

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 485  
Committee Substitute Favorable 4/14/97

Short Title: Funeral Establishments/AB.

(Public)

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Sponsors:

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Referred to:

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March 10, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS STATUTES RELATING TO THE PRACTICE OF FUNERAL SERVICE, CREMATIONS, AND FUNERAL AND BURIAL TRUST FUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-210.20(e1) reads as rewritten:

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

Section 2. G.S. 90-210.23(d) reads as rewritten:

"(d) Every person licensed by the Board and every resident trainee shall furnish all information required by the Board reasonably relevant to the practice of the profession or

1 business for which ~~he~~ the person is a licensee or resident ~~trainee~~, and ~~every~~ trainee. Every  
2 funeral service establishment and its records and every place of business where the  
3 practice of funeral service or embalming is carried on and its records thereof shall be  
4 subject to inspection by the Board during normal hours of operation and periods shortly  
5 before or after normal hours of operation and shall furnish all information required by the  
6 Board reasonably relevant to the business therein conducted. Every licensee, resident  
7 ~~trainee~~ trainee, embalming facility, and funeral service establishment shall provide the  
8 Board with ~~his or its~~ a current post-office address which shall be placed on the appropriate  
9 register and all notices required by law or by any rule or regulation of the Board to be  
10 mailed to any licensee, resident ~~trainee~~ trainee, embalming facility, or funeral service  
11 establishment shall be validly given when mailed to the address so provided.

12 The Board is empowered to hold hearings in accordance with the provisions of this  
13 Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive  
14 the affirmation of witnesses before the Board."

15 Section 3. G.S. 90-210.23(e) reads as rewritten:

16 "(e) The Board is empowered to regulate and inspect, according to law, funeral  
17 service ~~establishments, establishments and embalming facilities, their operation~~ operation,  
18 and the licenses under which they are operated, and to enforce as provided by law the  
19 rules, ~~regulations~~ regulations, and requirements of the Division of Health Services and of  
20 the city, ~~town~~ town, or county ~~wherein any such~~ in which the funeral service establishment  
21 or embalming facility is maintained and operated. Any funeral establishment or  
22 embalming facility ~~which, that,~~ upon inspection, is found not to meet all of the  
23 requirements of this Article shall pay a reinspection fee to the Board for each additional  
24 inspection that is made to ascertain that the deficiency or other violation has been  
25 corrected. The Board is also empowered to enforce compliance with the standards set  
26 forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time."

27 Section 4. G.S. 90-210.24(b)(1) reads as rewritten:

28 "(1) Enter the office, establishment or place of business of any funeral  
29 service licensee, funeral director or embalmer in North Carolina, and  
30 any office, establishment or place in North Carolina where the practice  
31 of funeral service or embalming is carried on, or where that practice is  
32 advertised as being carried on, or where a funeral is being ~~conducted,~~  
33 conducted or a body is being embalmed, to inspect the records, office, ~~or~~  
34 establishment, establishment, or facility, or to inspect the practice being  
35 carried on or license or registration of any licensee and any resident  
36 trainee operating therein;"

37 Section 5. G.S. 90-210.25(a)(1) reads as rewritten:

38 "(1) To be licensed for the practice of funeral directing under this Article, a  
39 person must:  
40 a. Be at least 18 years of ~~age,~~ age.  
41 b. Be of good moral ~~character,~~ character.  
42 c. Have completed a minimum of 32 semester hours or 48 quarter  
43 hours of instruction in a course of study including the subjects set

1 out in ~~items~~ item e.1. and 2. of this subsection in a mortuary  
2 science college approved by the Board, or be a graduate of a  
3 mortuary science college approved by the Board.

4 d. Have completed 12 months of resident traineeship as funeral  
5 director, pursuant to the procedures and conditions set out in G.S.  
6 90-210.25(a)(4), either before or after satisfying the educational  
7 requirement under item c. of this ~~subsection, and~~ subsection.

8 e. Have passed an oral or written funeral director examination on  
9 the following subjects:

10 1. ~~Basic health sciences, including microbiology, hygiene, and~~  
11 ~~public health, Psychology, sociology, funeral directing,~~  
12 business law, funeral law, funeral management, and  
13 accounting.

14 2. ~~Funeral service administration, including accounting,~~  
15 ~~psychology, funeral principles and directing, and~~

16 3. Laws of North Carolina and rules of the Board of  
17 Mortuary Science and other agencies dealing with the  
18 care, transportation and disposition of dead human  
19 bodies."

20 Section 6. G.S. 90-210.25(a)(2) reads as rewritten:

21 "(2) To be licensed for the practice of embalming under this Article, a person  
22 must:

23 a. Be at least 18 years of ~~age,~~ age.

24 b. Be of good moral ~~eharacter,~~ character.

25 c. Be a graduate of a mortuary science college approved by the  
26 ~~Board,~~ Board.

27 d. Have completed 12 months of resident traineeship as an  
28 embalmer pursuant to the procedures and conditions set out in  
29 G.S. 90-210.25(a)(4), either before or after satisfying the  
30 educational requirement under item c. of this ~~subsection, and~~  
31 subsection.

32 e. Have passed an oral or written embalmer examination on the  
33 following subjects:

34 1. ~~Basic health sciences, including anatomy, chemistry,~~  
35 ~~microbiology, pathology and forensic pathology,~~  
36 Embalming, restorative arts, chemistry, pathology,  
37 microbiology, and anatomy.

