

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE DRS45014-LL-50 (1/29)

Short Title: Update Funeral Expense Allowance/Estates.

(Public)

Sponsors: Senator Berger of Rockingham.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE THE PRIORITY FUNERAL EXPENSE ALLOWANCE AND THE
3 GRAVESTONE AUTHORIZATION IN PROBATE PROCEEDINGS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 28A-19-6(a) reads as rewritten:

6 "(a) After payment of costs and expenses of administration, the claims against the estate
7 of a decedent must be paid in the following order:

8 First class. Claims which by law have a specific lien on property to an amount not
9 exceeding the value of such property.

10 Second class. Funeral expenses to the extent of ~~two thousand five hundred dollars (\$2,500).~~
11 five thousand dollars (\$5,000). This limitation shall not include cemetery lot or gravestone. The
12 preferential limitation herein granted shall be construed to be only a limit with respect to
13 preference of payment and shall not be construed to be a limitation on reasonable funeral
14 expenses which may be incurred; nor shall the preferential limitation of payment in the amount
15 of ~~two thousand five hundred dollars (\$2,500)~~ five thousand dollars (\$5,000) be diminished by
16 any Veterans Administration, social security or other federal governmental benefits awarded to
17 the estate of the decedent or to his or her beneficiaries.

18 Third class. All dues, taxes, and other claims with preference under the laws of the United
19 States.

20 Fourth class. All dues, taxes, and other claims with preference under the laws of the State of
21 North Carolina and its subdivisions.

22 Fifth class. Judgments of any court of competent jurisdiction within the State, docketed and
23 in force, to the extent to which they are a lien on the property of the decedent at his death.

24 Sixth class. Wages due to any employee employed by the decedent, which claim for wages
25 shall not extend to a period of more than 12 months next preceding the death; or if such
26 employee was employed for the year current at the decease, then from the time of such
27 employment; for medical services within the 12 months preceding the decease; for drugs and
28 all other medical supplies necessary for the treatment of such decedent during the last illness of
29 such decedent, said period of last illness not to exceed 12 months.

30 Seventh class. A claim for equitable distribution.

31 Eighth class. All other claims."

32 **SECTION 2.** G.S. 28A-19-9 reads as rewritten:

33 **"§ 28A-19-9. Gravestone authorized.**

34 It is lawful for personal representatives to provide suitable gravestones to mark the graves
35 of their testators or intestates, and to pay for the cost of erecting the same and the cost thereof



1 shall be paid as funeral expenses and credited as such in final accounts. The costs thereof shall
2 be in the sound discretion of the personal representative, having due regard to the value of the
3 estate and to the interests of creditors and needs of the surviving spouse and the heirs and
4 devisees of the estate. Where the personal representative desires to spend more than ~~four~~
5 ~~hundred dollars (\$400.00)~~ one thousand five hundred dollars (\$1,500) for such purpose, and the
6 will does not grant specific authority to the personal representative for such expenditures in
7 excess of ~~four hundred dollars (\$400.00)~~, one thousand five hundred dollars (\$1,500), he shall
8 file his petition before the clerk of the court, and such order as will be made by the court shall
9 specify the amount to be expended for such purpose. Provided, however, that if the net estate is
10 of a value in excess of ~~twenty-five thousand dollars (\$25,000)~~, seventy-five thousand dollars
11 (\$75,000), the personal representative may, in his discretion, expend not more than ~~eight~~
12 ~~hundred dollars (\$800.00)~~ three thousand dollars (\$3,000) for this purpose without securing the
13 order of the court required herein. If the estate is of a value in excess of ~~twenty-five thousand~~
14 ~~dollars (\$25,000)~~ seventy-five thousand (\$75,000) and the personal representative desires to
15 spend more than ~~eight hundred dollars (\$800.00)~~ three thousand dollars (\$3,000) for such
16 purpose, and the will does not grant specific authority for such expenditure he shall file his
17 petition and secure the order of the court herein required before expending funds for such
18 purpose. However, in no event may more than ~~eight hundred dollars (\$800.00)~~ three thousand
19 dollars (\$3,000) be accounted as gravestone marker cost to be credited as a funeral expense in
20 the final accounts."

21 **SECTION 3.** This act becomes effective October 1, 2009, and applies to estates of
22 persons dying on or after that date.