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3 **§ 90-210.120. Short title.**

4 This Article shall be known and may be cited as the North Carolina Crematory Act. (1989  
5 (Reg. Sess., 1990), c. 988, s. 1; 2003-420, s. 2.)  
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7 **§ 90-210.121. Definitions.**

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

- 9 (1) "Authorizing agent" means a person legally entitled to authorize the  
10 cremation of human remains in accordance with G.S. 90-210.124.  
11 (2) "Board" means the North Carolina Board of Funeral Service.  
12 (3) "Body parts" means limbs or other portions of the anatomy that are removed  
13 from a person or human remains for medical purposes during treatment,  
14 surgery, biopsy, autopsy, or medical research; or human bodies or any  
15 portion thereof that have been donated to science for medical purposes.  
16 (4) "Casket" means a rigid container that is designed for the encasement of  
17 human remains and that is usually constructed of wood, metal, or other  
18 material and ornamented and lined with fabric, and which may or may not be  
19 combustible.  
20 (5) "Certificate of cremation" means a certificate provided by the crematory  
21 manager who performed the cremation containing, at a minimum, the  
22 following information:  
23 a. Name of decedent;  
24 b. Date of cremation;  
25 c. Name and address of crematory; and  
26 d. Signature of crematory manager or person acting as crematory  
27 manager.  
28 (6) "Cremated remains" means all human remains recovered after the  
29 completion of the cremation process, including pulverization which leaves  
30 only bone fragments reduced to unidentifiable dimensions.  
31 (7) "Cremation" means the technical process, using intense heat and flame, that  
32 reduces human remains to bone fragments. Cremation includes the  
33 processing and may include the pulverization of the bone fragments.  
34 (8) "Cremation chamber" means the enclosed space within which the cremation  
35 process takes place. Cremation chambers covered by this Article shall be  
36 used exclusively for the cremation of human remains.  
37 (9) "Cremation container" means the container in which the human remains are  
38 transported to the crematory or placed therein upon arrival for storage and  
39 placement in a cremation chamber for cremation. A cremation container  
40 shall comply with all of the following standards:  
41 a. Be composed of readily combustible materials suitable for cremation;  
42 b. Be able to be closed in order to provide a complete covering for the  
43 human remains;  
44 c. Be resistant to leakage or spillage;  
45 d. Be rigid enough for handling with ease;  
46 e. Be able to provide protection for the health, safety, and personal  
47 integrity of crematory personnel; and  
48 f. Be easily identifiable. The covering of the cremation container shall  
49 contain the following information:  
50 1. The name of the decedent;  
51 2. The date of death;

- 3. The sex of the decedent; and
- 4. The age at death of the decedent.

(10) "Cremation interment container" means a rigid outer container composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

(11) "Crematory" or "crematorium" means the building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. A crematory must comply with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.

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

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

- a. Be at least 18 years of age.
- b. Be of good moral character.
- c. Be qualified as a crematory technician.

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

(13a) "Cremation society" means any person, firm, corporation, or organization that is affiliated with a crematory licensed under this Article and provides cremation information to consumers.

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

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

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

- 1 (17) "Human remains" means the body of a deceased person, including a separate  
2 human fetus, regardless of the length of gestation, or body parts.
- 3 (17a) "Initial container" means a receptacle for cremated remains, for which the  
4 intended use and design is to hold cremated remains, usually composed of  
5 cardboard, plastic, or similar material that can be closed in a manner so as to  
6 prevent the leakage or spillage of the cremated remains or the entrance of  
7 foreign material and is a single container of sufficient size to hold the  
8 cremated remains.
- 9 (18) "Niche" means a compartment or cubicle for the memorialization or final  
10 disposition of an urn or container containing cremated remains.
- 11 (19) "Processing" means the removal of bone fragments from the cremation  
12 chamber for the reduction in size, labeling and packaging, and placing in an  
13 urn or initial container.
- 14 (20) "Pulverization" means the reduction of identifiable or unidentifiable bone  
15 fragments after the completion of the cremation to granulated particles by  
16 mechanical means.
- 17 (21) "Scattering area" means an area permitted by North Carolina law including,  
18 but not limited to, an area designated by a cemetery and located on dedicated  
19 cemetery property where cremated remains that have been removed from  
20 their container can be mixed with or placed on top of the soil or ground  
21 cover.
- 22 (22) Repealed by Session Laws 2007-531, s. 18, effective August 31, 2007.
- 23 (23) "Urn" means a receptacle designed to permanently encase the cremated  
24 remains. (1989 (Reg. Sess., 1990), c. 988, s. 1; 1997-399, s. 16; 2003-420, s.  
25 2; 2007-531, s. 18; 2011-284, s. 64.)
- 26

