremation and
5 disposition of the individual's own dead body in a written will,
6 pursuant to health care power of attorney to the extent provided in
7 Article 3 of Chapter 32 of the General Statutes, pursuant to a preneed
8 funeral contract executed pursuant to Article 13D of Chapter 90 of the
9 General Statutes, pursuant to a cremation authorization form executed
10 pursuant to Article 13C of Chapter 90 of the General Statutes, or in a
11 written statement signed by the individual and witnessed by two
12 persons who are at least 18 years old. When an individual has
13 authorized his or her own cremation and disposition in accordance
14 with this subsection, the individual or institution designated by that
15 individual shall act as the authorizing agent for that individual.

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

21 a. The surviving spouse.

22 b. A majority of the surviving children who are at least 18 years of
23 age and can be located after reasonable efforts.

24 c. The surviving parents.

25 d. A majority of the surviving siblings who are at least 18 years of
26 age and can be located after reasonable efforts.

27 e. A majority of the persons in the classes of the next degrees of
28 kinship, in descending order, who, under State law, would
29 inherit the decedent's estate if the decedent died intestate who
30 are at least 18 years of age and can be located after reasonable
31 efforts.

32 f. A person who has exhibited special care and concern for the
33 decedent and is willing and able to make decisions about the
34 cremation and disposition.

35 g. In the case of indigents or any other individuals whose final
36 disposition is the responsibility of the State or any of its
37 instrumentalities, a public administrator, medical examiner,
38 coroner, State-appointed guardian, or any other public official
39 charged with arranging the final disposition of the decedent
40 may serve as the authorizing agent.

41 h. In the case of individuals who have donated their bodies to
42 science or whose death occurred in a nursing home or private
43 institution and in which the institution is charged with making
44 arrangements for the final disposition of the decedent, a

1 representative of such institution may serve as the authorizing
2 agent in the absence of any of the above.

- 3 i. In the absence of any of the above, any person willing to
4 assume responsibility as authorizing agent, as specified in this
5 act.

6 This subsection does not grant to any person the right to cancel a preneed funeral
7 contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to
8 cause or prohibit the substitution of a preneed licensee as authorized under G.S.
9 90-210.63.

10 (b) A person who does not exercise his or her right to dispose of the decedent's
11 body under subdivision (a)(2) of this section within five days of notification or 10 days
12 from date of death, whichever is earlier, shall be deemed to have waived his or her right
13 to authorize disposition of the decedent's body or to contest disposition in accordance
14 with this section.

15 (c) An individual at least 18 years of age may, in a writing signed by the
16 individual, authorize the cremation and disposition of one or more of the individual's
17 body parts that has been or will be removed. If the individual does not authorize the
18 cremation and disposition, a person listed in subdivision (a)(2) of this section may
19 authorize the cremation and disposition as if the individual were deceased.

20 (d) This section does not apply to the disposition of dead human bodies as
21 anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or
22 the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General
23 Statutes.

24 **"§ 90-210.45. Authorization to cremate.**

25 (a) A crematory licensee shall not cremate human remains until it has received a
26 cremation authorization form signed by an authorizing agent. The cremation
27 authorization form shall be prescribed by the Board and shall contain at a minimum the
28 following information:

- 29 (1) The identity of the human remains and confirmation that the human
30 remains are in fact the individual so named.
31 (2) The time and date of death of the decedent.
32 (3) The name and address of the funeral establishment and/or the funeral
33 director that obtained the cremation authorization.
34 (4) The name and address of the crematory to be in receipt of the human
35 remains for the purpose of cremation.
36 (5) The name and address of the authorizing agent, the relationship
37 between the authorizing agent and the decedent, and the date and time
38 of signature of the authorizing agent.
39 (6) A representation that the authorizing agent does in fact have the right
40 to authorize the cremation of the decedent and that the authorizing
41 agent is not aware of any living person who has a superior priority
42 right to that of the authorizing agent, as set forth in G.S. 90-210.44. Or,
43 in the event that there is another living person who does have a
44 superior priority right to that of the authorizing agent, a representation

1 that the authorizing agent has made all reasonable efforts to contact
2 such person, has been unable to do so, and has no reason to believe
3 that such person would object to the cremation of the decedent.

4 (7) A representation that the authorizing agent has either disclosed the
5 location of all living persons with an equal right to that of the
6 authorizing agent, as set forth in G.S. 90-201.44, or does not know the
7 location of any other living person with an equal right to that of the
8 authorizing agent.

9 (8) Authorization for the crematory to cremate the human remains,
10 including authorization to process or pulverize the cremated remains.

11 (9) A representation that the human remains do not contain a pacemaker
12 or any other material or implant that may be potentially hazardous to
13 the person performing the cremation.

14 (10) The name of the person authorized to receive the cremated remains
15 from the crematory licensee.

16 (11) The manner in which final disposition of the cremated remains is to
17 take place, if known. If the cremation authorization form does not
18 specify final disposition in a grave, crypt, niche, or scattering area,
19 then the form shall indicate that the cremated remains will be held by
20 the crematory licensee for 30 days before they are disposed of, unless
21 they are received from the crematory licensee prior to that time, in
22 person, by the authorizing agent or his designee.

23 (12) The signature of the authorizing agent attesting to the accuracy of all
24 representations contained on the cremation authorization form, except
25 as set forth in subsection (b) of this section.

26 (13) If a cremation authorization form is being executed on a preneed basis,
27 the cremation authorization form shall contain the disclosure required
28 by G.S. 90-210.46. The authorizing agent may specify in writing
29 religious practices that conflict with Article 13 of this Chapter. The
30 crematory licensee and funeral director shall observe those religious
31 practices except where they interfere with cremation in a licensed
32 crematory as specified under G.S. 90-210.43 or the required
33 documentation and record keeping.

34 (14) A licensed funeral director of the funeral establishment or crematory
35 licensee that received the cremation authorization form shall also sign
36 the cremation authorization form. Such individual shall not be
37 responsible for any of the representations made by the authorizing
38 agent, unless such individual has actual knowledge to the contrary,
39 except for the information requested by subdivisions (a)(1), (2), (3),
40 (4), and (9) of this section, which shall be considered to be
41 representations of the individual. In addition, the funeral director shall
42 warrant to the crematory that the human remains delivered to the
43 crematory licensee are the human remains identified on the cremation

1 authorization form with any other documentation required by this
2 State, any county, or any municipality.

3 (b) An authorizing agent who signs a cremation authorization form shall be
4 deemed to warrant the truthfulness of any facts set forth on the cremation authorization
5 form, including that person's authority to order the cremation, except for the information
6 required by subdivisions (a)(4) and (9) of this section, unless the authorizing agent has
7 actual knowledge to the contrary. An authorizing agent signing a cremation
8 authorization form shall be personally and individually liable for all damages
9 occasioned thereby and resulting therefrom.

10 (c) A crematory licensee shall have the legal right to cremate human remains
11 upon the receipt of a cremation authorization form signed by an authorizing agent.
12 There shall be no liability for a crematory licensee that cremates human remains
13 pursuant to such authorization, or that releases or disposes of the cremated remains
14 pursuant to such authorization, except for such crematory licensee's gross negligence,
15 provided that the crematory licensee performs such functions in compliance with the
16 provisions of this Article. There shall be no liability for a funeral establishment or
17 licensee thereof that causes a crematory licensee to cremate human remains pursuant to
18 such authorization, except for gross negligence, provided that the funeral establishment
19 and licensee thereof and crematory licensee perform their respective functions in
20 compliance with the provisions of this section.

21 (d) After the authorizing agent has executed a cremation authorization form and
22 prior to the commencement of the cremation, the authorizing agent may revoke the
23 authorization and instruct the crematory licensee to cancel the cremation and to release
24 or deliver the human remains to another crematory licensee or funeral establishment.
25 Such instructions shall be provided to the crematory licensee in writing. A crematory
26 licensee shall honor any instructions given to it by an authorizing agent under this
27 section, provided that it receives such instructions prior to commencement of the
28 cremation of the human remains.

29 **"§ 90-210.46. Preneed cremation arrangements.**

30 (a) Any person, on a preneed basis, may authorize the person's own cremation
31 and the final disposition of the person's cremated remains by executing, as the
32 authorizing agent, a cremation authorization form on a preneed basis and having the
33 form signed by two witnesses. The person shall retain a copy of this form, and a copy
34 shall be sent to the funeral establishment and/or the crematory licensee. Any person
35 shall have the right to transfer or cancel this authorization at any time prior to the
36 person's death by destroying the executed cremation authorization form and providing
37 written notice to the party or parties that received the cremation authorization form.

38 (b) Any cremation authorization form executed by an individual as the
39 individual's own authorizing agent on a preneed basis shall contain the following
40 disclosure, which shall be completed by the authorizing agent:

41 / / I do not wish to allow any of my survivors the option of canceling my
42 cremation and selecting alternative arrangements, regardless of
43 whether my survivors deem such a change to be appropriate.

