

## **523I.102 Definitions.**

For purposes of this chapter, unless the context otherwise requires:

1. *"Authorized to do business within this state"* means a person licensed, registered, or subject to regulation by an agency of the state of Iowa or who has filed a consent to service of process with the commissioner for purposes of this chapter.
2. *"Burial site"* means any area, except a cemetery, that is used to inter or scatter remains.
3. *"Capital gains"* means appreciation in the value of trust assets for which a market value may be determined with reasonable certainty after deduction of investment losses, taxes, expenses incurred in the sale of trust assets, any costs of the operation of the trust, and any annual audit fees.
4. *"Care fund"* means funds set aside for the care of a perpetual care cemetery, including all of the following:
  - a. Money or real or personal property impressed with a trust by the terms of this chapter.
  - b. Contributions in the form of a gift, grant, or bequest.
  - c. Any accumulated income that the trustee of the fund or the cemetery allocates to principal.
5. *"Casket"* means a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, fiberglass, plastic, or like material and ornamented and lined with fabric.
6. *"Cemetery"* means any area that is or was open to use by the public in general or any segment thereof and is used or is intended to be used to inter or scatter remains. *"Cemetery"* does not include the following:
  - a. A private burial site where use is restricted to members of a family, if the interment rights are conveyed without a monetary payment, fee, charge, or other valuable form of compensation or consideration.
  - b. A private burial site where use is restricted to a narrow segment of the public, if the interment rights are conveyed without a monetary payment, fee, charge, or other valuable form of compensation or consideration.
  - c. A pioneer cemetery.
7. *"Columbarium"* means a structure, room, or space in a mausoleum or other building containing niches or recesses for disposition of cremated remains.
8. *"Commissioner"* means the commissioner of insurance or the deputy administrator authorized in section 523A.801 to the extent the commissioner delegates functions to the deputy administrator.
9. *"Common business enterprise"* means a group of two or more business entities that share common ownership in excess of fifty percent.
10. *"Disinterment"* means to remove human remains from their place of final disposition.
11. *"Doing business in this state"* means issuing or performing wholly or in part any term of an interment rights agreement executed within the state of Iowa.
12. *"Financial institution"* means a state or federally insured bank, savings and loan association, credit union, trust department thereof, or a trust company that is authorized to do business within this state, that has been granted trust powers under the laws of this state or the United States, and that holds funds under a trust

agreement. "*Financial institution*" does not include a cemetery or any person employed by or directly involved with a cemetery.

13. "*Garden*" means an area within a cemetery established by the cemetery as a subdivision for organizational purposes, not for sale purposes.

14. "*Grave space*" means a space of ground in a cemetery that is used or intended to be used for an in-ground burial.

15. "*Gross selling price*" means the aggregate amount a purchaser is obligated to pay for interment rights, exclusive of finance charges.

16. "*Inactive cemetery*" means a cemetery that is not operating on a regular basis, is not offering to sell or provide interments or other services reasonably necessary for interment, and does not provide or permit reasonable ingress or egress for the purposes of visiting interment spaces.

17. "*Income*" means the return in money or property derived from the use of trust principal after deduction of investment losses, taxes, and expenses incurred in the sale of trust assets, any cost of the operation of the trust, and any annual audit fees. "*Income*" includes but is not limited to:

a. Rent of real or personal property, including sums received for cancellation or renewal of a lease and any royalties.

b. Interest on money lent, including sums received as consideration for prepayment of principal.

c. Cash dividends paid on corporate stock.

d. Interest paid on deposit funds or debt obligations.

e. Gain realized from the sale of trust assets.

18. "*Insolvent*" means the inability to pay debts as they become due in the usual course of business.

19. "*Interment rights*" means the rights to place remains in a specific location for use as a final resting place or memorial.

20. "*Interment rights agreement*" means an agreement to furnish memorials, memorialization, opening and closing services, or interment rights.

21. "*Interment space*" means a space used or intended to be used for the interment of remains including, but not limited to, a grave space, lawn crypt, mausoleum crypt, and niche.

22. "*Lawn crypt*" means a preplaced enclosed chamber, which is usually constructed of reinforced concrete and poured in place, or a precast unit installed in quantity, either side-by-side or at multiple depths, and covered by earth or sod.

23. "*Lot*" means an area in a cemetery containing more than one interment space which is uniquely identified by an alphabetical, numeric, or alphanumerical identification system.

24. "*Maintenance fund*" means funds set aside for the maintenance of a nonperpetual care cemetery, including all of the following:

a. Money or real or personal property impressed with a trust by the terms of this chapter.

b. Contributions in the form of a gift, grant, or bequest.

c. Any accumulated income that the trustee of the fund or the cemetery allocates to principal.

