

House Bill 910 (AS PASSED HOUSE AND SENATE)

By: Representatives Rogers of the 26<sup>th</sup> and Graves of the 137<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 14 of Title 10 of the Official Code of Georgia Annotated, relating to  
2 cemetery and funeral services, Code Section 36-72-2 of the Official Code of Georgia  
3 Annotated, relating to definitions relating to abandoned cemeteries and burial grounds, and  
4 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
5 so as to provide for definitions; to provide for certain requirements for preneed dealers  
6 relating to escrow accounts; to provide for powers under Chapter 14 of Title 10; to provide  
7 for certain license requirements prior to selling burial rights or merchandise; to provide for  
8 certain fees; to regulate the profession of cemeterians; to provide for related matters; to  
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Chapter 14 of Title 10 of the Official Code of Georgia Annotated, relating to cemetery and  
13 funeral services, is amended by striking paragraphs (2), (3), and (27) of Code Section  
14 10-14-3, relating to definitions, and inserting in their place new paragraphs (2), (3) and (27)  
15 to read as follows:

16 "(2) 'Board' means the State Board of ~~Funeral Service~~ Cemeterians as described and  
17 authorized in Chapter ~~18~~ 8B of Title 43.

18 (3) 'Burial merchandise,' 'funeral merchandise,' or 'merchandise' means any personal  
19 property offered or sold by any person for use in connection with the final disposition,  
20 memorialization, interment, entombment, or inurnment of human remains, including  
21 without limitation a mausoleum, cremation urn, cremation bench, cremation marker, or  
22 cremorial."

23 "(27) 'Outer burial container' or 'vault' means an enclosure into which a casket is placed  
24 and includes, but is not limited to, containers made of concrete, steel, fiberglass, copper  
25 or other metals, polypropolene, sectional concrete enclosures, and crypts, ~~and wooden~~  
26 ~~enclosures.~~"



1 funds as of the date of release, as provided by the Secretary of State by rule or regulation,  
2 may be retained by the preneed dealer as administrative costs."

3 **SECTION 4.**

4 Said chapter is further amended by striking Code Section 10-14-10, relating to minimum  
5 acreage for cemeteries and exceptions, and inserting in lieu thereof the following:

6 "10-14-10.

7 (a) Except as otherwise provided in subsections (b) and (c) of this Code section, every  
8 cemetery initially registered according to the provisions of this chapter on or after July 1,  
9 ~~2000~~ 1998, shall consist of not less than ten acres of land.

10 (b) The following cemeteries shall not be subject to the requirement of subsection (a) of  
11 this Code section:

12 (1) All cemeteries registered according to this chapter prior to August 1, 1986; or

13 (2) Cemeteries initially registered on or after August 1, 1986, but before July 1, ~~2000~~  
14 1998, which shall consist of not less than 25 acres of land, except for cemeteries subject  
15 to a provision of previous law, which allowed cemeteries consisting of not less than ten  
16 acres of land dedicated solely for burial purposes and located in counties having a  
17 population of less than 10,000 according to the United States decennial census of 1990  
18 or any future such census.

19 (c) The Secretary of State may provide by rule or regulation for a smaller minimum size  
20 for a cemetery which consists solely of one or more columbaria."

21 **SECTION 5.**

22 Said chapter is further amended by striking subsection (a) of Code Section 10-14-14, relating  
23 to administration of chapter and rules and regulations, and inserting in its place a new  
24 subsection (a) to read as follows:

25 "(a) The administration of the provisions of this chapter shall be vested in the Secretary of  
26 State, ~~who may delegate such of his or her powers and duties under this chapter to a~~  
27 ~~subordinate of the office as he or she shall deem appropriate."~~

28 **SECTION 6.**

29 Said chapter is further amended by adding a new subsection (j) and by striking paragraph (7)  
30 of subsection (a), paragraph (2) of subsection (c), paragraph (2) of subsection (d), and  
31 subsection (h) of Code Section 10-14-17, relating to enumeration of prohibited acts, and  
32 inserting in their respective places the following:

33 "(7) To sell, offer to sell, solicit offers to buy, or otherwise engage in the sale of funeral  
34 services if such person is not a licensed funeral director; ~~or~~

1 (7.1) To sell, offer to sell, solicit offers to buy, or otherwise engage in the sale of burial  
2 rights or burial merchandise if such person is not registered pursuant to the provisions of  
3 this chapter; or"

4 "(2) Charge a fee for the installation of merchandise purchased or obtained from and to  
5 be installed by a person or firm other than the cemetery company or its agents, provided  
6 that the cemetery owner may charge a fee not to exceed ~~\$50.00~~ \$125.00 to reimburse the  
7 cemetery owner for its ~~actual~~ reasonable costs incurred in assisting in the siting of a  
8 monument on the lot on which it is to be installed, supervision and inspection of the  
9 installation to ensure compliance with the rules and regulations of the cemetery, and any  
10 administrative functions associated with the installation; provided, further, any such fee  
11 is properly disclosed and published as required by this chapter and charged regardless of  
12 whether the installer is or is not the cemetery owner or affiliated therewith;"

13 "(2) Charges paid for transferring burial rights from one purchaser to another; however,  
14 no such fee may exceed ~~\$50.00~~ \$75.00 and such fee must have been disclosed in writing  
15 to the owner at the time of the initial purchase of the burial right from the cemetery;"

16 "(h) The contract rights of any purchaser of preneed merchandise shall be freely  
17 transferable without fee except as provided in this chapter."