38 2. ~~Funeral service sciences, including embalming and~~  
39 ~~restorative art, and~~

40 3. 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 Section 7. G.S. 90-210.25(a)(3) reads as rewritten:

2 "(3) To be licensed for the practice of funeral service under this Article, a  
3 person must:

- 4 a. Be at least 18 years of ~~age,~~ age.
- 5 b. Be of good moral ~~eharacter,~~ character.
- 6 c. Be a graduate of a mortuary science college approved by the  
7 ~~Board,~~ Board.
- 8 d. Have completed 12 months of resident traineeship as a funeral  
9 service licensee, pursuant to the procedures and conditions set  
10 out in G.S. 90-210.25(a)(4), either before or after satisfying the  
11 educational requirement under item c. of this ~~subsection,~~ and  
12 subsection.
- 13 e. Have passed an oral or written funeral service examination on the  
14 following subjects:
- 15 1. ~~Basic health sciences, including anatomy, chemistry,~~  
16 ~~microbiology, pathology, forensic pathology hygiene and~~  
17 ~~public health, Psychology, sociology, funeral directing,~~  
18 ~~business law, funeral law, funeral management, and~~  
19 ~~accounting.~~
  - 20 2. ~~Funeral service sciences, including embalming and restorative~~  
21 ~~art,~~ Embalming, restorative arts, chemistry, pathology,  
22 microbiology, and anatomy.
  - 23 3. ~~Funeral service administration, including accounting,~~  
24 ~~psychology, funeral principles and directing, and~~
  - 25 4. Laws of North Carolina and rules of the Board of  
26 Mortuary Science and other agencies dealing with the  
27 care, transportation and disposition of dead human  
28 bodies."

29 Section 8. G.S. 90-210.25(a)(5) reads as rewritten:

30 "(5) The Board by regulation may recognize other examinations that the  
31 Board deems equivalent to its own.

32 All licenses shall be signed by the president and secretary of the  
33 Board and the seal of the Board affixed thereto. All licenses shall be  
34 issued, renewed or duplicated for a period not exceeding one year upon  
35 payment of the renewal fee, and all licenses, renewals or duplicates  
36 thereof shall expire and terminate the thirty-first day of December  
37 following the date of their issue unless sooner revoked and canceled;  
38 provided, that the date of expiration may be changed by unanimous  
39 consent of the Board and upon 90 days' written notice of such change to  
40 all persons licensed for the practice of funeral directing, embalming and  
41 funeral service in this State.

42 The holder of any license issued by the Board who shall fail to  
43 renew the same on or before January 31 of the calendar year for which

1 the license is to be renewed shall have forfeited and surrendered the  
2 license as of that date. No license forfeited or surrendered pursuant to  
3 the preceding sentence shall be reinstated by the Board unless it is  
4 shown to the Board that the applicant has, throughout the period of  
5 forfeiture, engaged full time in another state of the United States or the  
6 District of Columbia in the practice to which his North Carolina license  
7 applies and has completed for each such year continuing education  
8 substantially equivalent in the opinion of the Board to that required of  
9 North Carolina licensees; or has completed in North Carolina a total  
10 number of hours of accredited continuing education computed by  
11 multiplying five times the number of years of forfeiture; or has passed  
12 the North Carolina examination for the forfeited license. No additional  
13 resident traineeship shall be required. The applicant shall be required to  
14 pay all delinquent annual renewal fees and a reinstatement fee. The  
15 Board may waive the provisions of this section for an applicant for a  
16 forfeiture which occurred during his service in the armed forces of the  
17 United States provided he applies within six months following  
18 severance therefrom.

19 All licensees now or hereafter licensed in North Carolina shall take  
20 courses of study in subjects relating to the practice of the profession for  
21 which they are licensed, to the end that new techniques, scientific and  
22 clinical advances, the achievements of research and the benefits of  
23 learning and reviewing skills will be utilized and applied to assure  
24 proper service to the public.

25 As a prerequisite to the annual renewal of a license, the licensee  
26 must complete, during the year immediately preceding renewal, at least  
27 five hours of continuing education courses, approved by the Board prior  
28 to enrollment; ~~except that for renewals for calendar year 1980 the required~~  
29 ~~length of study shall be a total of 15 hours in the three years immediately~~  
30 ~~preceding January 1, 1980.~~ enrollment. A licensee who completes more  
31 than five hours in a year may carry over a maximum of five hours as a  
32 credit to the following year's requirement. A licensee who is issued an  
33 initial license on or after July 1 does not have to satisfy the continuing  
34 education requirement for that year.

35 The Board shall not renew a license unless fulfillment of the  
36 continuing education requirement has been certified to it on a form  
37 provided by the Board, but the Board may waive this requirement for  
38 renewal in cases of certified illness or undue hardship or where the  
39 licensee lives outside of North Carolina and does not practice in North  
40 Carolina, and the Board shall waive the requirement for all licensees  
41 who have been licensed in North Carolina for a continuous period of 25  
42 years or more, and for all licensees who are, at the time of renewal,  
43 members of the General Assembly. The waiver for 25-year licensees

1 shall apply only to those licensees who, before January 1, 1998, are  
2 licensed, begin a course of study in a mortuary science college or a  
3 trainee program, or make an application for a license.

4 The Board shall cause to be established and offered to the licensees,  
5 each calendar year, at least five hours of continuing education courses in  
6 subjects encompassing the license categories of embalming, funeral  
7 directing and funeral service. The Board may charge licensees  
8 attending these courses a reasonable registration fee in order to meet the  
9 expenses thereof and may also meet those expenses from other funds  
10 received under the provisions of this Article.

11 Any person who having been previously licensed by the Board as a  
12 funeral director or embalmer prior to July 1, 1975, shall not be required  
13 to satisfy the requirements herein for licensure as a funeral service  
14 licensee, but shall be entitled to have such license renewed upon making  
15 proper application therefor and upon payment of the renewal fee  
16 provided by the provisions of this Article. Persons previously licensed  
17 by the Board as a funeral director may engage in funeral directing, and  
18 persons previously licensed by the Board as an embalmer may engage in  
19 embalming. Any person having been previously licensed by the Board  
20 as both a funeral director and an embalmer may upon application  
21 therefor receive a license as a funeral service licensee."

22 Section 9. G.S. 90-210.25 is amended by adding a new subsection to read:

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

35 Section 10. G.S. 90-210.25(b)(3) reads as rewritten:

36 "(3) The Board may issue special permits, to be known as courtesy cards,  
37 permitting nonresident funeral directors, embalmers and funeral service  
38 licensees to remove bodies from and to arrange and direct funerals and  
39 embalm bodies in this State, but these privileges shall not include the  
40 right to establish a place of business in or engage generally in the  
41 business of funeral directing and embalming in this State. ~~Provided,~~  
42 Except for special permits issued by the Board for teaching continuing  
43 education programs and for work in connection with disasters, no

1 special permits may be issued to nonresident funeral directors,  
2 embalmers, and funeral service licensees from states that do not issue  
3 similar courtesy cards to persons licensed in North Carolina pursuant to  
4 this Article."