27 **§ 90-210.122. Crematory Authority established.**

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

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

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

39 As the terms of the members appointed by the Governor expire, their successors shall be  
40 elected from among a list of nominees in an election conducted by the Board in which all  
41 licensed crematory operators are eligible to vote. The Board shall conduct the election for  
42 members of the Crematory Authority and shall prescribe the procedures and establish the time  
43 and date for nominations and elections to the Crematory Authority. A nominee who receives a  
44 majority of the votes cast shall be declared elected. The Board shall appoint the successors to  
45 the two positions for which it makes initial appointments pursuant to this section.

46 The terms of the elected members of the Crematory Authority shall be three years. The  
47 terms of the members appointed by the Board, including the members initially appointed  
48 pursuant to this subsection, shall be coterminous with their terms on the Board. Any vacancy  
49 occurring in an elective seat shall be filled for the unexpired term by majority vote of the  
50 remaining members of the Crematory Authority. Any vacancy occurring in a seat appointed by

1 the Governor shall be filled by the Governor. Any vacancy occurring in a seat appointed by the  
2 Board shall be filled by the Board.

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

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

13 (f) The Crematory Authority shall hold at least one meeting in each year. In addition,  
14 the Crematory Authority may meet as often as the proper and efficient discharge of its duties  
15 shall require. Four members shall constitute a quorum. (1989 (Reg. Sess., 1990), c. 988, s. 1;  
16 2003-420, s. 2; 2007-531, s. 19.)  
17

### 18 **§ 90-210.123. Licensing and inspection.**

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

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

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

33 (d) Every application for licensure shall identify the crematory manager and all  
34 crematory technicians employed by the crematory licensee providing that nothing in this  
35 Article shall prohibit the designation and identification by the crematory licensee of one  
36 individual to serve as a crematory manager and crematory technician. Each crematory licensed  
37 in North Carolina shall employ on a full-time basis at least one crematory technician. Every  
38 application for licensure and renewal thereof shall include all crematory technicians'  
39 educational certificates. The crematory licensee shall keep the Board informed at all times of  
40 the names and addresses of the crematory manager and all crematory technicians. In the event a  
41 licensee is in the process of replacing its only crematory technician at the time of license  
42 renewal, the licensee may continue to operate the crematory for a reasonable time period not to  
43 exceed 180 days.

44 (e) All licenses and permits shall expire on the last day of December of each year. A  
45 license or permit may be renewed without paying a late fee on or before the first day of  
46 February immediately following expiration. After that date, a license or permit may be renewed  
47 by paying a late fee as provided in G.S. 90-210.132 in addition to the annual renewal fee.  
48 Licenses and permits that remain expired six months or more require a new application for  
49 renewal. Licenses and permits are not transferable. A new application for a license or permit  
50 shall be made to the Board within 30 days following a change of ownership of more than fifty  
51 percent (50%) of the business.