1 / / I wish to allow only the survivors whom I have designated below the
2 option of canceling my cremation and selecting alternative
3 arrangements or continuing to honor my wishes for cremation and
4 purchasing services and merchandise if they deem such a change to be
5 appropriate.

6 (c) Except as provided in subsection (b) of this section, at the time of the death of
7 a person who has executed, as the authorizing agent, a cremation authorization form on
8 a preneed basis, any person in possession of the executed form, and any person charged
9 with making arrangements for the disposition of the decedent's human remains who has
10 knowledge of the existence of the executed form, shall use the person's best efforts to
11 ensure that the decedent's human remains are cremated and that the final disposition of
12 the cremated remains is in accordance with the instructions contained on the cremation
13 authorization form.

14 (d) If a crematory licensee is in possession of a completed cremation
15 authorization form, executed on a preneed basis, and the crematory licensee is in
16 possession of the designated human remains, then the crematory licensee shall be
17 required to cremate the human remains and dispose of the human remains according to
18 the instructions contained on the cremation authorization form. A crematory licensee
19 that complies with the preneed cremation authorization form under these circumstances
20 may do so without any liability. A funeral establishment or licensee thereof that causes
21 a crematory licensee to act in accordance with the preneed cremation authorization form
22 under these circumstances may do so without any liability.

23 (e) Any preneed contract sold by, or preneed arrangements made with, a funeral
24 establishment that includes a cremation shall specify the final disposition of the
25 cremated remains, pursuant to G.S. 90-210.50. In the event that no different or
26 inconsistent instructions are provided to the crematory licensee by the authorizing agent
27 at the time of death, the crematory licensee shall be authorized to release or dispose of
28 the cremated remains as indicated in the preneed agreement. Upon compliance with the
29 terms of the preneed agreement, the crematory licensee, and any funeral establishment
30 or licensee thereof who caused the crematory licensee to act in compliance with the
31 terms of the preneed agreement, shall be discharged from any legal obligation
32 concerning such cremated remains.

33 (f) The provisions of this section shall not apply to any cremation authorization
34 form or preneed contract executed prior to the effective date of this act. Any funeral
35 establishment, however, with the written approval of the authorizing agent or person
36 who executed the preneed contract, may designate that such cremation authorization
37 form or preneed contract shall be subject to this act.

38 **~~"§ 90-210.44. Authorization and record keeping.~~**

39 ~~The Board shall establish requirements for record keeping, authorizations, and~~
40 ~~cremation reports. It shall be a violation of this Article for any crematory operator to fail~~
41 ~~to comply with the requirements.~~

42 **"§ 90-210.47. Record keeping.**

43 (a) The crematory licensee shall furnish to the person who delivers such human
44 remains to the crematory licensee a receipt, signed by both the crematory licensee and

1 the person who delivers the human remains, showing the date and time of the delivery;
2 the type of casket or cremation container that was delivered; the name of the person
3 from whom the human remains were received and the name of the funeral establishment
4 or other entity with whom such person is affiliated; the name of the person who
5 received the human remains on behalf of the crematory licensee; and the name of the
6 decedent. The crematory licensee shall retain a copy of this receipt in its permanent
7 records for three years.

8 (b) Upon its release of cremated remains, the crematory licensee shall furnish to
9 the person who receives such cremated remains from the crematory licensee a receipt,
10 signed by both the crematory licensee and the person who receives the cremated
11 remains, showing the date and time of the release; the name of the person to whom the
12 cremated remains were released and the name of the funeral establishment, cemetery, or
13 other entity with whom such person is affiliated; the name of the person who released
14 the cremated remains on behalf of the crematory licensee; and the name of the decedent.
15 The crematory shall retain a copy of this receipt in its permanent records for three years.

16 (c) A crematory licensee shall maintain at its place of business a record of all
17 forms required by the Board of each cremation that took place at its facility for three
18 years.

19 (d) The crematory licensee shall maintain a record for three years of all cremated
20 remains disposed of by the crematory licensee in accordance with G.S. 90-210.46(d).

21 (e) Upon completion of the cremation, the crematory licensee shall issue a
22 certificate of cremation.

23 (f) All records that are required to be maintained under this Article shall be
24 subject to inspection by the Board or its agents upon request.

25 **"§ 90-210.48. Cremation containers.**

26 (a) No crematory licensee shall make or enforce any rules requiring that any
27 human remains be placed in a casket before cremation or that human remains be
28 cremated in a casket, nor shall any crematory licensee refuse to accept human remains
29 for cremation for the reason that they are not in a casket.

30 (b) No crematory licensee shall make or enforce any rules requiring that any
31 cremated remains be placed in an urn or receptacle designed to permanently encase the
32 cremated remains after the cremation process has been performed.

33 **"§ 90-210.45. Cremation procedures.**

34 (a) ~~No human body shall be cremated before the crematory operator receives a~~
35 ~~death certificate signed by the attending physician or an authorization for cremation~~
36 ~~signed by a medical examiner.~~

37 (b) ~~Human remains shall not be cremated within 24 hours after the time of death,~~
38 ~~unless such death was a result of an infectious, contagious or communicable and~~
39 ~~dangerous disease as listed by the Commission of Health Services pursuant to G.S.~~
40 ~~130A-134, and unless such time requirement is waived in writing by the medical~~
41 ~~examiner, county health director, or attending physician where the death occurred. In~~
42 ~~the event such death comes under the jurisdiction of the medical examiner, the human~~
43 ~~remains shall not be received by the crematory operator until authorization to cremate~~
44 ~~has been received in writing from the medical examiner of the county in which the~~

1 death occurred. In the event the crematory operator is authorized to perform funerals as
2 well as cremation, this restriction on the receipt of human remains shall not be
3 applicable.

4 (e) No unauthorized person shall be permitted in the crematory area while any
5 human remains are in the crematory area awaiting cremation, being cremated, or being
6 removed from the cremation chamber. Relatives of the deceased, the authorizing agent,
7 medical examiners and law enforcement officers in the execution of their duties shall be
8 authorized to have access to the holding facility and crematory facility.

9 (e1) Human remains shall be cremated only while enclosed in a cremation
10 container.

11 (d) The simultaneous cremation of the human remains of more than one person
12 within the same cremation chamber is forbidden.

13 (d1) Every crematory shall have a holding facility, within or adjacent to the
14 crematory, designated for the retention of human remains prior to cremation. The
15 holding facility must comply with any applicable public health laws and rules and must
16 meet all of the standards established pursuant to rules adopted by the Board.

17 (e) Crematory operators shall comply with standards established by the Board for
18 the reduction and pulverization of human remains by the cremation process.

19 **"§ 90-210.49. Cremation procedures.**

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

23 (1) Decedent's name;

24 (2) Date of death;

25 (3) Date of birth;

26 (4) Sex;

27 (5) Place of death;

28 (6) Facility name (if not institution, give street and number);

29 (7) County of death;

30 (8) City of death; and

31 (9) Time of death (if known).

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

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

39 (d) No body shall knowingly be cremated with a pacemaker or defibrillator or
40 other potentially hazardous implant or condition in place. The authorizing agent for the
41 cremation of the human remains shall be responsible for taking all necessary steps to
42 ensure that any pacemaker or defibrillator or other potentially hazardous implant or
43 condition is removed or corrected prior to cremation. If an authorizing agent informs the
44 funeral director and the crematory licensee on the cremation authorization form of the

1 presence of a pacemaker or defibrillator or other potentially hazardous implant or
2 condition in the human remains, then the funeral director shall be responsible for
3 ensuring that all necessary steps have been taken to remove the pacemaker or
4 defibrillator or other potentially hazardous implant or to correct the hazardous condition
5 before delivering the human remains to the crematory.

6 (e) Human remains shall not be cremated within 24 hours after the time of death,
7 unless such death was a result of an infectious, contagious, or communicable and
8 dangerous disease as listed by the Commission of Health Services, pursuant to G.S.
9 130A-134, and unless such time requirement is waived in writing by the medical
10 examiner, county health director, or attending physician where the death occurred.

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

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

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

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

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

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

42 (l) The cremated remains with proper identification shall be placed in a
43 temporary container or the urn selected or provided by the authorizing agent. The
44 temporary container or urn contents shall not be contaminated with any other object,

1 unless specific authorization has been received from the authorizing agent or as
2 provided in subsection (g) of this section.

3 (m) If the cremated remains are greater than the dimensions of a temporary
4 container or urn, the excess cremated remains shall be returned to the authorizing agent
5 or its representative in a separate container or urn.