5 Section 11. G.S. 90-210.25(d) reads as rewritten:

6 "(d) Establishment Permit. –

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

13 (2) A permit shall be issued when:

14 a. It is shown that the funeral establishment has in charge a person,  
15 known as a manager, licensed for the practice of funeral directing  
16 or funeral service, who shall not be permitted to manage more  
17 than one funeral ~~establishment, establishment.~~

18 b. The Board receives a list of the names of all part-time and full-  
19 time licensees employed by the ~~establishment, establishment.~~

20 c. It is shown that the funeral establishment satisfies the  
21 requirements of ~~G.S. 90-210.27A, and G.S. 90-210.27A.~~

22 d. The Board receives payment of the permit fee.

23 (3) Applications for funeral establishment permits shall be made on forms  
24 provided by the Board and filed with the Board by the owner, a ~~partner~~  
25 partner, a member of the limited liability company, or an officer of the  
26 corporation by January 1 of each year, and shall be accompanied by the  
27 application fee or renewal fee, as the case may be. All permits shall  
28 expire on December 31 of each year.

29 A penalty for late renewal, in addition to the regular renewal fee,  
30 shall be charged for renewal of registration coming after the first day of  
31 February.

32 (4) The Board may suspend or revoke a permit when an owner, ~~partner~~  
33 partner, manager, member, operator, or officer of the funeral  
34 establishment violates any provision of this Article or any regulations of  
35 the Board, or when any agent or employee of the funeral establishment,  
36 with the consent of any person, firm or corporation operating the funeral  
37 establishment, violates any of those provisions, rules or regulations.

38 (5) Funeral establishment permits are not transferable. A new application  
39 for a permit shall be made to the Board within 30 days of a change of  
40 ownership of a funeral establishment."

41 Section 12. G.S. 90-210.25 is amended by adding a new subsection to read:

42 "(d1) Embalming Outside Establishment. – An embalmer who engages in  
43 embalming in a facility other than a funeral establishment or in the residence of the

1 deceased person shall, no later than January 1 of each year, register the facility with the  
2 Board on forms provided by the Board."

3 Section 13. G.S. 90-210.25(e) reads as rewritten:

4 "(e) Revocation; Suspension; Compromise; Disclosure. –

5 (1) Whenever the Board finds that an applicant for a license or a person to  
6 whom a license has been issued by the Board is guilty of any of the  
7 following acts or omissions and the Board also finds that the person has  
8 thereby become unfit to practice, the Board may suspend or revoke the  
9 license or refuse to issue or renew the license, in accordance with the  
10 procedures set out in Chapter 150B:

- 11 a. Conviction of a felony or a crime involving fraud or moral  
12 ~~turpitude;~~ turpitude.
- 13 b. Fraud or misrepresentation in obtaining or renewing a license or  
14 in the practice of funeral ~~service;~~ service.
- 15 c. False or misleading advertising as the holder of a ~~license;~~ license.
- 16 d. Solicitation of dead human bodies by the licensee, his agents,  
17 assistants, or employees; but this paragraph shall not be  
18 construed to prohibit general advertising by the ~~licensee;~~ licensee.
- 19 e. Employment directly or indirectly of any resident trainee agent,  
20 assistant or other person, on a part-time or full-time basis, or on  
21 commission, for the purpose of calling upon individuals or  
22 institutions by whose influence dead human bodies may be  
23 turned over to a particular ~~licensee;~~ licensee.
- 24 f. The direct or indirect giving of certificates of credit or the  
25 payment or offer of payment of a commission by the licensee, his  
26 agents, assistants or employees for the purpose of securing  
27 ~~business;~~ business.
- 28 g. Gross immorality, including being under the influence of alcohol  
29 or drugs while practicing funeral ~~service;~~ service.
- 30 h. Aiding or abetting an unlicensed person to perform services  
31 under this Article, including the use of a picture or name in  
32 connection with advertisements or other written material  
33 published or caused to be published by the ~~licensee;~~ licensee.
- 34 i. Using profane, indecent or obscene language in the presence of a  
35 dead human body, and within the immediate hearing of the  
36 family or relatives of a deceased, whose body has not yet been  
37 interred or otherwise disposed ~~of;~~ of.
- 38 j. Violating or cooperating with others to violate any of the  
39 provisions of this ~~Article or of Article,~~ the rules and regulations of  
40 the ~~Board;~~ Board, or the standards set forth in Funeral Industry  
41 Practices, 16 C.F.R. 453 (1984), as amended from time to time.



- 1 k. Violation of any State law or municipal or county ordinance or  
2 regulation affecting the handling, custody, care or transportation  
3 of dead human ~~bodies;~~ bodies.  
4 l. Refusing to surrender promptly the custody of a dead human  
5 body upon the express order of the person lawfully entitled to the  
6 custody ~~thereof;~~ thereof.  
7 m. Knowingly making any false statement on a certificate of ~~death;~~  
8 death.  
9 n. Indecent exposure or exhibition of a dead human body while in  
10 the custody or control of a licensee.

11 In any case in which the Board is entitled to suspend, revoke or  
12 refuse to renew a license, the Board may accept from the licensee an  
13 offer in compromise to pay a penalty of not more than one thousand  
14 dollars (\$1,000). The Board may either accept a compromise or revoke  
15 or refuse to renew a license, but not both.

- 16 (2) Where the Board finds that a licensee is guilty of one or more of the acts  
17 or omissions listed in subsection (e)(1) of this section but it is  
18 determined by the Board that the licensee has not thereby become unfit  
19 to practice, the Board may place the licensee on a term of probation in  
20 accordance with the procedures set out in Chapter 150B.