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

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

- 12 (1) Conviction of a felony or a crime involving fraud or moral turpitude.
- 13 (1a) Denial, suspension, or revocation of an occupational or business license by  
14 another jurisdiction.
- 15 (2) Fraud or misrepresentation in obtaining or renewing a license or in the  
16 practice of cremation.
- 17 (3) False or misleading advertising.
- 18 (4) Solicitation of dead human bodies by the licensee, his agents, assistants, or  
19 employees; but this subdivision shall not be construed to prohibit general  
20 advertising by the licensee.
- 21 (5) Employment directly or indirectly of any agent, assistant, or other person on  
22 a part-time or full-time basis or on commission for the purpose of calling  
23 upon individuals or institutions by whose influence dead human bodies may  
24 be turned over to a particular licensee.
- 25 (6) The direct or indirect payment or offer of payment of a commission by the  
26 licensee or the licensee's agent, assistant, or employees for the purpose of  
27 securing business.
- 28 (7) Gross immorality, including being under the influence of alcohol or drugs  
29 while performing cremation services.
- 30 (8) Aiding or abetting an unlicensed person to perform services under this  
31 Article, including the use of a picture or name in connection with  
32 advertisements or other written material published or caused to be published  
33 by the licensee.
- 34 (9) Failing to treat a dead human body with respect at all times.
- 35 (10) Violating or cooperating with others to violate any of the provisions of this  
36 Article or of the rules of the Board.
- 37 (11) Violation of any State law or municipal or county ordinance or regulation  
38 affecting the handling, custody, care, or transportation of dead human  
39 bodies.
- 40 (12) Refusing to surrender promptly the custody of a dead human body or  
41 cremated remains upon the express order of the person lawfully entitled to  
42 the custody thereof, except as provided in G.S. 90-210.131(e).
- 43 (13) Indecent exposure or exhibition of a dead human body while in the custody  
44 or control of a licensee.
- 45 (14) Practicing funeral directing, embalming, or funeral service without a license.

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

49 (h) Where the Board finds a licensee is guilty of one or more of the acts or omissions  
50 listed in subsection (g) of this section but it is determined by the Board that the licensee has not  
51 thereby become unfit to practice, the Board may place the licensee on a term of probation in

1 accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in  
2 which the Board is entitled to place a licensee on a term of probation, the Board may also  
3 impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with the  
4 probation.

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

15 In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board  
16 shall have the power to administer oaths and issue subpoenas requiring the attendance of  
17 persons and the production of papers and records before the Board in any hearing,  
18 investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or  
19 other appropriate official of any county of this State shall serve all notices, subpoenas, and  
20 other papers given to them by the President of the Board for service in the same manner as  
21 process 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. (1989 (Reg. Sess., 1990), c. 988,  
23 s. 1; 1993, c. 539, s. 639; 1997-399, s. 17; 2003-420, s. 2; 2007-531, ss. 20, 21.)  
24

#### 25 **§ 90-210.124. Authorizing agent.**

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

- 28 (1) An individual at least 18 years of age may authorize the type, place, and  
29 method of disposition of the individual's own dead body by methods  
30 provided under G.S. 130A-420(a). An individual may delegate his or her  
31 right to dispose of his or her own body to any person by one of the methods  
32 provided under G.S. 130A-420(a1).

33 When an individual has authorized his or her own cremation and  
34 disposition in accordance with this subsection, the individual or institution  
35 designated by that individual shall act as the authorizing agent for that  
36 individual.

- 37 (2) If a decedent has left no written authorization for the cremation and  
38 disposition of the decedent's body as permitted under subdivision (1) of this  
39 subsection, the following competent persons in the order listed may  
40 authorize the type, method, place, cremation, and disposition of the  
41 decedent's body:

- 42 a. The surviving spouse.  
43 b. A majority of the surviving children who are at least 18 years of age  
44 and can be located after reasonable efforts.  
45 c. The surviving parents.  
46 d. A majority of the surviving siblings who are at least 18 years of age  
47 and can be located after reasonable efforts.  
48 e. A majority of the persons in the classes of the next degrees of  
49 kinship, in descending order, who, under State law, would inherit the  
50 decedent's estate if the decedent died intestate who are at least 18  
51 years of age and can be located after reasonable efforts.

