

§ 65-57. Licenses for sales organizations, management organizations and brokers.

(a) No legal entity shall engage in the business of a cemetery sales organization, a cemetery management organization or a cemetery broker except as authorized by this Article, and without first obtaining a license from the Commission.

(b) Any legal entity wishing to establish and operate the business of a cemetery sales organization, a cemetery management organization or a cemetery broker shall file a written application for authority with the Commission on forms provided by the Commission which must contain such of the following documents and information as may be required by the Commission:

- (1) The appointment of a North Carolina resident to receive service of any lawful process in any noncriminal proceedings arising under this Chapter against the applicant, its principal owners, principal stockholders, directors and general manager or their personal representatives.
- (2) The states or other jurisdictions in which the applicant presently is conducting the business activity applied for or other similar businesses and any adverse order, judgment or decree entered against the applicant in each jurisdiction or by any court.
- (3) The applicant's name, address and the form, date and jurisdiction of the organization and the address of each of its offices within or without this State.
- (4) The name, address, principal occupation for the past five years of every director and officer of the applicant or person occupying a similar status or performing similar functions.
- (5) Copies of the articles of incorporation or articles of partnership or joint venture agreement or other instrument establishing the legal entity of the applicant.

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

(d) Upon receipt of the application and filing fee, the Commission shall cause an investigation to be made of the legal entity to conduct the business applied for and the qualification of said legal entity to do business in North Carolina.

(e) The Commission, after receipt of the investigation report, shall grant or refuse to grant the authority to organize the organization applied for after it determines that the applicant possesses good character and general fitness or, in the case of a business association, employs and is directed by personnel of good character and general fitness.

(f) If the Commission intends to deny an application, it shall give written notice to the applicant of its intention to deny. The notice shall state a time and a place for hearing before the Commission and a summary statement of the reasons for the proposed denial. The notice of intent shall be mailed by certified mail to the applicant at the address stated in the application at least 15 days prior to the scheduled hearing date. Any appeals from the Commission's decision

shall be to the court having jurisdiction of the applicant, or in the event of an out-of-state applicant, then to the court having jurisdiction of the Commission.

(g) If the Commission intends to grant the authority, it shall give written notice that the authority to organize the business applied for has been granted and that a license to operate will be issued upon presentment to the Commission of a statement of employment between the applicant and the cemetery or cemeteries to be serviced thereby.

(h) Any person or any cemetery sales organization or any cemetery management organization or any cemetery broker violating the provisions of this section is guilty of a Class 1 misdemeanor, and shall be subject to revocation of the license to operate. (1975, c. 768, s. 1; 1977, c. 686, ss. 9, 10; 1993, c. 539, s. 500; 1994, Ex. Sess., c. 24, s. 14(c); 2004-202, s. 3.)