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

27 No funeral service establishment shall accept a dead human body from any public  
28 officer (excluding the State or county medical examiner or his agent), or employee or  
29 from the official of any institution, hospital or nursing home, or from a physician or any  
30 person having a professional relationship with a decedent, without having first made due  
31 inquiry as to the desires of the ~~next of kin and of the persons who may be chargeable with the~~  
32 ~~funeral expenses of such decedent.~~ persons who have the legal authority to direct the  
33 disposition of the decedent's body. If any ~~such kin be persons~~ are found, ~~his or her~~ their  
34 authority and directions shall govern the disposal of the remains of ~~such~~ the decedent.  
35 Any funeral service establishment receiving ~~such~~ the remains in violation ~~hereof~~ of this  
36 subsection shall make no charge for any service in connection with ~~such~~ the remains prior  
37 to delivery of ~~same~~ the remains as stipulated by ~~such kin;~~ the persons having legal  
38 authority to direct the disposition of the body. ~~provided, however, this~~ This section shall  
39 not prevent any funeral service establishment from charging and being reimbursed for  
40 services rendered in connection with the removal of the remains of any deceased person  
41 in case of accidental or violent death, and rendering necessary professional services  
42 required until the ~~next of kin or the persons chargeable with the expenses~~ persons having  
43 legal authority to direct the disposition of the body have been notified.

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

8 At the time funeral arrangements are made and prior to the time of rendering the  
9 service and providing the merchandise, a funeral director or funeral service licensee shall  
10 give or cause to be given to the person or persons making such arrangements a written  
11 statement duly signed by a licensee of said funeral establishment showing the price of the  
12 service as selected and what services are included therein, the price of each of the  
13 supplemental items of services or merchandise requested, and the amounts involved for  
14 each of the items for which the funeral establishment will advance moneys as an  
15 accommodation to the person making arrangements, insofar as any of the above items can  
16 be specified at that time. The statement shall have printed, typed or stamped on the face  
17 thereof: "This statement of disclosure is provided pursuant to the requirements of North  
18 Carolina G.S. 90-210.25(e)."

19 Section 14. G.S. 90-210.27A reads as rewritten:

20 **"§ 90-210.27A. Funeral establishments.**

21 (a) Every funeral establishment shall contain a preparation room which is strictly  
22 private, of suitable size for the embalming of dead bodies. Each preparation room shall:

- 23 (1) Contain one standard type operating ~~table;~~ table.
- 24 (2) Contain facilities for adequate ~~drainage;~~ drainage.
- 25 (3) Contain a sanitary waste ~~receptacle;~~ receptacle.
- 26 (4) Contain an instrument ~~sterilizer;~~ sterilizer.
- 27 (5) Have wall-to-wall floor covering of tile, concrete, or other material  
28 which can be easily ~~cleaned;~~ cleaned.
- 29 (6) Be kept in sanitary condition and subject to inspection by the Board or  
30 its agents at all ~~times;~~ times.
- 31 (7) Have a placard or sign on the door indicating that the preparation room  
32 is ~~private;~~ and private.
- 33 (8) Have a proper ventilation or purification system to maintain a  
34 nonhazardous level of airborne contamination.

35 (b) No one is allowed in the preparation room while a dead human body is being  
36 prepared except licensees, resident trainees, public officials in the discharge of their  
37 duties, members of the medical profession, officials of the funeral home, next of kin, or  
38 other legally authorized persons.

39 (c) Every funeral establishment shall contain a reposing room for dead human  
40 bodies, of suitable size to accommodate a casket and visitors.

41 ~~(d) No person who has been convicted of a felony shall:~~

- 42 ~~(1) Own a funeral establishment if it is owned by a sole proprietorship;~~
- 43 ~~(2) Be a partner in a funeral establishment if it is owned by a partnership;~~

1           (3) ~~Be an officer, member of the board of directors or owner of twenty-five~~  
 2           ~~percent (25%) or more of the stock if it is owned by a corporation.~~

3           (e) If a funeral establishment is solely owned by a natural person, that person must  
 4 be licensed by the Board as a funeral director or a funeral service licensee. If it is owned  
 5 by a partnership, at least one partner must be licensed by the Board as a funeral director  
 6 or a funeral service licensee. If it is owned by a corporation, the president, vice-  
 7 president, or the chairman of the board of directors must be licensed by the Board as a  
 8 funeral director or a funeral service licensee. If it is owned by a limited liability  
 9 company, at least one member must be licensed by the Board as a funeral director or a  
 10 funeral service licensee. The licensee required by this subsection must be actively  
 11 ~~engaged, on a day-to-day basis, engaged~~ in the operation of the funeral establishment.

12           (f) If a funeral establishment uses the name of a living person in the name under  
 13 which it does business, that person must be licensed by the Board as a funeral director or  
 14 a funeral service licensee.

15           (g) No funeral establishment or other licensee under this Article shall own,  
 16 operate, or maintain a funeral chapel without first having registered the name, location,  
 17 and ownership thereof with the Board."

18           Section 15. G.S. 90-210.28 reads as rewritten:

19 **"§ 90-210.28. Fees.**

20           The Board may set and collect fees, not to exceed the following amounts:

21	Establishment permit		
22	Application		\$250.00
23	Annual renewal	175.00	
24	Late renewal penalty	100.00	
25	<del>Establishment reinspection</del> <u>Reinspection fee</u>		100.00
26	Courtesy card		
27	Application	75.00	
28	Annual renewal		50.00
29	Out-of-state licensee		
30	Application	200.00	
31	Embalmer, funeral director,		
32	funeral service		
33	Application--North		
34	Carolina-Resident	150.00	
35	-Non-Resident		200.00
36	Annual Renewal-embalmer or		
37	funeral director		50.00
38	-funeral service	100.00	
39	Reinstatement fee	50.00	
40	Resident trainee permit		
41	Application		50.00
42	Annual renewal	35.00	
43	Late renewal penalty	25.00	

1	Duplicate license certificate	25.00
2	Chapel registration	
3	Application	150.00
4	Annual renewal	100.00

5 The Board shall provide, without charge, one copy of the current statutes and  
6 regulations relating to Mortuary Science to every person applying for and paying the  
7 appropriate fees for licensing pursuant to this Article. The Board may charge all others  
8 requesting copies of the current statutes and regulations, and the licensees or applicants  
9 requesting additional copies, a fee equal to the costs of production and distribution of the  
10 requested documents.”