- 1 f. A person who has exhibited special care and concern for the  
2 decedent and is willing and able to make decisions about the  
3 cremation and disposition.  
4 g. In the case of indigents or any other individuals whose final  
5 disposition is the responsibility of the State or any of its  
6 instrumentalities, a public administrator, medical examiner, coroner,  
7 State-appointed guardian, or any other public official charged with  
8 arranging the final disposition of the decedent may serve as the  
9 authorizing agent.  
10 h. In the case of individuals who have donated their bodies to science or  
11 whose death occurred in a nursing home or private institution and in  
12 which the institution is charged with making arrangements for the  
13 final disposition of the decedent, a representative of such institution  
14 may serve as the authorizing agent in the absence of any of the  
15 above.  
16 i. In the absence of any of the above, any person willing to assume  
17 responsibility as authorizing agent, as specified in this act.

18 This subsection does not grant to any person the right to cancel a preneed funeral contract  
19 executed pursuant to Article 13D of Chapter 90 of the General Statutes or to cause or prohibit  
20 the substitution of a preneed licensee as authorized under G.S. 90-210.63 or permit  
21 modification of preneed contracts under G.S. 90-210.63A. If a person under this subsection is  
22 incompetent at the time of the decedent's death, the person shall be treated as if he or she  
23 predeceased the decedent. An attending physician may certify the incompetence of a person  
24 and the certification shall apply to the rights under this subsection only. Any person under this  
25 subsection may waive his or her rights under this subsection by any written statement notarized  
26 by a notary public or signed by two witnesses.

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

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

36 (d) This section does not apply to the disposition of dead human bodies as anatomical  
37 gifts under Part 3A of Article 16 of Chapter 130A of the General Statutes or the right to  
38 perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes.  
39 (2003-420, s. 2; 2007-531, s. 22; 2008-153, s. 5; 2010-191, s. 2.)  
40

41 **§ 90-210.125. Authorization to cremate.**

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

- 45 (1) The identity of the human remains and confirmation that the human remains  
46 are in fact the individual so named.  
47 (2) The time and date of death of the decedent.  
48 (3) The name and address of the funeral establishment and/or the funeral  
49 director that obtained the cremation authorization.  
50 (4) The name and address of the crematory to be in receipt of the human  
51 remains for the purpose of cremation.

- 1 (5) The name and address of the authorizing agent, the relationship between the  
2 authorizing agent and the decedent, and the date and time of signature of the  
3 authorizing agent.
- 4 (6) A representation that the authorizing agent does in fact have the right to  
5 authorize the cremation of the decedent and that the authorizing agent is not  
6 aware of any living person who has a superior priority right to that of the  
7 authorizing agent, as set forth in G.S. 90-210.124. Or, in the event that there  
8 is another living person who does have a superior priority right to that of the  
9 authorizing agent, a representation that the authorizing agent has made all  
10 reasonable efforts to contact such person, has been unable to do so, and has  
11 no reason to believe that such person would object to the cremation of the  
12 decedent.
- 13 (7) A representation that the authorizing agent has either disclosed the location  
14 of all living persons with an equal right to that of the authorizing agent, as  
15 set forth in G.S. 90-210.124, or does not know the location of any other  
16 living person with an equal right to that of the authorizing agent.
- 17 (8) Authorization for the crematory to cremate the human remains, including  
18 authorization to process or pulverize the cremated remains.
- 19 (9) A representation that the human remains do not contain a pacemaker or any  
20 other material or implant that may be potentially hazardous to the person  
21 performing the cremation.
- 22 (10) The name of the person authorized to receive the cremated remains from the  
23 crematory licensee.
- 24 (11) The manner in which final disposition of the cremated remains is to take  
25 place, if known. If the cremation authorization form does not specify final  
26 disposition in a grave, crypt, niche, or scattering area, then the form shall  
27 indicate that the cremated remains will be held by the crematory licensee for  
28 30 days before they are disposed of, unless they are received from the  
29 crematory licensee prior to that time, in person, by the authorizing agent or  
30 his designee.
- 31 (12) The signature of the authorizing agent attesting to the accuracy of all  
32 representations contained on the cremation authorization form, except as set  
33 forth in subsection (b) of this section.
- 34 (13) If a cremation authorization form is being executed on a preneed basis, the  
35 cremation authorization form shall contain the disclosure required by G.S.  
36 90-210.126. The authorizing agent may specify in writing religious practices  
37 that conflict with Article 13 of this Chapter. The crematory licensee and  
38 funeral director shall observe those religious practices except where they  
39 interfere with cremation in a licensed crematory as specified under G.S.  
40 90-210.123 or the required documentation and record keeping.
- 41 (14) A licensed funeral director of the funeral establishment or crematory  
42 licensee that received the cremation authorization form shall also sign the  
43 cremation authorization form. Such individual shall not be responsible for  
44 any of the representations made by the authorizing agent, unless such  
45 individual has actual knowledge to the contrary, except for the information  
46 requested by subdivisions (a)(1), (2), (3), (4), and (9) of this section, which  
47 shall be considered to be representations of the individual. In addition, the  
48 funeral director shall warrant to the crematory that the human remains  
49 delivered to the crematory licensee are the human remains identified on the  
50 cremation authorization form with any other documentation required by this  
51 State, any county, or any municipality.