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

13 **~~"§ 90-210.46. Disposition of cremated remains.~~**

14 ~~(a) The authorizing agent shall provide the person with whom cremation~~
15 ~~arrangements are made with a signed statement specifying the ultimate disposition of~~
16 ~~the cremated remains, if known. The crematory operator may store or retain cremated~~
17 ~~remains as directed by the authorizing agent. Records of retention and disposition of~~
18 ~~cremated remains shall be kept by the crematory operator pursuant to G.S. 90-210.44.~~

19 ~~(b) The authorizing agent is responsible for the disposition of the cremated~~
20 ~~remains. If, after a period of 30 days from the date of cremation, the authorizing agent~~
21 ~~or his representative has not specified the ultimate disposition or claimed the cremated~~
22 ~~remains, the crematory operator or the person in possession of the cremated remains~~
23 ~~may dispose of the cremated remains only in a manner permitted in this section. The~~
24 ~~authorizing agent shall be responsible for reimbursing the crematory operator for all~~
25 ~~reasonable expenses incurred in disposing of the cremated remains pursuant to this~~
26 ~~section. A record of such disposition shall be made and kept by the person making such~~
27 ~~disposition. Upon disposing of cremated remains in accordance with this section, the~~
28 ~~crematory operator or person in possession of the cremated remains shall be discharged~~
29 ~~from any legal obligation or liability concerning such cremated remains.~~

30 ~~(c) In addition to the disposal of cremated remains in a crypt, niche, grave, or~~
31 ~~scattering garden located in a dedicated cemetery, or by scattering over uninhabited~~
32 ~~public land, the sea or other public waterways pursuant to subsection (f) of this section,~~
33 ~~cremated remains may be disposed of in any manner on the private property of a~~
34 ~~consenting owner, upon direction of the authorizing agent. If cremated remains are to be~~
35 ~~disposed of by the crematory operator on private property, other than dedicated~~
36 ~~cemetery property, the authorizing agent shall provide the crematory operator with the~~
37 ~~written consent of the property owner.~~

38 ~~(d) Except with the express written permission of the authorizing agent no person~~
39 ~~may:~~

- 40 ~~(1) Dispose of or scatter cremated remains in such a manner or in such a~~
41 ~~location that the cremated remains are commingled with those of~~
42 ~~another person. This subdivision shall not apply to the scattering of~~
43 ~~cremated remains at sea or by air from individual closed containers or~~

1 to the scattering of cremated remains in an area located in a dedicated
2 cemetery and used exclusively for such purposes.

3 (2) Place cremated remains of more than one person in the same closed
4 container. This subdivision shall not apply to placing the cremated
5 remains of members of the same family in a common closed container
6 designed for the cremated remains of more than one person.

7 (e) Cremated remains shall be delivered by the crematory operator to the
8 individual specified by the authorizing agent on the cremation authorization form. The
9 representative of the crematory operator and the individual receiving the cremated
10 remains shall sign a receipt indicating the name of the deceased, and the date, time, and
11 place of the receipt. After this delivery, the cremated remains may be transported in any
12 manner in this State, without a permit, and disposed of in accordance with the
13 provisions of this Article.

14 (f) Cremated remains may be scattered over uninhabited public land, a public
15 waterway or sea, subject to health and environmental standards, or on the private
16 property of a consenting owner pursuant to subsection (e) of this section. A person may
17 utilize a boat or airplane to perform such scattering. Cremated remains shall be removed
18 from their closed container before they are scattered.

19 **"§ 90-210.50. Final disposition of cremated remains.**

20 (a) The authorizing agent shall provide the person with whom cremation
21 arrangements are made with a signed statement specifying the ultimate disposition of
22 the cremated remains, if known. The crematory licensee may store or retain cremated
23 remains as directed by the authorizing agent. Records of retention and disposition of
24 cremated remains shall be kept by the crematory licensee pursuant to G.S. 90-210.47.

25 (b) The authorizing agent is responsible for the disposition of the cremated
26 remains. If, after a period of 30 days from the date of cremation, the authorizing agent
27 or the agent's representative has not specified the final disposition or claimed the
28 cremated remains, the crematory licensee or the person in possession of the cremated
29 remains may dispose of the cremated remains only in a manner permitted in this section.
30 The authorizing agent shall be responsible for reimbursing the crematory licensee for all
31 reasonable expenses incurred in disposing of the cremated remains pursuant to this
32 section. A record of such disposition shall be made and kept by the person making the
33 disposition. Upon disposing of cremated remains in accordance with this section, the
34 crematory licensee or person in possession of the cremated remains shall be discharged
35 from any legal obligation or liability concerning such cremated remains.

36 (c) In addition to the disposal of cremated remains in a crypt, niche, grave, or
37 scattering garden located in a dedicated cemetery, or by scattering over uninhabited
38 public land, the sea, or other public waterways pursuant to subsection (f) of this section,
39 cremated remains may be disposed of in any manner on the private property of a
40 consenting owner, upon direction of the authorizing agent. If cremated remains are to be
41 disposed of by the crematory licensee on private property, other than dedicated
42 cemetery property, the authorizing agent shall provide the crematory licensee with the
43 written consent of the property owner.

1 (d) Except with the express written permission of the authorizing agent, no
2 person may:

3 (1) Dispose of or scatter cremated remains in such a manner or in such a
4 location that the cremated remains are commingled with those of
5 another person. This subdivision shall not apply to the scattering of
6 cremated remains at sea or by air from individual closed containers or
7 to the scattering of cremated remains in an area located in a dedicated
8 cemetery and used exclusively for such purposes.

9 (2) Place cremated remains of more than one person in the same closed
10 container. This subdivision shall not apply to placing the cremated
11 remains of members of the same family in a common closed container
12 designed for the cremated remains of more than one person with the
13 written consent of the family.

14 (e) Cremated remains shall be released by the crematory licensee to the
15 individual specified by the authorizing agent on the cremation authorization form. The
16 representative of the crematory licensee and the individual receiving the cremated
17 remains shall sign a receipt indicating the name of the deceased, and the date, time, and
18 place of the receipt, and contain a representation that the handling of the final
19 disposition will be in a proper manner. After this delivery, the cremated remains may be
20 transported in any manner in this State, without a permit, and disposed of in accordance
21 with the provisions of this Article.

22 (f) Cremated remains may be scattered over uninhabited public land, over a
23 public waterway or sea, subject to health and environmental standards, or on the private
24 property of a consenting owner pursuant to subsection (c) of this section. A person may
25 utilize a boat or airplane to perform such scattering. Cremated remains shall be removed
26 from their closed container before they are scattered.

27 **§ 90-210.47. Liability.**

28 ~~(a) Any person signing a cremation authorization form shall be deemed to~~
29 ~~warrant the truthfulness of any facts set forth in the cremation authorization form,~~
30 ~~including the identity of the deceased whose remains are sought to be cremated and that~~
31 ~~person's authority to order such cremation.~~

32 ~~(b) A crematory operator shall have authority to cremate human remains only~~
33 ~~upon the receipt of a cremation authorization form signed by an authorizing agent.~~
34 ~~There shall be no liability of a crematory operator that cremates human remains~~
35 ~~pursuant to such authorization, or that releases or disposes of the cremated remains~~
36 ~~pursuant to such authorization.~~

37 ~~(c) A crematory operator shall not be responsible or liable for any valuables~~
38 ~~delivered to the crematory operator with human remains.~~

39 ~~(d) A crematory operator shall not be liable for refusing to accept a body or to~~
40 ~~perform a cremation until it receives a court order or other suitable confirmation that a~~
41 ~~dispute has been settled if:~~

42 ~~(1) It is aware of any dispute concerning the cremation of human remains;~~

43 ~~(2) It has a reasonable basis for questioning any of the representations~~
44 ~~made by the authorizing agent; or~~

1 (3) For any other lawful reason.

2 (e) ~~If a crematory operator is aware of any dispute concerning the release or~~
3 ~~disposition of the cremated remains, the crematory operator may refuse to release the~~
4 ~~cremated remains until the dispute has been resolved or the crematory operator has been~~
5 ~~provided with a court order authorizing the release or disposition of the cremated~~
6 ~~remains. A crematory operator shall not be liable for refusing to release or dispose of~~
7 ~~cremated remains in accordance with this subsection.~~

8 **"§ 90-210.51. Limitation of liability.**

9 (a) Any person signing a cremation authorization form as authorizing agent shall
10 be deemed to warrant the truthfulness of any facts set forth in the cremation
11 authorization form, including the identity of the deceased whose remains are sought to
12 be cremated and that person's authority to order such cremation.

13 (b) A crematory licensee shall have authority to cremate human remains only
14 upon the receipt of a cremation authorization form signed by an authorizing agent.
15 There shall be no liability of a crematory licensee that cremates human remains
16 pursuant to such authorization or that releases or disposes of the cremated remains
17 pursuant to such authorization. A crematory licensee and funeral establishment or
18 licensee thereof who causes the crematory licensee to act shall have no liability for the
19 final disposition or manner in which the cremated remains are handled after the
20 cremated remains are released in accordance with the directions of the authorizing
21 agent.

22 (c) A crematory licensee shall not be responsible or liable for any valuables
23 delivered to the crematory licensee with human remains.