11 Section 16. G.S. 90-210.41 reads as rewritten:

12 **"§ 90-210.41. Definitions.**

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

- 14 (1) ‘Authorizing agent’ means a person legally entitled to ~~order~~order, or  
15 carry out the legal order for, the cremation of human remains. ~~An~~  
16 ~~authorizing agent shall be, in order of priority, a spouse, an adult child, a~~  
17 ~~parent, any adult sibling, guardian or close relation of the deceased.~~ In the  
18 case of indigents or any other individuals whose final disposition is the  
19 responsibility of the State, a public official charged with arranging the  
20 final disposition of the deceased, if legally authorized, may serve as the  
21 authorizing agent. In the case of individuals whose death occurred in a  
22 nursing home or other private institution, and in which the institution is  
23 charged with making arrangements for the final disposition of the  
24 deceased, a representative of the institution, if legally authorized, may  
25 serve as the authorizing agent.
- 26 (2) ‘Board’ means the North Carolina State Board of Mortuary Science.
- 27 (3) ~~‘Casket’ means a rigid container which is designed for the encasement~~  
28 ~~of human remains and which is usually constructed of wood, metal or~~  
29 ~~other rigid material and ornamented and lined with fabric.~~
- 30 (4) ‘Closed container’ means any container in which cremated remains can  
31 be placed and closed in a manner so as to prevent leakage or spillage of  
32 cremated remains or the entrance of foreign material.
- 33 (5) ‘Cremated remains’ means all human remains recovered after the  
34 completion of the cremation process, including pulverization which  
35 leaves only bone fragments reduced to unidentifiable dimensions.
- 36 (6) ‘Cremation’ means the technical process, using heat, that reduces human  
37 remains to bone fragments.
- 38 (7) ‘Cremation chamber’ means the enclosed space within which the  
39 cremation process takes place. Cremation chambers covered by this  
40 Article shall be used exclusively for the cremation of human remains.
- 41 (8) ‘Cremation container’ means the container in which the human remains  
42 are placed in the cremation chamber for a cremation. A cremation

- 1 container must meet all of the standards established by the rules adopted  
2 by the Board.
- 3 (9) 'Crematory' means the building or portion of a building that houses the  
4 cremation chamber and that may house the holding facility, business  
5 office or other part of the crematory business. A crematory must  
6 comply with any applicable public health laws and rules and must  
7 contain the equipment and meet all of the standards established by the  
8 rules adopted by the Board.
- 9 (10) 'Crematory authority' means the North Carolina Crematory Authority.
- 10 (11) 'Crematory operator' means the legal entity which is licensed by the  
11 Board to operate a crematory and perform cremations.
- 12 ~~(12) 'Holding facility' means an area within or adjacent to the crematory,  
13 designated for the retention of human remains prior to cremation. A  
14 holding facility must comply with any applicable public health laws and  
15 rules and must meet all of the standards established by the rules adopted  
16 by the Board.~~
- 17 (13) 'Human remains' means the body of a deceased person, including a  
18 human fetus, regardless of the length of gestation, or part of a body or  
19 ~~limb~~ that has been removed from a living or deceased person.
- 20 (14) 'Niche' means a compartment or cubicle for the memorialization or  
21 permanent placement of an urn containing cremated remains.
- 22 ~~(15) 'Scattering area' means a designated area for the scattering of cremated  
23 remains.~~
- 24 ~~(16) 'Temporary container' means a temporary receptacle for cremated  
25 remains, usually made of cardboard, plastic film or similar material  
26 designed to hold the cremated remains until an urn or other permanent  
27 container is acquired.~~
- 28 (17) ~~'Urn' means a receptacle designed to permanently encase the cremated  
29 remains."~~

30 Section 17. G.S. 90-210.43 reads as rewritten:

31 **"§ 90-210.43. Licensing and inspection.**

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

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

41 (c) Application for a license as a crematory operator shall be made on forms  
42 furnished and prescribed by the Board. The Board shall examine the premises and  
43 structure to be used as a crematory and shall issue a renewable license to the crematory

1 operator if the applicant meets all the requirements and standards of the Board and the  
2 requirements of this Article. ~~In the event of a change of ownership of a crematory, at least 30~~  
3 ~~days prior to the change the new owners shall provide the Board with the name and address of~~  
4 ~~the new owners.~~

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

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

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

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

- 27 (1) Conviction of a felony or a crime involving fraud or moral ~~turpitude;~~  
28 turpitude.
- 29 (2) Fraud or misrepresentation in obtaining or renewing a license or in the  
30 practice of ~~eremation;~~ cremation.
- 31 (3) False or misleading ~~advertising;~~ advertising.
- 32 (4) Gross immorality, including being under the influence of alcohol or  
33 drugs while performing cremation ~~services;~~ services.
- 34 (5) Using profane, indecent or obscene language in the presence of a dead  
35 human body, and within the immediate hearing of the family or relatives  
36 of a deceased, whose body has not yet been cremated or otherwise  
37 disposed ~~of;~~ of.
- 38 (6) Violating or cooperating with others to violate any of the provisions of  
39 this Article or of the rules of the ~~Board;~~ Board.
- 40 (7) Violation of any State law or municipal or county ordinance or  
41 regulation affecting the handling, custody, care or transportation of dead  
42 human ~~bodies;~~ bodies.

1 (8) Refusing to surrender promptly the custody of a dead human body or  
2 cremated remains upon the express order of the person lawfully entitled  
3 to the custody thereof, except as provided in ~~G.S. 90-210.47(e)~~; G.S. 90-  
4 210.47(e).

5 (9) Indecent exposure or exhibition of a dead human body while in the  
6 custody or control of a licensee.

7 In any case in which the Board is authorized to take any of the actions permitted  
8 under this subsection, the Board may instead accept an offer in compromise of the  
9 charges whereby the accused shall pay to the Board a penalty of not more than one  
10 thousand dollars (\$1,000).