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

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

17 (d) After the authorizing agent has executed a cremation authorization form and prior to  
18 the commencement of the cremation, the authorizing agent may revoke the authorization and  
19 instruct the crematory licensee to cancel the cremation and to release or deliver the human  
20 remains to another crematory licensee or funeral establishment. Such instructions shall be  
21 provided to the crematory licensee in writing. A crematory licensee shall honor any instructions  
22 given to it by an authorizing agent under this section, provided that it receives such instructions  
23 prior to commencement of the cremation of the human remains. (2003-420, s. 2.)  
24

25 **§ 90-210.126. Preneed cremation arrangements.**

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

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

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

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

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

1 (d) If a crematory licensee is in possession of a completed cremation authorization  
2 form, executed on a preneed basis, and the crematory licensee is in possession of the designated  
3 human remains, then the crematory licensee shall be required to cremate the human remains  
4 and dispose of the human remains according to the instructions contained on the cremation  
5 authorization form. A crematory licensee that complies with the preneed cremation  
6 authorization form under these circumstances may do so without any liability. A funeral  
7 establishment or licensee thereof that causes a crematory licensee to act in accordance with the  
8 preneed cremation authorization form under these circumstances may do so without any  
9 liability.

10 (e) Any preneed contract sold by, or preneed arrangements made with, a funeral  
11 establishment that includes a cremation shall specify the final disposition of the cremated  
12 remains, pursuant to G.S. 90-210.130. In the event that no different or inconsistent instructions  
13 are provided to the crematory licensee by the authorizing agent at the time of death, the  
14 crematory licensee shall be authorized to release or dispose of the cremated remains as  
15 indicated in the preneed agreement. Upon compliance with the terms of the preneed agreement,  
16 the crematory licensee, and any funeral establishment or licensee thereof who caused the  
17 crematory licensee to act in compliance with the terms of the preneed agreement, shall be  
18 discharged from any legal obligation concerning such cremated remains.

19 (f) The provisions of this section shall not apply to any cremation authorization form or  
20 preneed contract executed prior to the effective date of this act. Any funeral establishment,  
21 however, with the written approval of the authorizing agent or person who executed the  
22 preneed contract, may designate that such cremation authorization form or preneed contract  
23 shall be subject to this act. (2003-420, s. 2.)  
24

#### 25 **§ 90-210.127. Record keeping.**

26 (a) The crematory licensee shall furnish to the person who delivers such human remains  
27 to the crematory licensee a receipt, signed by both the crematory licensee and the person who  
28 delivers the human remains, showing the date and time of the delivery; the type of casket or  
29 cremation container that was delivered; the name of the person from whom the human remains  
30 were received and the name of the funeral establishment or other entity with whom such person  
31 is affiliated; the name of the person who received the human remains on behalf of the  
32 crematory licensee; and the name of the decedent. The crematory licensee shall retain a copy of  
33 this receipt in its permanent records for three years.

34 (b) Upon its release of cremated remains, the crematory licensee shall furnish to the  
35 person who receives such cremated remains from the crematory licensee a receipt, signed by  
36 both the crematory licensee and the person who receives the cremated remains, showing the  
37 date and time of the release; the name of the person to whom the cremated remains were  
38 released and the name of the funeral establishment, cemetery, or other entity with whom such  
39 person is affiliated; the name of the person who released the cremated remains on behalf of the  
40 crematory licensee; and the name of the decedent. The crematory shall retain a copy of this  
41 receipt in its permanent records for three years.