24 (d) A crematory licensee shall not be liable for refusing to accept a body or to
25 perform a cremation until it receives a court order or other suitable confirmation that a
26 dispute has been settled if:

27 (1) It is aware of any dispute concerning the cremation of human remains;

28 (2) It has a reasonable basis for questioning any of the representations
29 made by the authorizing agent; or

30 (3) For any other lawful reason.

31 (e) If a crematory licensee is aware of any dispute concerning the release or
32 disposition of the cremated remains, the crematory licensee may refuse to release the
33 cremated remains until the dispute has been resolved or the crematory licensee has been
34 provided with a court order authorizing the release or disposition of the cremated
35 remains. A crematory licensee shall not be liable for refusing to release or dispose of
36 cremated remains in accordance with this subsection. A crematory licensee may charge
37 a reasonable storage fee if the dispute is not resolved within 30 days after it is received
38 by the crematory licensee.

39 **"§ 90-210.48. Fees.**

40 (a) ~~The Board may set and collect fees not to exceed the following amounts from~~
41 ~~licensed crematory operators and applicants:~~

42 (1) ~~Licensee application fee~~ \$400.00

43 (2) ~~Annual renewal fee~~ 150.00

44 (3) ~~Late renewal penalty~~ 75.00

1	(4)	Re-inspection fee	100.00
2	(5)	Per-cremation fee.	10.00
3	(6)	Late fee, per cremation.	10.00
4	(7)	Late fee, cremation report	75.00 per month.

5 (b) ~~The funds collected pursuant to this Article shall become part of the general~~
6 ~~fund of the Board. The cost of the maintenance of the Crematory Authority shall be~~
7 ~~deemed a general expense of the Board. The Board shall keep an accurate accounting of~~
8 ~~all the receipts and expenditures made pursuant to this Article and shall provide a~~
9 ~~current report of such to the Crematory Authority biannually.~~

10 **"§ 90-210.52. Fees.**

11 (a) The Board may set and collect fees not to exceed the following amounts from
12 crematory licensees, crematory manager permit holders, and applicants:

13	(1)	<u>Licensee application fee</u>	<u>\$400.00</u>
14	(2)	<u>Annual renewal fee</u>	<u>150.00</u>
15	(3)	<u>Late renewal fee</u>	<u>75.00</u>
16	(4)	<u>Reinspection fee</u>	<u>100.00</u>
17	(5)	<u>Per cremation fee</u>	<u>10.00</u>
18	(6)	<u>Late fee, per cremation</u>	<u>10.00</u>
19	(7)	<u>Late fee, cremation report</u>	<u>75.00 per month</u>
20	(8)	<u>Crematory manager permit application fee</u>	<u>150.00</u>
21	(9)	<u>Annual crematory manager permit renewal fee</u>	<u>40.00.</u>

22 (b) The funds collected pursuant to this Article shall become part of the general
23 fund of the Board.

24 **"§ 90-210.49. Crematory operator authority.**

25 (a) ~~A crematory operator may employ a licensed funeral director for the purpose~~
26 ~~of arranging cremations with the general public, transporting human remains to the~~
27 ~~crematory, and processing all necessary paper work. Nothing in this provision may be~~
28 ~~construed to require a licensed funeral director to perform any functions not otherwise~~
29 ~~required by law to be performed by a licensed funeral director.~~

30 (b) ~~A crematory operator may adopt reasonable rules consistent with this Article~~
31 ~~for the management and operation of a crematory. Nothing in this subsection may be~~
32 ~~construed to prevent a crematory operator from adopting rules which are more stringent~~
33 ~~than the provisions of this Article.~~

34 (c) ~~Nothing in this Article shall prohibit or require the performance of cremations~~
35 ~~by crematory operators for or directly with the public, or exclusively for or through~~
36 ~~licensed funeral directors.~~

37 (d) ~~Nothing in this Article may be construed to prohibit a crematory operator~~
38 ~~from transporting human remains.~~

39 (e) ~~Nothing in this Article may be construed to relieve the holder of a license~~
40 ~~issued hereunder from obtaining any other licenses or permits required by law.~~

41 **"§ 90-210.53. Crematory licensee rights.**

42 (a) A crematory licensee may adopt reasonable rules consistent with this Article
43 for the management and operation of a crematory. Nothing in this subsection may be

1 construed to prevent a crematory licensee from adopting rules which are more stringent
2 than the provisions of this Article.

3 (b) Nothing in this Article may be construed to relieve the crematory licensee
4 from obtaining any other licenses or permits required by law.

5 (c) Nothing in this Article shall prohibit or require the performance of cremations
6 by crematory licensees or crematory managers for or directly with the public or
7 exclusively for or through licensed funeral directors.

8 **"§ 90-210.50. Rule making; applicability; violations; and prohibitions of Article.**

9 (a) The Board is authorized to adopt and promulgate such rules for the carrying
10 out and enforcement of the provisions of this Article as may be necessary and as are
11 consistent with the laws of this State and of the United States. The Board shall adopt
12 rules only after consideration of the Crematory Authority's suggested rules pursuant to
13 G.S. 90-210.42(a). The Board may perform such other acts and exercise such other
14 powers and duties as may be provided in this Article, in Article 13A of this Chapter, and
15 otherwise by law and as may be necessary to carry out the powers herein conferred.

16 (b) The provisions of this Article shall not apply to the cremation of human
17 remains and medical waste performed by the North Carolina Anatomical Commission,
18 licensed hospitals and medical schools, and the office of the Chief Medical Examiner
19 when the disposition of such human remains and medical waste is the legal
20 responsibility of said institutions.

21 (c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.

22 (d) No person, firm, or corporation may request or authorize cremation or
23 cremate a dead human body when he has information indicating a crime or violence of
24 any sort in connection with the cause of death unless such information has been
25 conveyed to the State or county medical examiner and permission from the State or
26 county medical examiner to cremate has thereafter been obtained.

27 **"§ 90-210.54. Rulemaking, applicability, violations, and prohibitions of Article.**

28 (a) The Board is authorized to adopt and promulgate such rules for the carrying
29 out and enforcement of the provisions of this Article as may be necessary and as are
30 consistent with the laws of this State and of the United States. The Board may develop a
31 Standard Cremation Authorization Form and procedures for its execution that shall be
32 used by the crematory licensee subject to this Article, unless a crematory has its own
33 form approved by the Board. A crematory licensee that uses its own approved cremation
34 authorization form must have the cremation authorization form reapproved if changed
35 or after amendments are made to this Article or the rules adopted by the Board related to
36 cremation authorization forms. The Board may perform such other acts and exercise
37 such other powers and duties as may be provided in this Article, in Article 13A of this
38 Chapter, and otherwise by law and as may be necessary to carry out the powers herein
39 conferred.

40 (b) The provisions of this Article shall not apply to the cremation of medical
41 waste performed by the North Carolina Anatomical Commission, licensed hospitals and
42 medical schools, and the office of the Chief Medical Examiner when the disposition of
43 such medical waste is the legal responsibility of the institutions.

44 (c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.

1 (d) No person, firm, or corporation may request or authorize cremation or
2 cremate human remains when the person, firm, or corporation has information
3 indicating a crime or violence of any sort in connection with the cause of death unless
4 such information has been conveyed to the State or county medical examiner and
5 permission from the State or county medical examiner to cremate the human remains
6 has thereafter been obtained."

7 **SECTION 3.** G.S. 90-210.20(e1) reads as rewritten:

8 "(e1) "Funeral chapel" means a chapel or other facility separate from the funeral
9 establishment premises for the primary purpose of reposing of dead human bodies,
10 visitation or funeral ceremony that is owned, operated, or maintained by a funeral
11 establishment or other licensee under this Article, and that does not use the word
12 "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in
13 which or on the premises of which there is not displayed ~~or offered for sale~~ any caskets
14 or other funeral merchandise; in which or on the premises of which there is not located
15 any ~~funeral business office or a preparation room; in which or on the premises of which~~
16 ~~no funeral sales, financing, or arrangements are made;~~ and which no owner, operator,
17 employee, or agent thereof represents the chapel to be a funeral establishment."

18 **SECTION 4.** G.S. 90-210.22 reads as rewritten:

19 "**§ 90-210.22. Required meetings of the Board.**

20 The Board shall hold at least ~~two~~ four meetings in each year ~~at which examinations~~
21 ~~shall be given to qualified applicants for licenses year.~~ In addition, the Board may meet
22 as often as the proper and efficient discharge of its duties shall require. Five members
23 shall constitute a quorum."

24 **SECTION 5.(a)** G.S. 90-210.23(b) reads as rewritten:

25 "**§ 90-210.23. Powers and duties of the Board.**

26 ...

27 (b) The Board shall elect from its members a president, a vice-president and a
28 secretary, no two offices to be held by the same person. The president and
29 vice-president and secretary shall serve for one year and until their successors shall be
30 elected and ~~qualify.~~ qualified. The Board shall have authority to engage adequate staff
31 as deemed necessary to perform its duties."