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

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

30 Section 18. G.S. 90-210.44 reads as rewritten:

31 "**§ 90-210.44. Authorization and record keeping.**

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

35 Section 19. G.S. 90-210.45 reads as rewritten:

36 "**§ 90-210.45. Cremation procedures.**

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

40 (b) Human remains shall not be cremated within 24 hours after the time of death,  
41 unless such death was a result of an infectious, contagious or communicable and  
42 dangerous disease as listed by the Commission of Health Services pursuant to G.S. 130A-  
43 134, and unless such time requirement is waived in writing by the medical examiner,

1 county health director, or attending physician where the death occurred. In the event  
2 such death comes under the jurisdiction of the medical examiner, the human remains  
3 shall not be received by the crematory operator until authorization to cremate has been  
4 received in writing from the medical examiner of the county in which the death occurred.  
5 In the event the crematory operator is authorized to perform funerals as well as  
6 cremation, this restriction on the receipt of human remains shall not be applicable.

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

12 (c1) Human remains shall be cremated only while enclosed in a cremation  
13 container.

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

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

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

22 Section 20. G.S. 90-210.46(a) reads as rewritten:

23 "(a) The authorizing agent shall provide the person with whom cremation  
24 arrangements are made with a signed statement specifying the ultimate disposition of the  
25 cremated remains, if known. ~~A copy of this statement shall be retained by the crematory~~  
26 ~~operator.~~ The crematory operator may store or retain cremated remains as directed by the  
27 authorizing agent. Records of retention and disposition of cremated remains shall be kept  
28 by the crematory operator pursuant to G.S. 90-210.44."

29 Section 21. G.S. 90-210.47(b) reads as rewritten:

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

35 Section 22. G.S. 90-210.48(a) reads as rewritten:

36 "**§ 90-210.48. Fees.**

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

- |    |     |                           |          |
|----|-----|---------------------------|----------|
| 39 | (1) | Licensee application fee. | \$400.00 |
| 40 | (2) | Annual renewal fee.       | 150.00   |
| 41 | (3) | Late renewal penalty.     | 75.00    |
| 42 | (4) | Re-inspection fee.        | 100.00   |
| 43 | (5) | Per cremation fee.        | 10.00    |



1           (6) Late fee, per cremation. 10.00

2           (7) Late fee, cremation report. 75.00 per month."

3           Section 23. G.S. 90-210.60(3) reads as rewritten:

4           "(3) 'Insurance company' means any corporation, limited liability company,  
5           association, partnership, society, order, individual or aggregation of  
6           individuals engaging in or proposing or attempting to engage as  
7           principals in any kind of insurance business, including the exchanging  
8           of reciprocal or interinsurance contracts between individuals,  
9           partnerships, and corporations;"

10          Section 24. G.S. 90-210.63(a)(2) reads as rewritten:

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

26          Section 25. G.S. 90-210.64(a) reads as rewritten:

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

37          Section 26. G.S. 90-210.66(b) reads as rewritten:

38          "(b) From the fee of ~~fifteen dollars (\$15.00)~~ for each preneed funeral contract as  
39          required by G.S. 90-210.67(d), the Board shall deposit two dollars (\$2.00) into the Fund.  
40          The Board may suspend the deposits into the Fund at any time and for any period for  
41          which the Board determines that a sufficient amount is available to meet likely  
42          disbursements and to maintain an adequate reserve."

43          Section 27. G.S. 90-210.67 reads as rewritten:

1 **"§ 90-210.67. Application for license.**

2 (a) No person may offer or sell preneed funeral contracts or offer to make or make  
3 any funded funeral prearrangements without first securing a license from the Board.  
4 There shall be two types of licenses: a preneed funeral establishment license and a  
5 preneed sales license. Only funeral establishments holding a valid establishment permit  
6 pursuant to G.S. 90-210.25(d) shall be eligible for a preneed funeral establishment  
7 license. Employees and agents of such entities, upon meeting the qualifications to engage  
8 in preneed funeral planning as established by the Board, shall be eligible for a preneed  
9 sales license. The Board shall establish the preneed funeral planning activities that are  
10 permitted under a preneed sales license. The Board shall adopt rules establishing such  
11 qualifications and activities no later than 12 months following the ratification of this act.  
12 Preneed sales licensees may sell preneed funeral contracts, prearrangement insurance  
13 policies, and make funded funeral prearrangements only on behalf of one preneed funeral  
14 establishment licensee; provided, however, they may sell preneed funeral contracts,  
15 prearrangement insurance policies, and make funeral prearrangements for any number of  
16 licensed preneed funeral establishments that are wholly owned by or affiliated with,  
17 through common ownership or contract, the same entity; provided further, in the event  
18 they engage in selling prearrangement insurance policies, they shall meet the licensing  
19 requirements of the Commissioner of Insurance. Every preneed funeral contract shall be  
20 signed by a person licensed as a funeral director or funeral service licensee pursuant to  
21 Article 13A of Chapter 90 of the General Statutes.

22 Application for a license shall be in writing, signed by the applicant and duly verified  
23 on forms furnished by the Board. Each application shall contain at least the following: the  
24 full names and addresses (both residence and place of business) of the applicant, and  
25 every partner, member, officer and director thereof if the applicant is a partnership,  
26 limited liability company, association, or corporation and any other information as the  
27 Board shall deem necessary. A preneed funeral establishment license shall be valid only  
28 at the address stated in the application or at a new address approved by the Board.

29 (b) An application for a preneed funeral establishment license shall be  
30 accompanied by a nonrefundable application fee of not more than one hundred fifty  
31 dollars (\$150.00). The Board shall set the amounts of the application fees and renewal  
32 fees by rule, but the fees shall not exceed one hundred fifty dollars (\$150.00). If the  
33 license is granted, the application fee shall be applied to the annual license fee for the  
34 first year or part thereof. Upon receipt of the application and payment of the application  
35 fee, the Board shall issue a renewable preneed funeral establishment license unless it  
36 determines that the applicant has violated any provision of G.S. 90-210.69(c) or has made  
37 false statements or representations in the application, or is insolvent, or has conducted or  
38 is about to conduct, its business in a fraudulent manner, or is not duly authorized to  
39 transact business in this State. The license shall expire on December 31 and ~~Each~~ ~~each~~  
40 ~~preneed funeral establishment licensee shall pay annually to the Board on or before June~~  
41 ~~30 of each year that date~~ a license renewal fee of not more than one hundred fifty dollars  
42 (\$150.00). On or before the first day of February immediately following expiration, a  
43 license may be renewed without paying a late fee. After that date, a license may be

1 renewed by paying a late fee of not more than one hundred dollars (\$100.00) in addition  
2 to the annual renewal fee.