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

44 (d) The crematory licensee shall maintain a record for three years of all cremated  
45 remains disposed of by the crematory licensee in accordance with G.S. 90-210.126(d).

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

48 (f) All records that are required to be maintained under this Article shall be subject to  
49 inspection by the Board or its agents upon request. (1989 (Reg. Sess., 1990), c. 988, s. 1;  
50 1997-399, s. 18; 2003-420, s. 2.)  
51

1 **§ 90-210.128. Cremation containers.**

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

6 (b) No crematory licensee shall make or enforce any rules requiring that any cremated  
7 remains be placed in an urn or receptacle designed to permanently encase the cremated remains  
8 after the cremation process has been performed. (2003-420, s. 2.)  
9

10 **§ 90-210.129. Cremation procedures.**

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

- 14 (1) Decedent's name;
- 15 (2) Date of death;
- 16 (3) Date of birth;
- 17 (4) Sex;
- 18 (5) Place of death;
- 19 (6) Facility name (if not institution, give street and number);
- 20 (7) County of death;
- 21 (8) City of death; and
- 22 (9) Time of death (if known).

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

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

29 (d) No body shall knowingly be cremated with a pacemaker or defibrillator or other  
30 potentially hazardous implant or condition in place. The authorizing agent for the cremation of  
31 the human remains shall be responsible for taking all necessary steps to ensure that any  
32 pacemaker or defibrillator or other potentially hazardous implant or condition is removed or  
33 corrected prior to cremation. If an authorizing agent informs the funeral director and the  
34 crematory licensee on the cremation authorization form of the presence of a pacemaker or  
35 defibrillator or other potentially hazardous implant or condition in the human remains, then the  
36 funeral director shall be responsible for ensuring that all necessary steps have been taken to  
37 remove the pacemaker or defibrillator or other potentially hazardous implant or to correct the  
38 hazardous condition before delivering the human remains to the crematory.

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

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

1 (g) Human remains shall be cremated only while enclosed in a cremation container.  
2 Upon completion of the cremation, and insofar as is possible, all of the recoverable residue of  
3 the cremation process shall be removed from the cremation chamber. Insofar as is possible, all  
4 residue of the cremation process shall then be separated from any foreign residue or anything  
5 else other than bone fragments and then be processed by pulverization so as to reduce the  
6 cremated remains to unidentifiable particles. Any foreign residue and anything other than the  
7 particles of the cremated remains shall be removed from the cremated remains as far as  
8 possible and shall be disposed of by the crematory licensee. This section does not apply where  
9 law otherwise provides for commingling of human remains. The fact that there is incidental and  
10 unavoidable residue in the cremation chamber used in a prior cremation is not a violation of  
11 this subsection.

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

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

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

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

22 (l) The cremated remains with proper identification shall be placed in an initial  
23 container or the urn selected or provided by the authorizing agent. The initial container or urn  
24 contents shall not be contaminated with any other object, unless specific authorization has been  
25 received from the authorizing agent or as provided in subsection (g) of this section.

26 (m) If the cremated remains are greater than the dimensions of an initial container or  
27 urn, the excess cremated remains shall be returned to the authorizing agent or its representative  
28 in a separate container or urn.

29 (n) If the cremated remains are to be shipped, the initial container or urn shall be packed  
30 securely in a suitable shipping container that complies with the requirements of the shipper.  
31 Cremated remains shall be shipped only by a method which has an internal tracing system  
32 available and which provides a receipt signed by the person accepting delivery, unless  
33 otherwise authorized in writing by the authorizing agent. Cremated remains shall be shipped to  
34 the proper address as stated on the cremation authorization form signed by the authorizing  
35 agent.

