

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 07 - CEMETERY COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Cemetery Commission intends to adopt the rule cited as 21 NCAC 07D .0108.

Link to agency website pursuant to G.S. 150B-19.1(c): www.nccemetery.org

Proposed Effective Date: February 1, 2020

Public Hearing:

Date: November 13, 2019

Time: 11:00 a.m.

Location: 1001 Navaho Dr., Suite 207, Raleigh, NC 27609

Reason for Proposed Action: To define "corpus" as referenced in the Cemetery Act and clarify what constitutes a violation of corpus which is forbidden by the Cemetery Act: G.S. 65-61: No person shall withdraw or transfer any portion of the corpus of the care and maintenance trust fund without first obtaining written consent from the Commission.

Comments may be submitted to: Gantt Stephens, 1001 Navaho Dr., Suite 207, Raleigh, NC 27609; phone (919) 981-2536

Comment period ends: December 2, 2019

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
Local funds affected
Substantial economic impact (>= \$1,000,000)
Approved by OSBM
No fiscal note required

SUBCHAPTER 07D - TRUST FUNDS

SECTION .0100 - MAINTENANCE AND CARE FUNDS (PERPETUAL CARE FUNDS)

21 NCAC 07D .0108 WITHDRAWALS FROM PERPETUAL CARE TRUST FUNDS

- (a) For purposes of this Rule, the following definitions shall apply:
(1) "corpus amount" means the sum of:
(A) the amount of all deposits made to a trust fund at the inception of the trust fund; and
(B) the aggregate amount of all deposits made to the trust fund after the inception of the trust fund.
(2) "deposits" means the deposits to trust funds required by G.S. 65-64.
(3) "income" means interest income, dividend income, or any amount of capital gain income to the extent allowed to be withdrawn by the Commission, pursuant to this Rule.
(4) "total market value" means the total market value of the assets in the trust fund, as reflected in the records of the trustee.
(5) "trust fund" means a care and maintenance trust fund required by G.S. 65-61 or perpetual care trust fund required by G.S. 65-63.
(b) Without the prior written approval of the Commission, no amounts from a trust fund may be withdrawn from the trust fund if either:
(1) at the time of the withdrawal, the total market value of the trust fund is less than the corpus amount at that time; or
(2) immediately after the withdrawal is made, the total market value of the trust fund would be less than the corpus amount at that time.

History Note: Authority G.S. 65-49; 65-61; Eff. January 1, 2020.