

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 937
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HOUSE PRINCIPAL CLERK

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HOUSE DRH20309-LGf-59B (03/09)

Short Title: Modify Certain Cemetery Requirements. (Public)

Sponsors: Representatives Boles, Hunter, and Alexander (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE LICENSE FEE FOR OPERATING A CEMETERY COMPANY AND TO MODIFY THE COUNTY POPULATION AND MINIMUM ACREAGE REQUIREMENTS IN CERTAIN TRACTS OF LAND USED AS CEMETERIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 65-55 reads as rewritten:

"§ 65-55. License; cemetery company.

...

(c) Upon receipt of the application and filing fee to be set by the Commission in an amount not to exceed one thousand ~~six~~seven hundred dollars (~~(\$1,600)~~;(\$1,700)), the Commission shall cause an investigation to be made to establish the following criteria for approval of the application:

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

...

(f) If the Commission intends to grant the authority, it shall give written notice that the authority to organize a cemetery has been granted and that a license to operate will be issued upon the completion of the following:

- (1) Establishment of the care and maintenance trust fund and receipt by the Commission of a certificate from the trust company, certifying receipt of the initial deposit required under this Article.



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- 1 (2) Full development, ready for burial, of not less than two acres including a
2 completed paved road from a public roadway to said developed section,
3 certified by inspection of the Commission or its representative.
- 4 (3) A description, by metes and bounds, of the acreage tract of ~~such~~the
5 proposed cemetery, together with evidence, by title insurance policy or by
6 certificate of an attorney-at-law, certifying that the applicant is the owner in
7 fee simple of ~~such~~the tract of land, which must contain not less than 30
8 acres, and that the title to not less than 30 acres is free and clear of all
9 encumbrances. In counties with a population of less than ~~35,000~~population
10 125,000 according to the latest federal decennial census the tract need be
11 only 15 acres.
- 12 (4) A plat of the cemetery showing the number and location of all lots surveyed
13 and permanently staked for sale."

14 **SECTION 2.** G.S. 65-69 reads as rewritten:

15 "**§ 65-69. Minimum acreage; sale or disposition of cemetery lands.**

16 (a) Each licensee shall set aside a minimum of 30 acres of land for use by ~~said~~that
17 licensee as a cemetery, and shall not sell, mortgage, lease or encumber the same. In counties
18 with a population of less than 125,000 according to the latest federal decennial census, the tract
19 need be only 15 acres.

20 (b) The fee simple title, or lesser estate, in any lands owned by licensee and dedicated
21 for use by it as a cemetery, which are contiguous, adjoining, or adjacent to the minimum ~~of 30~~
22 ~~acres~~acreage described in ~~subsection (a)~~subsection (a) of this section, may be sold, conveyed,
23 or disposed of, or any part thereof, by the licensee, for use by the new owner for other purposes
24 than as a cemetery; provided that no bodies have been previously interred therein; and provided
25 further, that any and all titles, interests, or burial rights which may have been sold or contracted
26 to be sold in such lands which are the subject of such sale shall be conveyed to and revested in
27 the licensee prior to consummation of any such sale, conveyance or disposition.

28 (c) Any licensee may convey and transfer to a municipality or county its real and
29 personal property together with moneys deposited with the trustee; provided said municipality
30 or county will accept responsibility for maintenance thereof and prior written approval of the
31 Commission is first obtained.

32 (d) The provisions of subsections (a) and (b) of this section relating to a requirement for
33 minimum acreage shall not apply to those cemeteries licensed by the Commission on or before
34 July 1, 1967, which own or control a total of less than 30 acres of land; provided that such
35 cemeteries shall not dispose of any of such lands. A nongovernment lien or other interest in
36 land acquired in violation of this section is void.

37 (e) If, after lands are sold under subsection (b) of this section in a county with a
38 population of less than 125,000 according to the latest federal decennial census and the licensee
39 has less than 30 acres of unencumbered land for use by the licensee after the sale, the licensee
40 shall transfer to the perpetual care fund an amount equal to three percent (3%) of the gross sales
41 price at fair market value of up to 15 acres sold, within 60 days of the sale."

42 **SECTION 3.** This act is effective when it becomes law.