3 (c) An application for a preneed sales license shall be accompanied by a  
4 nonrefundable application fee of not more than fifty dollars (\$50.00). The Board shall set  
5 the amounts of the application fees and renewal fees by rule, but the fees shall not exceed  
6 fifty dollars (\$50.00). If the license is granted, the application fee shall be applied to the  
7 annual license fee for the first year or part thereof. Upon receipt of the application and  
8 payment of the application fee, the Board shall issue a renewable preneed sales license  
9 provided the applicant has met the qualifications to engage in preneed funeral planning as  
10 established by the Board unless it determines that the applicant has violated any provision  
11 of G.S. 90-210.69(c). The license shall expire on December 31 and ~~Each~~ each preneed  
12 sales licensee shall pay annually to the Board on or before June 30 of each year, that date a  
13 license renewal fee of not more than fifty dollars (\$50.00). On or before the first day of  
14 February, a license may be renewed without paying a late fee. After that date, a license  
15 may be renewed by paying a late fee of not more than twenty-five dollars (\$25.00) in  
16 addition to the annual renewal fee.

17 (d) Any person selling a preneed funeral contract, whether funded by a trust  
18 deposit or a prearrangement insurance policy, shall remit to the Board, within 10 days of  
19 the sale, a fee of ~~fifteen dollars (\$15.00)~~ not to exceed twenty dollars (\$20.00) for each sale.  
20 sale and a copy of each contract. The person shall pay a late fee of not more than twenty-  
21 five dollars (\$25.00) for each late filing and payment. The ~~fee~~ fees shall not be remitted in  
22 cash.

23 (d1) The Board may also set and collect a fee of not more than twenty-five dollars  
24 (\$25.00) for the late filing of a certificate of performance and a fee of not more than one  
25 hundred and fifty dollars (\$150.00) for the late filing of an annual report.

26 (e) The fees collected under this Article, except for monies used pursuant to G.S.  
27 90-210.66, shall be used for the expenses of the Board in carrying out the provisions of  
28 this Article. Any funds collected under this Article and remaining with the Board after all  
29 expenses under this Article for the current fiscal year have been fully provided for shall  
30 be paid over to the General Fund of the State of North Carolina. Provided, however, the  
31 Board shall have the right to maintain an amount, the cumulative total of which shall not  
32 exceed twenty percent (20%) of gross receipts under this Article for the previous fiscal  
33 year of its operations, as a maximum contingency or emergency fund.

34 (f) Any entity licensed by the Commissioner of Banks under Article 13B of  
35 Chapter 90 of the General Statutes before July 9, 1992 shall be entitled to have its license  
36 renewed notwithstanding that it is not a funeral establishment, provided it otherwise  
37 satisfies the requirements of this Article.”

38 Section 28. G.S. 90-210.68 reads as rewritten:

39 **"§ 90-210.68. Licensee's books and records; notice of transfers, assignments and**  
40 **terminations.**

41 (a) Every preneed licensee shall keep for examination by the Board accurate  
42 accounts, books, and records in this State of all preneed funeral contract and  
43 prearrangement insurance policy transactions, copies of all agreements, insurance

1 policies, instruments of assignment, the dates and amounts of payments made and  
2 accepted thereon, the names and addresses of the contracting parties, the persons for  
3 whose benefit funds are accepted, and the names of the financial institutions holding  
4 preneed funeral trust funds and insurance companies issuing prearrangement insurance  
5 policies. The Board, its inspectors appointed pursuant to G.S. 90-210.24 and its  
6 examiners, which the Board may appoint to assist in the enforcement of this Article, may  
7 during normal hours of operation and periods shortly before or after normal hours of  
8 operation, investigate the books, records, and accounts of any licensee under this Article  
9 with respect to trust funds, preneed funeral contracts, and prearrangement insurance  
10 policies. Any preneed licensee who, upon inspection, fails to meet the requirements of  
11 this subsection or who fails to keep an appointment for an inspection shall pay a  
12 reinspection fee to the Board in an amount not to exceed one hundred dollars (\$100.00).  
13 The Board may require the attendance of and examine under oath all persons whose  
14 testimony it may require. Every preneed licensee shall submit a written report to the  
15 Board, at least annually, in a manner and with such content as established by the Board,  
16 of its preneed funeral contract sales and performance of such contracts. The Board may  
17 also require other reports.

18 (b) A preneed licensee may transfer preneed funds held by it as trustee from the  
19 financial institution which is a party to a preneed funeral contract to a substitute financial  
20 institution that is not a party to the contract. Within 10 days after the transfer, the preneed  
21 licensee shall notify the Board, in writing, of the name and address of the transferee  
22 financial institution. Before the transfer may be made, the transferee financial institution  
23 shall agree to make disclosures required under the preneed funeral contract to the Board  
24 or its inspectors or examiners. If the contract is revocable, the licensee shall notify the  
25 contracting party of the intended transfer.

26 (c) If any preneed licensee transfers or assigns its assets or stock to a successor  
27 funeral establishment or terminates its business as a funeral establishment, the preneed  
28 licensee and assignee shall notify the Board at least 15 days prior to the effective date of  
29 the transfer, assignment or termination: provided, however, the successor funeral  
30 establishment must be a preneed licensee or shall be required to apply for and be granted  
31 such license by the Board before accepting any preneed funeral contracts, whether funded  
32 by trust deposits or preneed insurance policies. Provided further, a successor funeral  
33 establishment shall be liable to the preneed funeral contract purchasers for the amount of  
34 contract payments retained by the assigning or transferring funeral home pursuant to G.S.  
35 90-210.61(a)(2).

36 (d) Financial institutions that accept preneed funeral trust funds and insurance  
37 companies that issue prearrangement insurance policies shall, upon request by the Board  
38 or its inspectors or examiners, disclose any information regarding preneed funeral trust  
39 accounts held or prearrangement insurance policies issued by it for a preneed licensee.

40 (d1) When a preneed funeral establishment license lapses or is terminated for any  
41 reason, the preneed licensee shall immediately divest of all the unperformed preneed  
42 funeral contracts and shall transfer them and any amounts retained under G.S. 90-

1 210.61(a)(2) to another preneed funeral establishment licensee pursuant to the procedures  
2 of subsection (e) of this section.