18 "(j) The fees set forth in this Code section shall be annually adjusted to the rate of change  
19 in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United  
20 States Department of Labor. The Secretary of State shall adopt such adjustments to the  
21 amount of said fees by rule."

## 22 SECTION 7.

23 Code Section 36-72-2 of the Official Code of Georgia Annotated, relating to definitions  
24 relative to abandoned cemeteries and burial grounds, is amended by striking in its entirety  
25 paragraph (5) and inserting in lieu thereof the following:

26 "(5) 'Cemetery' or 'cemeteries' means any land or structure in this state dedicated to and  
27 used, ~~or intended to be used,~~ for interment of human remains. It may be either a burial  
28 park for earth interments or a mausoleum for vault or crypt interments or a combination  
29 of one or more thereof."

## 30 SECTION 8.

31 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,  
32 is amended by adding a new chapter to be designated Chapter 8B to read as follows:

1 "CHAPTER 8B

2 43-8B-1.

3 This chapter shall be known and may be cited as the 'Georgia Cemeterians Board Act.'

4 43-8B-2.

5 As used in this chapter, the term:

6 (1) 'Board' means the State Board of Cemeterians established by this chapter.

7 (2) 'Cemeterian' means a person registered as a cemetery owner pursuant to Chapter 14  
8 of Title 10 or a cemetery manager.

9 (3) 'Cemetery' means a cemetery as defined in Chapter 14 of Title 10.

10 43-8B-3.

11 The practice of the profession of a cemeterian, as defined in this chapter, is declared to be  
12 a business or profession affecting the public interest and involving the health and safety of  
13 the public.

14 43-8B-4.

15 There shall be established in the Office of the Secretary of State the State Board of  
16 Cemeterians to be constituted as provided in this chapter with the powers, duties, and  
17 authority vested in such board by this chapter.

18 43-8B-5.

19 (a) The board shall consist of six members who shall be practicing cemeterians with a  
20 minimum of five years of registration as such in this state immediately preceding their  
21 appointment and one member who shall have no connection whatsoever with the cemetery  
22 profession but who shall have a recognized interest in consumer affairs and in consumer  
23 protection concerns.

24 (b) The members of the board shall be appointed by the Governor for terms of office of  
25 six years and all vacancies occurring on the board shall be filled by the Governor. When  
26 an appointment is made to fill a vacancy caused by death or resignation of a member, such  
27 appointment shall be for the remainder of the unexpired term of the member whose death  
28 or resignation caused the vacancy so filled.

29 (c) A majority of the members of the board may remove any member who misses three or  
30 more consecutive regular meetings of the board without a medical reason and may declare  
31 that position on the board to be vacant. A member so removed shall not be eligible for  
32 reappointment until the expiration of the term of office for which such person was serving.

1 The Governor shall have the power to remove from office any member of the board for  
2 willful neglect of duty or for conviction of a crime involving moral turpitude.

3 43-8B-6.

4 (a) The board shall each year elect from its members a president whose term shall be one  
5 year and who shall serve during the period for which elected and until a successor shall be  
6 elected.

7 (b) The board shall meet at least yearly and more often as the proper and efficient  
8 discharge of its duties may require.

9 (c) Each member of the board shall be reimbursed as provided for in subsection (f) of  
10 Code Section 43-1-2.

11 (d) No inspector shall own, operate, or be employed by any cemetery or perform any  
12 services on behalf thereof.

13 43-8B-7.

14 For the purpose of better protection of life and health the board is authorized:

15 (1) To fix and prescribe minimum standards of general appearance of cemeteries;

16 (2) To undertake such other duties and to exercise such other powers as may from time  
17 to time be prescribed by law;

18 (3) To adopt a common seal; and

19 (4) To make and promulgate rules and regulations not inconsistent with the laws of this  
20 state for the regulation of such board and pursuant to the provisions of Chapter 14 of Title  
21 10. All rules and regulations of the Secretary of State promulgated pursuant to the  
22 authority of Chapter 14 of Title 10 and existing immediately prior to July 1, 2006, which  
23 are not inconsistent with this chapter shall continue in effect until repealed, amended, or  
24 otherwise changed by the board."

25 **SECTION 9.**

26 All laws and parts of laws in conflict with this Act are repealed.