



STATE OF IOWA

KIM REYNOLDS
GOVERNOR

DOUG OMMEN
COMMISSIONER OF INSURANCE

ADAM GREGG
LT. GOVERNOR

January 8, 2020

Representative Mary Ann Hanusa, Chair
Government Oversight Committee
121 Fox Haven Dr.
Council Bluffs, IA 51503

Senator Amy Sinclair, Chair
Government Oversight Committee
1255 King Rd.
Allerton, IA 50008

Regarding: Annual Report regarding regulation of preneed funerals
and cemeteries, including perpetual care cemeteries

Dear Representative Hanusa and Senator Sinclair,

I am writing to submit the annual report as required by Iowa Code sections 523A.801 and 523I.201. Over the last year, the Insurance Division has worked hard to continue a high level of oversight and regulation of the preneed funeral and cemetery industries we regulate. We continue our ongoing investigation of consumer complaints and our compliance examination program remains an important way to oversee these two industries. However, this year we submit a short and focused report to pointedly highlight and draw attention to a growing issue regarding Iowa's cemeteries. They are struggling financially and the problem is getting worse.

According to a September 8, 2019 Austin American-Statesman article titled "Concerns arise over abandoned historic cemetery in Dallas", Oakland Cemetery in Dallas, Texas recently closed abruptly, posting a sign that "Oakland Cemetery has ceased operation." The article notes an estimate by the Park and Recreation Department that maintenance would cost over \$800,000 a year. This is a national trend and similar events are taking place here in Iowa. The Insurance Division has stepped forward to the extent of our statutory authority and funding.

Receiverships

The Insurance Division is running three cemeteries in receivership: Fairmount Cemetery and Crematory in Davenport (receivership costs of \$353,197.38 from August 8, 2017 through October 3, 2019), Fort Dodge Memorial Park in Fort Dodge (commencing June 26, 2019; receivership costs of \$57,644.07 through October 3, 2019) and Springdale Cemetery in Clinton (receivership costs of \$125,614.88 from February 7, 2019 through October 3, 2019).

The death care industry, including funeral homes and cemeteries, is being impacted by a number of trends in funeral and burial practices. The pivotal trend is the increased number of cremations. The National Funeral Directors Association's 2017 Cremation and Burial Report found that 50.2 percent of Americans chose cremation in 2016. Their 2019 Cremation and Burial Report predicts that by 2040 the cremation rate in the United States will be 78.7 percent while the burial rate is predicted to be only 15.7 percent.

The 2019 report states that approximately 42% of cremated remains are returned to families, only 35.2% are buried at a cemetery, 16% are scattered at non-cemetery locations and 8.1 percent are placed in a columbarium.

A majority of cemeteries have no financial system in place to fund future costs after the cemetery no longer has funds available from operations (the sale of interment rights, opening and closing charges and merchandise sales revenue), let alone a system to fund the current costs of operating the cemetery. Around three hundred of Iowa's cemeteries are known to be Perpetual Care Cemeteries with restricted trust funds. However, in general, while in compliance with state trusting requirements, for a growing number of cemeteries, their trust funds will be inadequate to maintain the cemetery as a going concern.

Recommendations

While the legislature may desire to study the financial impact on local townships, cities and counties and attempt to identify ways to reduce that impact or provide assistance, our recommendations are limited to the two statutes we administer, Iowa Code chapters 523A and 523I.

The existing legislative mechanism to transfer cemeteries to local government is Iowa Code section 523I.312, subsection 5, which is connected to Iowa Code section 523I.316, subsection 3; both are set forth below.

5. The commissioner may petition the court to terminate a receivership at any time and to enter such orders as are necessary to transfer the duty to preserve and protect the physical integrity of the cemetery or burial site, the interment records, and other records documenting consumer purchases of interment rights to the applicable governmental subdivision, as provided in Section 523I.316, subsection 3. The court shall grant the petition if following the first one hundred twenty days of the receivership such duty to preserve and protect cannot be reasonably assumed by a private entity, association, or by other means.

3. Duty to preserve and protect.

a. A governmental subdivision having a cemetery, or a burial site that is not located within a dedicated cemetery, within its jurisdiction, for which preservation is not otherwise provided, shall preserve and protect the cemetery or burial site as necessary to restore or maintain its physical integrity as a cemetery or burial site. The governmental subdivision may enter into a written agreement to delegate the responsibility for the preservation and protection of the cemetery or

burial site to the owner of the property on which the cemetery or burial site is located or to a public or private organization interested in historical preservation. The governmental subdivision shall not enter into an agreement with a public or private organization to preserve and protect the cemetery or burial site unless the property owner has been offered the opportunity to enter into such an agreement and has declined to do so.

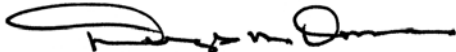
b. A governmental subdivision is authorized to expend public funds, in any manner authorized by law, in connection with such a cemetery or burial site.....

The costs of these receiverships are funded from special revenue funds created in Iowa Code sections 523A.812 and 523I.213. This year's Division legislative package will include a recommendation to eliminate the limits on the size of these two special revenue funds. Also, while hesitant to increase cemetery expenses that will be passed on to consumers, we propose an increase in the examination fee set forth in Iowa Code section 523I.808 from five dollars to ten dollars. This fee has remained unchanged since the adoption of the Iowa Cemetery Act in 2005.

Conclusion

As we continue our efforts to identify issues faced by cemeteries and preneed sellers and address the ones we can, we will bring them to your attention and report on our efforts. Please let me know if you have any questions.

Sincerely,



Doug Ommen
Commissioner of Insurance

Copies to: Deb Kozel, Analyst, Legislative Service Agency (Deb.Kozel@legis.iowa.gov)

Craig Goettsch, First Deputy Insurance Commissioner

Andrew Hartnett, Assistant Commissioner for Securities and Regulated Industries

Chance McElhaney, Communications Director and Legislative Liaison