32 **SECTION 5.(b)** G.S. 90-210.23 is amended by adding the following new
33 subsections to read:

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

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

44 **SECTION 6.** G.S. 90-210.24(a) reads as rewritten:

1 **"§ 90-210.24. Inspector.**

2 (a) The Board may appoint one or more agents who shall serve at the pleasure of
3 the Board and who shall have the title "Inspector of the ~~Board of Mortuary Science of~~
4 ~~North Carolina~~". North Carolina Board of Funeral Service. No person is eligible for
5 appointment as inspector unless at the time of ~~his~~the appointment ~~he~~ the person is
6 licensed under this Article as a funeral service licensee."

7 **SECTION 7.** G.S. 90-210.25 reads as rewritten:

8 **"§ 90-210.25. Licensing.**

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

10 (1) To be licensed for the practice of funeral directing under this Article, a
11 person must:

- 12 a. Be at least 18 years of age.
13 b. Be of good moral character.
14 c. Be a graduate of a Funeral Director Program at a mortuary
15 science college approved by the Board or a school of mortuary
16 science accredited by the American Board of Funeral Service
17 Education. Have completed a minimum of 32 semester hours or
18 48 quarter hours of instruction, including the subjects set out in
19 sub-part e.1. of this subdivision, as prescribed by a mortuary
20 science college approved by the Board or a school of mortuary
21 science accredited by the American Board of Funeral Service
22 Education.
23 d. Have completed 12 months of resident traineeship as a funeral
24 director, pursuant to the procedures and conditions set out in
25 G.S. 90-210.25(a)(4), either before or after satisfying the
26 educational requirement under sub-subdivision c. of this
27 subdivision.
28 e. Have passed an oral or written funeral director examination on
29 the following subjects:
30 1. Psychology, sociology, pathology, funeral directing,
31 business law, funeral law, funeral management, and
32 accounting.
33 2. Repealed by 1997-399, s. 5.
34 3. Laws of North Carolina and rules of the Board of
35 ~~Mortuary Science~~ and other agencies dealing with the
36 care, transportation and disposition of dead human
37 bodies.

38 (2) To be licensed for the practice of embalming under this Article, a
39 person must:

- 40 a. Be at least 18 years of age.
41 b. Be of good moral character.
42 c. Be a graduate of a mortuary science college approved by the
43 Board.

- 1 d. Have completed 12 months of resident traineeship as an
2 embalmer pursuant to the procedures and conditions set out in
3 G.S. 90-210.25(a)(4), either before or after satisfying the
4 educational requirement under sub-subdivision c. of this
5 subdivision.
- 6 e. Have passed an oral or written embalmer examination on the
7 following subjects:
- 8 1. Embalming, restorative arts, chemistry, pathology,
9 microbiology, and anatomy.
- 10 2. Repealed by 1997-399, s. 6.
- 11 3. Laws of North Carolina and rules of the Board of
12 ~~Mortuary Science~~ and other agencies dealing with the
13 care, transportation and disposition of dead human
14 bodies.
- 15 (3) To be licensed for the practice of funeral service under this Article, a
16 person must:
- 17 a. Be at least 18 years of age.
- 18 b. Be of good moral character.
- 19 c. Be a graduate of and receive an associate degree from a
20 mortuary science college approved by the Board or a school of
21 mortuary science accredited by the American Board of Funeral
22 Service Education. Have completed a minimum of ~~32-60~~
23 semester hours or ~~48-90~~ quarter hours of instruction, including
24 the subjects set out in sub-part e.1. of this subdivision, as
25 prescribed by a mortuary science college approved by the Board
26 or a school of mortuary science accredited by the American
27 Board of Funeral Service Education.
- 28 d. Have completed 12 months of resident traineeship as a funeral
29 service licensee, pursuant to the procedures and conditions set
30 out in G.S. 90-210.25(a)(4), either before or after satisfying the
31 educational requirement under sub-subdivison c. of this
32 subdivision.
- 33 e. Have passed an oral or written funeral service examination on
34 the following subjects:
- 35 1. Psychology, sociology, funeral directing, business law,
36 funeral law, funeral management, and accounting.
- 37 2. Embalming, restorative arts, chemistry, pathology,
38 microbiology, and anatomy.
- 39 3. Repealed by 1997-399, s. 7.
- 40 4. Laws of North Carolina and rules of the Board of
41 ~~Mortuary Science~~ and other agencies dealing with the
42 care, transportation and disposition of dead human
43 bodies.

- 1 (4) a. A person desiring to become a resident trainee shall apply to the
2 Board on a form provided by the Board. The application shall
3 state that the applicant is not less than 18 years of age, of good
4 moral character, and is the graduate of a high school or the
5 equivalent thereof, and shall indicate the licensee under whom
6 the applicant expects to train. A person training to become an
7 embalmer may serve under either a licensed embalmer or a
8 funeral service licensee. A person training to become a funeral
9 director may serve under either a licensed funeral director or a
10 funeral service licensee. A person training to become a funeral
11 service licensee shall serve under a funeral service licensee. The
12 application must be sustained by oath of the applicant and be
13 accompanied by the appropriate fee. When the Board is
14 satisfied as to the qualifications of an applicant it shall instruct
15 the secretary to issue a certificate of resident traineeship.
- 16 b. When a resident trainee leaves the proctorship of the licensee
17 under whom the trainee has worked, the licensee shall file with
18 the Board an affidavit showing the length of time served with
19 the licensee by the trainee, and the affidavit shall be made a
20 matter of record in the Board's office. The licensee shall deliver
21 a copy of the affidavit to the trainee.
- 22 c. A person who has not completed the traineeship and wishes to
23 do so under a licensee other than the one whose name appears
24 on the original certificate may reapply to the Board for
25 ~~approval, without payment of an additional fee.~~ approval.
- 26 d. A certificate of resident traineeship shall be signed by the
27 resident trainee and upon payment of the renewal fee shall be
28 renewable one year after the date of original registration; but
29 the certificate may not be renewed more than ~~one time.~~ two
30 times. The Board shall mail to each registered trainee at his last
31 known address a notice that the renewal fee is due and that, if
32 not paid within 30 days of the notice, the certificate will be
33 canceled. A ~~penalty,~~ late fee, in addition to the renewal fee,
34 shall be charged for a late renewal, but the renewal of the
35 registration of any resident trainee who is engaged in the active
36 military service of the United States at the time renewal is due
37 may, at the discretion of the Board, be held in abeyance for the
38 duration of that service without penalties. No credit shall be
39 allowed for the 12-month period of resident traineeship that
40 shall have been completed more than ~~three~~ five years preceding
41 the examination for a license.
- 42 e. All registered resident trainees shall report to the Board at least
43 once every month during traineeship upon forms provided by
44 the Board listing the work which has been completed during the

- 1 preceding month of resident traineeship. The data contained in
2 the reports shall be certified as correct by the licensee under
3 whom the trainee has served during the period and by the
4 licensed person who is managing the funeral service
5 establishment. Each report shall list the following:
- 6 1. For funeral director trainees, the conduct of any funerals
7 during the relevant time period,
 - 8 2. For embalming trainees, the embalming of any bodies
9 during the relevant time period,
 - 10 3. For funeral service trainees, both of the activities named
11 in 1 and 2 of this subsection, engaged in during the
12 relevant time period.
- 13 f. To meet the resident traineeship requirements of G.S.
14 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3)
15 the following must be shown by the affidavit(s) of the
16 licensee(s) under whom the trainee worked:
- 17 1. That the funeral director trainee has, under supervision,
18 assisted in directing at least 25 funerals during the
19 resident traineeship,
 - 20 2. That the embalmer trainee has, under supervision,
21 assisted in embalming at least 25 bodies during the
22 resident traineeship,
 - 23 3. That the funeral service trainee has, under ~~supervision~~
24 supervision, assisted in directing at least 25 funerals and,
25 under supervision, assisted in embalming at least 25
26 bodies during the resident traineeship.
- 27 g. The Board may suspend or revoke a certificate of resident
28 traineeship for violation of any provision of this Article.
- 29 h. Each sponsor for a registered resident trainee must during the
30 period of sponsorship be actively employed with a funeral
31 establishment. The traineeship shall be a primary vocation of
32 the trainee.
- 33 i. Only one resident trainee may register and serve at any one time
34 under any one person licensed under this Article.
- 35 j., k. Repealed by Session Laws 1991, c. 528, s. 4.
- 36 l. The Board shall register no more than one resident trainee at a
37 funeral establishment that served 100 or fewer families during
38 the 12 months immediately preceding the date of the
39 application, and shall register no more than one resident trainee
40 for each additional 100 families served at the funeral
41 establishment during the 12 months immediately preceding the
42 date of the application.
- 43 (5) The Board by regulation may recognize other examinations that the
44 Board deems equivalent to its own.