36 (o) Unless the provisions of G.S. 130A-114 apply, before cremation the crematory  
37 licensee shall receive a written statement, on a form prescribed by the Board and signed by the  
38 attending physician, acknowledging the circumstances, date, and time of the delivery of the  
39 fetal remains from the mother. If after reasonable efforts no physician can be identified with  
40 knowledge and information sufficient to complete the written statement required by this  
41 subsection, the crematory licensee shall obtain documentation of the circumstances, date, and  
42 time of delivery of the fetal remains prepared by a hospital, medical facility, law enforcement  
43 agency, or other entity. Notwithstanding any other provision of law, health care providers may  
44 release to a licensee, in accordance with the federal Standards for Privacy of Individually  
45 Identifiable Health Information under the Health Insurance Portability and Accountability Act  
46 of 1996 (HIPAA), medical records that document the circumstances, date, and time of delivery  
47 of fetal remains. If the crematory licensee cannot identify documents sufficient to meet the  
48 requirements of this subsection, the licensee shall report to the local medical examiner pursuant  
49 to G.S. 130A-383(a).

50 (p) If the provisions of Article 4 of Chapter 130A of the General Statutes apply, the  
51 crematory licensee shall receive a fetal report of death as prescribed in G.S. 130A-114.

1 (q) Before the cremation of amputated body parts, the crematory licensee shall receive a  
2 written statement, on a form prescribed by the Board and signed by the attending physician,  
3 acknowledging the circumstances of the amputation. If after reasonable efforts no physician  
4 can be identified with knowledge and information sufficient to complete the written statement  
5 required by this subsection, the crematory licensee shall notify the local medical examiner  
6 pursuant to G.S. 130A-383(b). This section does not apply to the disposition of body parts  
7 cremated pursuant to Part 3A of Article 16 of Chapter 130A of the General Statutes. (1989  
8 (Reg. Sess., 1990), c. 988, s. 1; 1997-399, s. 19; 2003-420, s. 2; 2007-182, s. 1.2; 2007-531, s.  
9 23; 2008-153, s. 6.)

10  
11 **§ 90-210.130. Final disposition of cremated remains.**

12 (a) The authorizing agent shall provide the person with whom cremation arrangements  
13 are made with a signed statement specifying the ultimate disposition of the cremated remains, if  
14 known. The crematory licensee may store or retain cremated remains as directed by the  
15 authorizing agent. Records of retention and disposition of cremated remains shall be kept by  
16 the crematory licensee pursuant to G.S. 90-210.127.

17 (b) The authorizing agent is responsible for the disposition of the cremated remains. If,  
18 after a period of 30 days from the date of cremation, the authorizing agent or the agent's  
19 representative has not specified the final disposition or claimed the cremated remains, the  
20 crematory licensee or the person in possession of the cremated remains may release the  
21 cremated remains to another family member upon written notification to the authorizing agent  
22 delivered by certified mail or dispose of the cremated remains only in a manner permitted in  
23 this section. The authorizing agent shall be responsible for reimbursing the crematory licensee  
24 for all reasonable expenses incurred in disposing of the cremated remains pursuant to this  
25 section. A record of such disposition shall be made and kept by the person making the  
26 disposition. Upon disposing of cremated remains in accordance with this section, the crematory  
27 licensee or person in possession of the cremated remains shall be discharged from any legal  
28 obligation or liability concerning such cremated remains.

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

- 36 (d) Except with the express written permission of the authorizing agent, no person may:
- 37 (1) Dispose of or scatter cremated remains in such a manner or in such a  
38 location that the cremated remains are commingled with those of another  
39 person. This subdivision shall not apply to the scattering of cremated  
40 remains at sea or by air from individual closed containers or to the scattering  
41 of cremated remains in an area located in a dedicated cemetery and used  
42 exclusively for such purposes.
  - 43 (2) Place cremated remains of more than one person in the same closed  
44 container. This subdivision shall not apply to placing the cremated remains  
45 of members of the same family in a common closed container designed for  
46 the cremated remains of more than one person with the written consent of  
47 the family.