3 (e) In the event that any preneed licensee is unable or unwilling or is for any  
4 reason relieved of its responsibility to perform as trustee or to perform any preneed  
5 funeral contract, the Board, with the written consent of the purchaser of the preneed  
6 funeral contract, or after the purchaser's death or incapacity, the preneed funeral contract  
7 beneficiary ~~may~~ shall order the contract and any amounts retained pursuant to G.S. 90-  
8 210.61(a)(2) to be assigned to a substitute preneed licensee provided that the substitute  
9 licensee agrees to accept such assignment.

10 (f) The substitute preneed licensee under subsections (d1) and (e) of this section  
11 shall be liable to the preneed funeral contract purchasers for the amount of contract  
12 payments that had been retained by, and that the substitute preneed licensee has received  
13 from, the assigning preneed licensee."

14 Section 29. G.S. 90-210.69(c) reads as rewritten:

15 "(c) In accordance with the provisions of Chapter 150B of the General Statutes, ~~if~~ if  
16 the Board finds that a licensee, an applicant for a license or an applicant for license  
17 renewal is guilty of one or more of the following, the Board may refuse to issue or renew  
18 a license or may suspend or revoke a license or place the holder thereof on probation  
19 upon conditions set by the Board, with revocation upon failure to comply with the  
20 conditions:

- 21 (1) Offering to engage or engaging in activities for which a license is  
22 required under this Article but without having obtained such a ~~license;~~  
23 license.
- 24 (2) Aiding or abetting an unlicensed person, firm, partnership, association,  
25 corporation or other entity to offer to engage or engage in such ~~activities;~~  
26 activities.
- 27 (3) A crime involving fraud or moral turpitude by conviction ~~thereof;~~  
28 thereof.
- 29 (4) Fraud or misrepresentation in obtaining or receiving a license or in  
30 preneed funeral ~~planning;~~ planning.
- 31 (5) False or misleading ~~advertising;~~ or advertising.
- 32 (6) Violating or cooperating with others to violate any provision of this  
33 Article or Article, the rules and regulations of the Board, pursuant thereto.  
34 or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453  
35 (1984), as amended from time to time.

36 In any case in which the Board is authorized to take any of the actions permitted  
37 under this subsection, the Board may instead accept an offer in compromise of the  
38 charges whereby the accused shall pay to the Board a penalty of not more than one  
39 thousand dollars (\$1,000)."

40 Section 30. G.S. 90-210.69(e) reads as rewritten:

41 "(e) ~~All hearings under this Article shall be conducted pursuant to G.S. 150B-40(e).~~  
42 Judicial review shall be pursuant to Article 4 of Chapter 150B of the General Statutes."

43 Section 31. G.S. 90-210.70(c) reads as rewritten:

1       "(c) If a corporation or limited liability company embezzles or fraudulently or  
2 knowingly and willfully misapplies or converts preneed funeral funds as provided in  
3 subsection (a) hereof or otherwise violates any provision of this Article, the officers,  
4 directors, members, agents, or employees responsible for committing the offense shall be  
5 fined or imprisoned as herein provided."

6       Section 32. G.S. 90-210.70(d) reads as rewritten:

7       "(d) The Board shall have the power to investigate violations of this section and  
8 shall deliver all evidence of violations of subsection (a) of this section to the district  
9 attorney in the county where the offense occurred. The Board shall, with the fees  
10 collected under this Article, employ legal counsel and other staff to monitor preneed  
11 trusts, investigate complaints, audit preneed trusts, and be responsible for delivering  
12 evidences to the district attorney when there is evidence ~~of criminal violation~~ that a felony  
13 has been committed by a licensee. The record of complaints, auditing, and enforcement  
14 shall be presented in an annual report from the Board to the General Assembly."

15       Section 33. Article 13D of Chapter 90 of the General Statutes is amended by  
16 adding a new section to read:

17 **"§ 90-210.73. Not public record.**

18       The names and addresses of the purchasers and beneficiaries of preneed funeral  
19 contracts filed with the Board shall not be subject to Chapter 132 of the General  
20 Statutes."

21       Section 34. Article 16 of Chapter 130A of the General Statutes is amended by  
22 adding a new Part to read:

23 **"PART 7. DISPOSITION OF BODY OR BODY PARTS.**

24 **"§ 130A-422. Authority to dispose of body or body parts.**

25       (a) An individual at least 18 years of age may authorize the disposition of the  
26 individual's own dead body in a written will, pursuant to a health care power of attorney  
27 to the extent provided in Article 3 of Chapter 32A of the General Statutes, pursuant to a  
28 preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General  
29 Statutes, pursuant to a cremation authorization form executed pursuant to Article 13C of  
30 Chapter 90 of the General Statutes, or in a written statement signed by the individual and  
31 witnessed by two persons who are at least 18 years old.

32       (b) If a decedent has left no written authorization for the disposal of the decedent's  
33 body as permitted under subsection (a) of this section, the following competent persons in  
34 the order listed may authorize the type, method, place, and disposition of the decedent's  
35 body:

36           (1) The surviving spouse.

37           (2) A majority of the surviving children.

38           (3) The surviving parents.

39           (4) A majority of the surviving siblings.

40           (5) A majority of the persons in the classes of the next degrees of kinship,  
41 in descending order, who, under State law, would inherit the decedent's  
42 estate if the decedent died intestate.

1           (6) A person who has exhibited special care and concern for the decedent  
2           and is willing and able to make decisions about the disposition.

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

6           (c) An individual at least 18 years of age may, in a writing signed by the  
7 individual, authorize the disposition of one or more of the individual's body parts that has  
8 been or will be removed. If the individual does not authorize the disposition, a person  
9 listed in subsection (b) of this section may authorize the disposition as if the individual  
10 was deceased.

11           (d) This section does not apply to the disposition of dead human bodies as  
12 anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or the  
13 right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General  
14 Statutes."

15           Section 35. The Board shall adopt temporary rules to implement the  
16 provisions of this act.

17           Section 36. This act is effective when it becomes law.