- 1 a. All licenses shall be signed by the president and secretary of the
2 Board and the seal of the Board affixed thereto. All licenses
3 shall be issued, renewed or duplicated for a period not
4 exceeding one year upon payment of the renewal fee, and all
5 licenses, renewals or duplicates thereof shall expire and
6 terminate the thirty-first day of December following the date of
7 their issue unless sooner revoked and canceled; provided, that
8 the date of expiration may be changed by unanimous consent of
9 the Board and upon 90 days' written notice of such change to all
10 persons licensed for the practice of funeral directing,
11 embalming and funeral service in this State.
- 12 b. The holder of any license issued by the Board who shall fail to
13 renew the same on or before ~~January 31~~February 1 of the
14 calendar year for which the license is to be renewed shall have
15 forfeited and surrendered the license as of that date. No license
16 forfeited or surrendered pursuant to the preceding sentence shall
17 be reinstated by the Board unless it is shown to the Board that
18 the applicant has, throughout the period of forfeiture, engaged
19 full time in another state of the United States or the District of
20 Columbia in the practice to which his North Carolina license
21 applies and has completed for each such year continuing
22 education substantially equivalent in the opinion of the Board to
23 that required of North Carolina licensees; or has completed in
24 North Carolina a total number of hours of accredited continuing
25 education computed by multiplying five times the number of
26 years of forfeiture; or has passed the North Carolina
27 examination for the forfeited license. No additional resident
28 traineeship shall be required. The applicant shall be required to
29 pay all delinquent annual renewal fees and a reinstatement fee.
30 The Board may waive the provisions of this section for an
31 applicant for a forfeiture which occurred during his service in
32 the armed forces of the United States provided he applies within
33 six months following severance therefrom.
- 34 c. All licensees now or hereafter licensed in North Carolina shall
35 take continuing education courses ~~of study~~ in subjects relating
36 to the practice of the profession for which they are licensed, to
37 the end that ~~new techniques, scientific and clinical advances,~~
38 ~~the achievements of research and~~ the benefits of learning and
39 reviewing skills will be utilized and applied to assure proper
40 service to the public.
- 41 d. As a prerequisite to the annual renewal of a license, the licensee
42 must complete, during the year immediately preceding renewal,
43 at least five hours of continuing education courses, of which the
44 Board may require licensees to take up to two hours specified

1 by the Board. All continuing education courses must be
2 approved by the Board prior to enrollment. A licensee who
3 completes more than five hours in a year may carry over a
4 maximum of five hours as a credit to the following year's
5 requirement. A licensee who is issued an initial license on or
6 after July 1 does not have to satisfy the continuing education
7 requirement for that year.

8 e. The Board shall not renew a license unless fulfillment of the
9 continuing education requirement has been certified to it on a
10 form provided by the Board, but the Board may waive this
11 requirement for renewal in cases of certified illness or undue
12 hardship or where the licensee lives outside of North Carolina
13 and does not practice in North Carolina, and the Board shall
14 waive the requirement for all licensees who were licensed on or
15 before December 31, 2003, and have been licensed in North
16 Carolina for a continuous period of 25 years or more, for all
17 licensees who are licensed on or after January 1, 2004, who
18 have been licensed for a continuous period of 25 years or more
19 and have attained the age of 60 years, and for all licensees who
20 are, at the time of renewal, members of the General Assembly.

21 f. The Board shall cause to be established and offered to the
22 licensees, each calendar year, at least ~~five~~eight hours of
23 continuing education ~~courses in subjects encompassing the~~
24 ~~license categories of embalming, funeral directing and funeral~~
25 ~~service courses.~~ The Board may charge licensees attending
26 these courses a reasonable registration fee in order to meet the
27 expenses thereof and may also meet those expenses from other
28 funds received under the provisions of this Article.

29 g. Any person who having been previously licensed by the Board
30 as a funeral director or embalmer prior to July 1, 1975, shall not
31 be required to satisfy the requirements herein for licensure as a
32 funeral service licensee, but shall be entitled to have such
33 license renewed upon making proper application therefor and
34 upon payment of the renewal fee provided by the provisions of
35 this Article. Persons previously licensed by the Board as a
36 funeral director may engage in funeral directing, and persons
37 previously licensed by the Board as an embalmer may engage
38 in embalming. Any person having been previously licensed by
39 the Board as both a funeral director and an embalmer may upon
40 application therefor receive a license as a funeral service
41 licensee.

42 h. The Department of Justice may provide a criminal record check
43 to the Board for a person who has applied for a new or renewal
44 license, or certification through the Board. The Board shall

1 provide to the Department of Justice, along with the request, the
2 fingerprints of the applicant, any additional information
3 required by the Department of Justice, and a form signed by the
4 applicant consenting to the check of the criminal record and to
5 the use of the fingerprints and other identifying information
6 required by the State or national repositories. The applicant's
7 fingerprints shall be forwarded to the State Bureau of
8 Investigation for a search of the State's criminal history record
9 file, and the State Bureau of Investigation shall forward a set of
10 the fingerprints to the Federal Bureau of Investigation for a
11 national criminal history check. The Board shall keep all
12 information pursuant to this subdivision privileged, in
13 accordance with applicable State law and federal guidelines,
14 and the information shall be confidential and shall not be a
15 public record under Chapter 132 of the General Statutes.

16 The Department of Justice may charge each applicant a fee
17 for conducting the checks of criminal history records authorized
18 by this subdivision.

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

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

35 (1) Employed by a college of mortuary science; or

36 (2) The licensee:

37 a. Maintains all of his or her business records at a location made
38 known to the Board and available for inspection by the Board
39 under the same terms and conditions as the business records of
40 a licensed funeral establishment;

41 b. Complies with rules and regulations imposed on funeral
42 establishments and the funeral profession that are designed to
43 protect consumers, to include, but not be limited to, the Federal

1 Trade Commission's laws and rules requiring General Price
2 Lists and Statements of Goods and Services; and

3 c. Pays to the Board the funeral establishment license fee required
4 by law and set by the Board.

5 Nothing in this subdivision shall preclude a licensee from arranging
6 cremations and cremating human remains while employed by a
7 crematory.

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

9 (1) The Board shall grant licenses to funeral directors, embalmers and
10 funeral service licensees, licensed in other states, territories, the
11 District of Columbia, and foreign countries, when it is shown that the
12 applicant holds a valid license as a funeral director, embalmer or
13 funeral service licensee issued by the other jurisdiction, has
14 demonstrated knowledge of the laws and ~~regulations~~ rules governing
15 the profession in North Carolina and has submitted proof of his good
16 moral character; and either that the applicant has continuously
17 practiced the profession in the other jurisdiction for at least three years
18 immediately preceding his application, or the Board has determined
19 that the licensing requirements for the other jurisdiction are
20 substantially similar to those of North Carolina.

21 (2) The Board shall periodically review the mortuary science licensing
22 requirements of other jurisdictions and shall determine which licensing
23 requirements are substantially similar to the requirements of North
24 Carolina.

25 (3) The Board may issue special permits, to be known as courtesy cards,
26 permitting nonresident funeral directors, embalmers and funeral
27 service licensees to remove bodies from and to arrange and direct
28 funerals and embalm bodies in this State, but these privileges shall not
29 include the right to establish a place of business in or engage generally
30 in the business of funeral directing and embalming in this State.
31 Except for special permits issued by the Board for teaching continuing
32 education programs and for work in connection with disasters, no
33 special permits may be issued to nonresident funeral directors,
34 embalmers, and funeral service licensees from states that do not issue
35 similar courtesy cards to persons licensed in North Carolina pursuant
36 to this Article.

