

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

2

SENATE BILL 159
Judiciary I Committee Substitute Adopted 3/24/09

Short Title: Update Funeral Expense Allowance/Estates.

(Public)

Sponsors:

Referred to:

February 12, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO UPDATE AND CLARIFY THE SECOND CLASS PRIORITY EXPENSES
3 AND THE 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), costs associated with gravestone markers as provided in
12 G.S. 28A-19-9(a), and reasonable costs for the purchase of a suitable burial place. ~~This~~
13 ~~limitation shall not include cemetery lot or gravestone.~~ The preferential limitation herein
14 granted shall be construed to be only a limit with respect to preference of payment and shall not
15 be construed to be a limitation on reasonable funeral expenses which may be ~~incurred;~~
16 incurred. ~~nor shall the~~ The preferential limitation of payment herein granted shall not in the
17 ~~amount of two thousand five hundred dollars (\$2,500)~~ be diminished by any Veterans
18 Administration, social security or other federal governmental benefits awarded to the estate of
19 the decedent or to his or her beneficiaries.

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

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

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

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

32 Seventh class. A claim for equitable distribution.

33 Eighth class. All other claims."

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

35 **"§ 28A-19-9. Gravestone and burial place authorized.**

36 (a) It is lawful for a personal representatives ~~representative~~ to provide a suitable
37 ~~gravestones~~ gravestone to mark the graves of their testators or intestates, ~~the testator or intestate~~



1 and to pay for the cost of erecting the ~~same same. and the~~The cost thereof shall be ~~paid as~~
2 ~~funeral expenses~~treated as a second class claim under G.S. 28A-19-6 and credited as such in
3 final accounts. The costs thereof shall be in the sound discretion of the personal representative,
4 having due regard to the value of the estate and to the interests of creditors and needs of the
5 surviving spouse and the heirs and devisees of the estate. Where the personal representative
6 desires to spend more than ~~four hundred dollars (\$400.00)~~one thousand five hundred dollars
7 (\$1,500) for ~~such purpose,~~the purpose of a gravestone and the will does not grant specific
8 authority to the personal representative for such expenditures in excess of ~~four hundred dollars~~
9 ~~(\$400.00), one thousand five hundred dollars (\$1,500),~~that amount, he~~the personal~~
10 representative shall file his~~a~~ petition before the clerk of the court, and such order as will be
11 made by the court shall specify the amount to be expended for such purpose. Provided,
12 however, that if the net estate is of a value in excess of ~~twenty five thousand dollars (\$25,000),~~
13 seventy-five thousand dollars (\$75,000), the personal representative may, in ~~his~~the personal
14 representative's discretion, expend not more than ~~eight hundred dollars (\$800.00)~~three thousand
15 dollars (\$3,000) for this purpose without securing the order of the court required herein. If the
16 estate is of a value in excess of ~~twenty five thousand dollars (\$25,000)~~seventy-five thousand
17 dollars (\$75,000) and the personal representative desires to spend more than ~~eight hundred~~
18 ~~dollars (\$800.00)~~three thousand dollars (\$3,000) for such purpose, and the will does not grant
19 specific authority for such expenditure ~~he~~the personal representative shall file ~~his~~a petition
20 and secure the order of the court herein required before expending funds for such purpose.
21 ~~However, in no event may more than eight hundred dollars (\$800.00) be accounted as~~
22 ~~gravestone marker cost to be credited as a funeral expense in the final accounts.~~

23 (b) It is lawful for a personal representative to provide a suitable burial place for the
24 testator or intestate. The cost of a suitable burial place shall be in the sound discretion of the
25 personal representative, having due regard to the value of the estate and to the interests of
26 creditors and needs of the surviving spouse and the heirs and devisees of the estate, and shall be
27 treated as a second class claim under G.S. 28A-19-6."

28 **SECTION 3.** This act becomes effective October 1, 2009, and applies to estates of
29 individuals dying on or after that date.