25. "*Mausoleum*" means an aboveground structure designed for the entombment of human remains.

26. "*Mausoleum crypt*" means a chamber in a mausoleum of sufficient size to contain casketed human remains.

27. "*Memorial*" means any product, including any foundation other than a mausoleum or columbarium, used for identifying an interment space or for commemoration of the life, deeds, or career of a decedent including, but not limited to, a monument, marker, niche plate, urn garden plaque, crypt plate, cenotaph, marker bench, and vase.

28. "*Memorial care*" means any care provided or to be provided for the general maintenance of memorials including foundation repair or replacement, resetting or straightening tipped memorials, repairing or replacing inadvertently damaged memorials, and any other care clearly specified in the purchase agreement.

29. "*Memorial dealer*" means any person offering or selling memorials retail to the public.

30. "*Memorialization*" means any permanent system designed to mark or record the name and other data pertaining to a decedent.

31. "*Merchandise*" means any personal property offered or sold for use in connection with the funeral, final disposition, memorialization, or interment of human remains, but which is exclusive of interment rights.

32. "*Neglected cemetery*" means a cemetery where there has been a failure to cut grass or weeds or care for graves, memorials or memorialization, walls, fences, driveways, and buildings, or for which proper records of interments have not been maintained.

33. "*Niche*" means a recess or space in a columbarium or mausoleum used for placement of cremated human remains.

34. "*Opening and closing services*" means one or more services necessarily or customarily provided in connection with the interment or entombment of human remains or a combination thereof.

35. "*Operating a cemetery*" means offering to sell or selling interment rights, or any service or merchandise necessarily or customarily provided for a funeral, or for the entombment or cremation of a dead human, or any combination thereof, including but not limited to opening and closing services, caskets, memorials, vaults, urns, and interment receptacles.

36. "*Outer burial container*" means any container which is designed for placement in the ground around a casket or an urn including, but not limited to, containers commonly known as burial vaults, urn vaults, grave boxes, grave liners, and lawn crypts.

37. "*Perpetual care cemetery*" includes all of the following:

a. Any cemetery that was organized or commenced business in this state on or after July 1, 1995.

b. Any cemetery that has established a care fund in compliance with section 523I.810.

c. Any cemetery that represents that it is a perpetual care cemetery in its interment rights agreement.

d. Any cemetery that represents in any other manner that the cemetery provides perpetual, permanent, or guaranteed care.

38. "*Person*" means an individual, firm, corporation, partnership, joint venture, limited liability company, association, trustee, government or governmental subdivision, agency, or other entity, or any combination thereof.

39. "*Pioneer cemetery*" means a cemetery where there were six or fewer burials in the preceding fifty years.

40. "*Purchaser*" means a person who purchases memorials, memorialization, opening and closing services, scattering services, interment rights, or a combination thereof. A purchaser need not be a beneficiary of the interment rights agreement.

41. "*Relative*" means a great-grandparent, grandparent, father, mother, spouse, child, brother, sister, nephew, niece, uncle, aunt, first cousin, second cousin, third cousin, or grandchild connected to a person by either blood or affinity.

42. "*Religious cemetery*" means a cemetery that is owned, operated, or controlled by a recognized church or denomination, or a cemetery designated as such in the official catholic directory on file with the insurance division or in a similar publication of a recognized church or denomination, or a cemetery that the commissioner determines is operating as a religious cemetery upon review of an application by the cemetery that includes a description of the cemetery's affiliation with a recognized church or denomination, the extent to which the affiliate organization is responsible for the financial and contractual obligations of the cemetery, or the provision of the Internal Revenue Code, if any, that exempts the cemetery from the payment of federal income tax.

43. "*Relocation*" means the act of taking remains from the place of interment or the place where the remains are being held to another designated place.

44. "*Remains*" means the body of a deceased human or a body part, or limb that has been removed from a living human, including a body, body part, or limb in any stage of decomposition, or cremated remains.

45. "*Scattering services provider*" means a person in the business of scattering human cremated remains.

46. "*Seller*" means a person doing business within this state, including a person doing business within this state who advertises, sells, promotes, or offers to furnish memorials, memorialization, opening and closing services, scattering services, or interment rights, or a combination thereof, whether the transaction is completed or offered in person, through the mail, over the telephone, by the internet, or through any other means of commerce.

47. "*Special care*" means any care provided or to be provided that supplements or exceeds the requirements of this chapter in accordance with the specific directions of any donor of funds for such purposes.

48. "*Undeveloped space*" means a designated area or building within a cemetery that has been mapped and planned for future development but is not yet fully developed.