37 (c) Registration, Filing and Transportation. –

38 (1) The holder of any license granted by this State for those within the
39 funeral service profession or renewal thereof provided for in this
40 Article shall cause registration to be filed in the office of the board of
41 health of the county or city in which he practices his profession, or if
42 there be no board of health in such county or city, at the office of the
43 clerk of the superior court of such county. All such licenses,
44 certificates, duplicates and renewals thereof shall be displayed in a

- 1 conspicuous place in the funeral establishment where the holder
2 renders service.
- 3 (2) It shall be unlawful for any railway agent, express agency, baggage
4 master, conductor or other person acting as such, to receive the dead
5 body of any person for shipment or transportation by railway or other
6 public conveyance, to a point outside of this State, unless the body is
7 accompanied by a burial-transit permit.
- 8 (3) The "transportation or removal of a dead human body" shall mean the
9 removal of a dead human body for a fee from the location of the place
10 of death or discovery of death or the transportation of the body to or
11 from a medical facility, funeral establishment or facility, crematory or
12 related holding facility, place of final disposition, or place designated
13 by the Medical Examiner for examination or autopsy of the dead
14 human body.
- 15 (4) Any individual, not otherwise exempt from this subsection, shall apply
16 for and receive a permit from the Board before engaging in the
17 transportation or removal of a dead human body in this State. Unless
18 otherwise exempt from this subsection, no corporation or other
19 business entity shall engage in the transportation or removal of a dead
20 human body unless it has in its employ at least one individual who
21 holds a permit issued under this section. No individual permit holder
22 shall engage in the transportation or removal of a dead human body for
23 more than one person, firm, or corporation without first providing the
24 Board with written notification of the name and physical address of
25 each such employer.
- 26 (5) The following persons shall be exempt from the permit requirements
27 of this section but shall otherwise be subject to subdivision (9) of this
28 subsection and any rules relating to the proper handling, care, removal,
29 or transportation of a dead human body:
- 30 a. Licensees under this Article and their employees.
31 b. Employees of common carriers.
32 c. Except as provided in sub-subdivision (6)c. of this section,
33 employees of the State and its agencies and employees of local
34 governments and their agencies.
35 d. Funeral directors licensed in another state and their employees.
- 36 (6) The following persons shall be exempt from this section:
- 37 a. Emergency medical technicians, rescue squad workers,
38 volunteer and paid firemen, and law enforcement officers.
39 b. Employees of public or private hospitals, nursing homes, or
40 long-term care facilities, while handling a dead human body
41 within such facility or while acting within the scope of their
42 employment.
43 c. State and county medical examiners and their investigators.
44 d. Any individual transporting cremated remains.

- 1 e. Any individual transporting or removing a dead human body of
2 their immediate family or next of kin.
- 3 f. Any individual who has exhibited special care and concern for
4 the decedent.
- 5 (7) Individuals eligible to receive a permit under this section for the
6 transportation or removal of a dead human body for a fee, shall:
- 7 a. Be at least 18 years of age.
- 8 b. Possess and maintain a valid drivers license issued by this State
9 and provide proof of all liability insurance required for the
10 registration of any vehicle in which the person intends to
11 engage in the business of the removal or transportation of a
12 dead human body.
- 13 c. Affirmatively state under oath that the person has read and
14 understands the statutes and rules relating to the removal and
15 transportation of dead human bodies and any guidelines as may
16 be adopted by the Board.
- 17 d. Provide three written character references on a form prescribed
18 by the Board, one of which must be from a licensed funeral
19 director.
- 20 e. Be of good moral character.
- 21 (8) The permit issued under this section shall expire on December 31 of
22 each year. The application fee for the individual permit shall not
23 exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed
24 one hundred dollars (\$100.00), in addition to the renewal fee not to
25 exceed seventy-five dollars (\$75.00), shall be charged for any
26 application for renewal received by the Board after February 1 of each
27 year.
- 28 (9) No person shall transport a dead human body in the open cargo area or
29 passenger area of a vehicle or in any vehicle in which the body may be
30 viewed by the public. Any person removing or transporting a dead
31 human body shall either cover the body, place it upon a stretcher
32 designed for the purpose of transporting humans or dead human bodies
33 in a vehicle, and secure such stretcher in the vehicle used for
34 transportation, or shall enclose the body in a casket or container
35 designed for common carrier transportation, and secure the casket or
36 container in the vehicle used for transportation. No person shall fail to
37 treat a dead human body with respect at all times. ~~use profanity,~~
38 ~~indecent, or obscene language in the presence of a dead human body.~~
39 No person shall take a photograph or video recording of a dead human
40 body without the consent of a member of the deceased's immediate
41 family or next of ~~kin~~ kin or other authorizing agent.
- 42 (10) The Board may adopt rules under this section including permit
43 application procedures and the proper procedures for the removal,
44 handling, and transportation of dead human bodies. The Board shall

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

13 (11) Each applicant for a permit shall provide the Board with the applicant's
14 home address, name and address of any corporation or business entity
15 employing such individual for the removal or transportation of dead
16 human bodies, and the make, year, model, and license plate number of
17 any vehicle in which a dead human body is transported. A permittee
18 shall provide written notification to the Board of any change in the
19 information required to be provided to the Board by this section or by
20 the application for a permit within 30 days after such change takes
21 place.

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

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

31 (d) Establishment Permit. –

32 (1) No person, firm or corporation shall conduct, maintain, manage or
33 operate a funeral establishment unless a permit for that establishment
34 has been issued by the Board and is conspicuously displayed in the
35 establishment. Each funeral establishment at a specific location shall
36 be deemed to be a separate entity and shall require a separate permit
37 and compliance with the requirements of this Article.

38 (2) A permit shall be issued when:

39 a. It is shown that the funeral establishment has in charge a
40 person, known as a manager, licensed for the practice of funeral
41 directing or funeral service, who shall not be permitted to
42 manage more than one funeral establishment.

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

- 1 c. It is shown that the funeral establishment satisfies the
2 requirements of G.S. 90-210.27A.
- 3 d. The Board receives payment of the permit fee.
- 4 (3) Applications for funeral establishment permits shall be made on forms
5 provided by the Board and filed with the Board by the owner, a
6 partner, a member of the limited liability company, or an officer of the
7 corporation by January 1 of each year, and shall be accompanied by
8 the application fee or renewal fee, as the case may be. All permits shall
9 expire on December 31 of each year. If the renewal application and
10 renewal fee are not received in the Board's office on or before
11 February 1, a late renewal fee, ~~A penalty for late renewal,~~ in addition
12 to the regular renewal fee, shall be ~~charged for renewal of registration~~
13 ~~received after the first day of February-charged.~~
- 14 (4) The Board may suspend or revoke a permit when an owner, partner,
15 manager, member, operator, or officer of the funeral establishment
16 violates any provision of this Article or any regulations of the Board,
17 or when any agent or employee of the funeral establishment, with the
18 consent of any person, firm or corporation operating the funeral
19 establishment, violates any of those provisions, rules or regulations.
- 20 (5) Funeral establishment permits are not transferable. A new application
21 for a permit shall be made to the Board within 30 days of a change of
22 ownership of a funeral establishment.
- 23 (d1) Embalming Outside Establishment. – An embalmer who engages in
24 embalming in a facility other than a funeral establishment or in the residence of the
25 deceased person shall, no later than January 1 of each year, register the facility with the
26 Board on forms provided by the Board.
- 27 (e) Revocation; Suspension; Compromise; Disclosure. –
- 28 (1) Whenever the Board finds that an applicant for a license or a person to
29 whom a license has been issued by the Board is guilty of any of the
30 following acts or omissions and the Board also finds that the person
31 has thereby become unfit to practice, the Board may suspend or revoke
32 the license or refuse to issue or renew the license, in accordance with
33 the procedures set out in Chapter ~~150B~~:150B of the General Statutes:
- 34 a. Conviction of a felony or a crime involving fraud or moral
35 turpitude.
- 36 b. Fraud or misrepresentation in obtaining or renewing a license or
37 in the practice of funeral service.
- 38 c. False or misleading advertising as the holder of a license.
- 39 d. Solicitation of dead human bodies by the licensee, his agents,
40 assistants, or employees; but this paragraph shall not be
41 construed to prohibit general advertising by the licensee.
- 42 e. Employment directly or indirectly of any resident trainee agent,
43 assistant or other person, on a part-time or full-time basis, or on
44 commission, for the purpose of calling upon individuals or

1 institutions by whose influence dead human bodies may be
2 turned over to a particular licensee.

- 3 f. ~~The direct or indirect giving of certificates of credit or the~~
4 ~~payment or offer of payment of a commission by the licensee,~~
5 ~~his agents, assistants or employees for the purpose of securing~~
6 ~~business-business except as authorized by Article 13D of this~~
7 ~~Chapter.~~
8 g. Gross immorality, including being under the influence of
9 alcohol or drugs while practicing funeral service.
10 h. Aiding or abetting an unlicensed person to perform services
11 under this Article, including the use of a picture or name in
12 connection with advertisements or other written material
13 published or caused to be published by the licensee.
14 i. Failing to treat a dead human body with respect at all times.
15 ~~Using profane, indecent or obscene language in the presence of~~
16 ~~a dead human body, and within the immediate hearing of the~~
17 ~~family or relatives of a deceased, whose body has not yet been~~
18 ~~interred or otherwise disposed of.~~
19 j. Violating or cooperating with others to violate any of the
20 provisions of this Article, the rules and regulations of the
21 Board, or the standards set forth in Funeral Industry Practices,
22 16 C.F.R. 453 (1984), as amended from time to time.
23 k. Violation of any State law or municipal or county ordinance or
24 regulation affecting the handling, custody, care or transportation
25 of dead human bodies.
26 l. Refusing to surrender promptly the custody of a dead human
27 body upon the express order of the person lawfully entitled to
28 the custody thereof.
29 m. Knowingly making any false statement on a certificate of death.
30 n. Indecent exposure or exhibition of a dead human body while in
31 the custody or control of a licensee.

