

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

SESSION LAW 2009-288  
SENATE BILL 159

AN ACT TO UPDATE AND CLARIFY THE SECOND AND THIRD CLASS PRIORITY EXPENSES AND THE GRAVESTONE AUTHORIZATION IN PROBATE PROCEEDINGS.

The General Assembly of North Carolina enacts:

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

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

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

Second class. Funeral expenses to the extent of ~~two thousand five hundred dollars (\$2,500)~~ three thousand five hundred dollars (\$3,500). This limitation shall not include ~~cemetery lot burial place or gravestone~~. The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable funeral expenses which may be incurred; nor shall the preferential limitation of payment in the amount of ~~two thousand five hundred dollars (\$2,500)~~ three thousand five hundred dollars (\$3,500) be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to his or her beneficiaries.

Third class. Costs associated with gravestones and reasonable costs for the purchase of a suitable burial place as provided in G.S. 28A-19-9 to the extent of one thousand five hundred dollars (\$1,500). The preferential limitation herein granted shall be construed to be only a limit with respect to preference of payment and shall not be construed to be a limitation on reasonable gravestone or burial place expenses which may be incurred; nor shall the preferential limitation of payment in the amount of one thousand five hundred dollars (\$1,500) be diminished by any Veterans Administration, social security or other federal governmental benefits awarded to the estate of the decedent or to his or her beneficiaries.

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

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

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

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

~~Seventh class.~~ Eighth class. A claim for equitable distribution.

~~Eighth class.~~ Ninth class. All other claims."

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

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

(a) It is lawful for a personal representatives ~~representative~~ to provide a suitable gravestones ~~gravestone~~ to mark the graves of their testators or intestates, ~~the testator or intestate~~ and to pay for the cost of erecting the ~~same same, and the~~ The cost thereof shall be ~~paid as funeral expenses~~ treated as a third class claim under G.S. 28A-19-6 and credited as such in final



accounts. The costs thereof shall be in the sound discretion of the personal representative, having due regard to the value of the estate and to the interests of creditors and needs of the surviving spouse and the heirs and devisees of the estate. Where the personal representative desires to spend more than ~~four hundred dollars (\$400.00)~~ one thousand five hundred dollars (\$1,500) for ~~such purpose,~~ the purpose of a gravestone, and the will does not grant specific authority to the personal representative for such expenditures in excess of ~~four hundred dollars (\$400.00),~~ he one thousand five hundred dollars (\$1,500), the personal representative shall file ~~his~~ a petition before the clerk of the court, and such order as will be made by the court shall specify the amount to be expended for such purpose. In specifying the amount, the clerk may consider the value of the estate. ~~Provided, however, that if the net estate is of a value in excess of twenty five thousand dollars (\$25,000), the personal representative may, in his discretion, expend not more than eight hundred dollars (\$800.00) for this purpose without securing the order of the court required herein. If the estate is of a value in excess of twenty five thousand dollars (\$25,000) and the personal representative desires to spend more than eight hundred dollars (\$800.00) for such purpose, and the will does not grant specific authority for such expenditure he shall file his petition and secure the order of the court herein required before expending funds for such purpose. However, in no event may more than eight hundred dollars (\$800.00) be accounted as gravestone marker cost to be credited as a funeral expense in the final accounts.~~

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

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

In the General Assembly read three times and ratified this the 1<sup>st</sup> day of July, 2009.

s/ Walter H. Dalton  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Beverly E. Perdue  
Governor

Approved 11:29 a.m. this 10<sup>th</sup> day of July, 2009