48 (e) Cremated remains shall be released by the crematory licensee to the individual  
49 specified by the authorizing agent on the cremation authorization form. The representative of  
50 the crematory licensee and the individual receiving the cremated remains shall sign a receipt  
51 indicating the name of the deceased, and the date, time, and place of the receipt, and contain a

1 representation that the handling of the final disposition will be in a proper manner. After this  
2 delivery, the cremated remains may be transported in any manner in this State, without a  
3 permit, and disposed of in accordance with the provisions of this Article.

4 (f) Cremated remains may be scattered over uninhabited public land, over a public  
5 waterway or sea, subject to health and environmental standards, or on the private property of a  
6 consenting owner pursuant to subsection (c) of this section. A person may utilize a boat or  
7 airplane to perform such scattering. Cremated remains shall be removed from their closed  
8 container before they are scattered. (1989 (Reg. Sess., 1990), c. 988, s. 1; 1997-399, s. 20;  
9 2003-420, s. 2; 2007-531, s. 24.)

10  
11 **§ 90-210.131. Limitation of liability.**

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

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

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

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

- 29 (1) It is aware of any dispute concerning the cremation of human remains;  
30 (2) It has a reasonable basis for questioning any of the representations made by  
31 the authorizing agent; or  
32 (3) For any other lawful reason.

33 (e) If a crematory licensee is aware of any dispute concerning the release or disposition  
34 of the cremated remains, the crematory licensee may refuse to release the cremated remains  
35 until the dispute has been resolved or the crematory licensee has been provided with a court  
36 order authorizing the release or disposition of the cremated remains. A crematory licensee shall  
37 not be liable for refusing to release or dispose of cremated remains in accordance with this  
38 subsection. A crematory licensee may charge a reasonable storage fee if the dispute is not  
39 resolved within 30 days after it is received by the crematory licensee. (1989 (Reg. Sess., 1990),  
40 c. 988, s. 1; 1997-399, s. 21; 2003-420, s. 2.)

41  
42 **§ 90-210.132. Fees.**

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

- 45 (1) Licensee application fee. .... \$400.00  
46 (2) Annual renewal fee. .... 150.00  
47 (3) Late renewal fee. .... 75.00  
48 (4) Reinspection fee. .... 100.00  
49 (5) Per cremation fee. .... 10.00  
50 (6) Late fee, per cremation. .... 10.00  
51 (7) Late fee, cremation report. .... 75.00 per month

1 (8) Crematory manager permit application fee. .... 150.00

2 (9) Annual crematory manager permit renewal fee. .... 40.00.

3 (b) The funds collected pursuant to this Article shall become part of the general fund of  
4 the Board. (1989 (Reg. Sess., 1990), c. 988, s. 1; 1997-399, s. 22; 2003-420, s. 2.)

5  
6 **§ 90-210.133. Crematory licensee rights.**

7 (a) A crematory licensee may adopt reasonable rules consistent with this Article for the  
8 management and operation of a crematory. Nothing in this subsection may be construed to  
9 prevent a crematory licensee from adopting rules which are more stringent than the provisions  
10 of this Article.

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

13 (c) Nothing in this Article shall prohibit or require the performance of cremations by  
14 crematory licensees or crematory managers for or directly with the public or exclusively for or  
15 through licensed funeral directors. (1989 (Reg. Sess., 1990), c. 988, s. 1; 2003-420, s. 2.)

16  
17 **§ 90-210.134. Rulemaking, applicability, violations, and prohibitions of Article.**

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

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

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

34 (d) No person, firm, or corporation may request or authorize cremation or cremate  
35 human remains when the person, firm, or corporation has information indicating a crime or  
36 violence of any sort in connection with the cause of death unless such information has been  
37 conveyed to the State or county medical examiner and permission from the State or county  
38 medical examiner to cremate the human remains has thereafter been obtained. (1989 (Reg.  
39 Sess., 1990), c. 988, s. 1; 1993, c. 539, s. 640; 1994 Ex. Sess., c. 24, s. 14(c); 2003-420, s. 2.)

40  
41 **§ 90-210.135. Cremation societies.**

42 No person, firm, or corporation licensed as a crematory under the provisions of this Article  
43 may operate a cremation society without first registering the name of the cremation society  
44 with the Board. (2007-531, s. 25.)