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

- 37 (2) Where the Board finds that a licensee is guilty of one or more of the
38 acts or omissions listed in subdivision (e)(1) of this section but it is
39 determined by the Board that the licensee has not thereby become unfit
40 to practice, the Board may place the licensee on a term of probation in
41 accordance with the procedures set out in Chapter ~~150B-150B~~ 150B of the
42 General Statutes. In any case in which the Board is entitled to place a
43 licensee on a term of probation, the Board may also impose a penalty

1 of not more than five thousand dollars (\$5,000) in conjunction with the
2 probation.

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

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

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

31 At the time funeral arrangements are made and prior to the time of rendering the
32 service and providing the merchandise, a funeral director or funeral service licensee
33 shall give or cause to be given to the person or persons making such arrangements a
34 written statement duly signed by a licensee of said funeral establishment showing the
35 price of the service as selected and what services are included therein, the price of each
36 of the supplemental items of services or merchandise requested, and the amounts
37 involved for each of the items for which the funeral establishment will advance moneys
38 as an accommodation to the person making arrangements, insofar as any of the above
39 items can be specified at that time. The statement shall have printed, typed or stamped
40 on the face thereof: "This statement of disclosure is provided under the requirements of
41 North Carolina G.S. 90-210.25(e)."

42 (f) Unlawful Practices. – If any person shall practice or hold himself out as
43 practicing the profession or art of embalming, funeral directing or practice of funeral

1 service without having complied with the licensing provisions of this Article, he shall be
2 guilty of a Class 2 misdemeanor.

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

13 **SECTION 8.(a)** Chapter 65 of the General Statutes is amended by adding
14 the following new Article to read:

15 "Article 11.

16 "Minimum Burial Depth."

17 **SECTION 8.(b)** G.S. 90-210.25A is recodified as G.S. 65-77 in Article 11
18 of Chapter 65 of the General Statutes, as enacted by Section 8(a) of this act.

19 **SECTION 9.(a)** G.S. 90-210.27A(g) reads as rewritten:

20 "(g) No funeral establishment or other licensee under this Article shall own,
21 operate, or maintain a funeral chapel without first having registered the name, location,
22 and ownership thereof with the ~~Board~~Board; own or maintain more than two funeral
23 chapels, or own or maintain a funeral chapel outside of a radius of 50 miles from the
24 funeral establishment. A duly licensed person may use a funeral chapel for making
25 arrangements for funeral service, selling funeral supplies to the public, or making
26 financial arrangements for the rendering of such service or sale of supplies, provided
27 that such uses are secondary and incidental to and do not interfere with the reposing of
28 dead human bodies, visitation, or funeral ceremony."

29 **SECTION 9.(b)** G.S. 90-210.27A is amended by adding the following new
30 subsections to read:

31 "(i) No funeral establishment shall use an unregistered or misleading name.
32 Misleading names include, but are not limited to, names in the plural form when there is
33 only one funeral establishment and the use of the word "crematory" or "crematorium" in
34 the name of a funeral establishment that does not own a crematory. If an owner of a
35 funeral establishment owns more than one funeral establishment, the owner may not use
36 the word "crematory" or "crematorium" in the name of more than one of its funeral
37 establishments; except that each funeral home having a crematory on the premises may
38 contain the term "crematory" or "crematorium" in its name.

39 (j) A funeral establishment will not use any name other than the name by which
40 it is properly registered with the Board."

41 **SECTION 10.** G.S. 90-210.29A reads as rewritten:

42 **"§ 90-210.29A. Identification of bodies before burial or cremation.**

43 The funeral director or person otherwise responsible for the final disposition of a
44 dead body shall, prior to the interment or entombment of the dead body, affix on the

1 ankle or wrist of the dead body, or, if cremated, on the inside of the ~~vessel~~ temporary
2 container or urn containing the remains of the dead body, a tag of durable, noncorroding
3 material permanently marked with the name of the deceased, the date of death, the
4 social security number of the deceased, the county and state of death, and the site of
5 interment or entombment."

6 **SECTION 11.** G.S. 90-210.63(a)(2) reads as rewritten:

7 "**§ 90-210.63. Substitution of licensee.**

8 (a) If the preneed funeral contract is irrevocable, the preneed funeral contract
9 purchaser, or after his death the preneed funeral contract beneficiary or his legal
10 representative, upon written notice to the financial institution or insurance company and
11 the preneed licensee who is a party to the preneed funeral contract, may direct the
12 substitution of a different funeral establishment to furnish funeral services and
13 merchandise.

14 ...

15 (2) The original contracting preneed licensee shall immediately pay all
16 funds received to the successor funeral establishment designated.
17 Regardless of whether the substitution is made before or after the death
18 of the preneed funeral contract beneficiary, the original contracting
19 preneed licensee shall not be required to give credit for the amount
20 retained pursuant to G.S. 90-210.61(a)(2), except when there was a
21 substitution under G.S. 90-210.68(d1) and (e). ~~Except when there was~~
22 ~~a substitution under G.S. 90-210.68(d1) and (e), if the original~~
23 ~~contracting preneed licensee did not retain any portion of payments~~
24 ~~made as is permitted by G.S. 90-210.61(a)(2) then the preneed licensee~~
25 ~~may retain up to ten percent (10%) of the funds received from the~~
26 ~~financial institution.~~ Upon making payments pursuant to this
27 subsection, the financial institution and the original contracting
28 preneed licensee shall be relieved from all further contractual liability
29 thereon.

30"

31 **SECTION 12.** G.S. 90-210.64(a) reads as rewritten:

32 "(a) After the death of a preneed funeral contract beneficiary and full performance
33 of the preneed funeral contract by the preneed licensee, the preneed licensee shall
34 promptly complete a certificate of performance ~~or similar claim form~~ and present it to
35 the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the
36 insurance company that issued a preneed insurance policy pursuant to G.S.
37 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form,
38 the financial institution shall pay the trust funds to the contracting preneed licensee and
39 the insurance company shall pay the insurance proceeds according to the terms of the
40 policy. Within 10 days after receiving payment, the preneed licensee shall mail a copy
41 of the certificate of performance or other claim form to the Board."

42 **SECTION 13.** G.S. 90-210.65(e) reads as rewritten:

43 "(e) This section shall not apply to irrevocable preneed funeral contracts.
44 Irrevocable preneed funeral contracts may not be revoked nor any proceeds refunded

1 except by order of a court of competent jurisdiction. Notwithstanding the previous
2 sentence, irrevocable preneed funeral contracts purchased pursuant to G.S.
3 90-210.61(a)(3) shall also be revocable when the underlying insurance policy lapses or
4 is otherwise cancelled and the lapsed or cancelled policy no longer provides any
5 funding for the preneed funeral contract."

6 **SECTION 14.** G.S. 90-210.67(e) and (f) are repealed.

7 **SECTION 15.** G.S. 90-210.70 is amended by adding the following new
8 subsection to read:

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

19 **SECTION 16.** G.S. 143B-472.5, as recodified by Section 17 of this act,
20 reads as rewritten:

21 "**§ 90-210.83. Assessments against association for expenses of Board of Mortuary**
22 **Science associations.**

23 ~~In order to meet the expenses of the supervision of the burial associations, the Board~~
24 ~~of Mortuary Science shall prepare an annual budget for the office of the Board of~~
25 ~~Mortuary Science. Thereafter, the Board of Mortuary Science shall~~ The North Carolina
26 Board of Funeral Service shall annually assess each burial association one hundred
27 dollars (\$100.00) plus an amount not to exceed fifty cents (50¢) per member. and shall
28 ~~prorate the remaining amount of this budget, over and above any other funds made~~
29 ~~available to it for this purpose, and assess each association on a pro rata basis in~~
30 ~~accordance with the number of members of each association. Each burial association~~
31 ~~shall remit to the Board of Mortuary Science~~ Funeral Service its pro rata part of the total
32 assessment, which expense shall be included in the thirty per centum (30%) expense
33 allowance as provided in G.S. 143B-472.3. 90-210.81. This assessment shall be made
34 on the first day of July of each and every year and said assessment shall be paid within
35 30 days thereafter. If any association shall fail or refuse to pay such assessment within
36 30 days, the Board of Mortuary Science Funeral Service is authorized to transfer all
37 memberships and assets of every kind and description to the nearest association that is
38 found by the Board of Mortuary Science Funeral Service to be in good sound financial
39 condition."

40 **SECTION 17.(a)** Chapter 90 of the General Statutes is amended by adding
41 the following new Article to read:

42 "Article 13E.

43 "Mutual Burial Associations."

1 **SECTION 17.(b)** G.S. 143B-472.2 through G.S. 143B-472.29 are recodified
2 as G.S. 90-210.80 through G.S. 90-210.107 in Article 13E of Chapter 90 of the General
3 Statutes, as enacted by Section 17(a) of this act. The Revisor of Statutes is authorized to
4 make changes to statutory cross-references that will reflect the results of the
5 recodification.

6 **SECTION 18.** This act becomes effective October 1, 2003.