



STATE OF IOWA

KIM REYNOLDS
GOVERNOR

DOUG OMMEN
COMMISSIONER OF INSURANCE

ADAM GREGG
LT. GOVERNOR

November 22, 2022

Senator Jason Schultz, Chair
Government Oversight Committee
611 Cedar Street
PO Box 70
Schleswig, Iowa 51461

Representative Holly Brink, Chair
Government Oversight Committee
2199 Oxford Avenue
Oskaloosa, Iowa 52577

RE: Annual report regarding the regulation of preneed funerals and perpetual care cemeteries

Dear Senator Schultz and Representative Brink,

I write to present the Iowa Insurance Division (Division) annual report on the administration of the Iowa Cemetery and Funeral Merchandise and Funeral Services Act (Iowa Code chapter 523A) and the Iowa Cemetery Act (Iowa Code chapter 523I). During the last year the Division has been active in the regulation and oversight of the preneed funeral and cemetery industries, and this report will highlight the Division's role as the court-appointed receiver of the Joyce Funeral Home and discuss concerns the Division foresees for the future of certain perpetual care trust funds.

JOYCE FUNERAL HOME RECEIVERSHIP

The Division was appointed receiver of the Joyce Funeral Home in Emmetsburg in June 2020. The Division sought this appointment after our investigation revealed a number of deposits could not be matched to a burial, suggesting thousands of dollars in preneed purchase agreements had been sold by Andrew Joyce, but had failed to be deposited in trust, as required by law. The Division's goal in the receivership has been to collect all the assets of the Joyce Funeral Home and to make them available to consumers who were harmed by this conduct. To that end, over the last year, the Division liquidated the assets of the Joyce Funeral Home, reviewed records to determine the scope of the damage to consumers, and commenced the claims process.

The liquidation of assets included the sale of the Joyce Funeral Home building, the major asset of the estate. To accomplish this, the Division retained a real estate agent to handle the sale of the property in

Emmetsburg. The Division was successful in receiving a reasonable offer and, with court approval, sold the property.

Due to poor record-keeping by Andrew Joyce, there was no way for the Division to identify all consumers harmed, or the extent to which consumers were harmed. Consequently, the Division requested and received court approval to begin a claims process to reimburse customers harmed by Andrew Joyce. The Division developed an electronic claim form along with a paper form for harmed consumers to request reimbursement. Suspected harmed consumers were mailed a claim form and urged to make a claim if they believed they were still owed money. For consumers harmed, but unknown to the Division, the claims process was publicized through a Division press release, paid advertisements in multiple newspapers, and coverage by radio and television stations. The claim period closed on November 7, 2022. The Division is in the process of reviewing all claims and preparing a plan of distribution to present to the Court, including the amount of funds to be returned to each victim.

FUTURE OF PERPETUAL CARE TRUST FUNDS

In 1953 the 55th Iowa General Assembly enacted laws governing perpetual care cemeteries and funds for the perpetual care and maintenance of these cemeteries. These laws, formerly known as Cemetery Regulations in Iowa Code chapter 566A, are now found in Iowa Code chapter 523I, the Iowa Cemetery Act. The concept of the provisions was for cemeteries to deposit a portion of sales revenue in trust – the care fund – so that when the cemetery was no longer operational and had no other operating expenses, the income generated from the trust would be enough to provide ground maintenance, record storage, etc. Since inception, the law has required perpetual care cemeteries to deposit in the care fund an amount equal to or greater than fifty dollars or twenty percent of the gross selling price received by the cemetery for each sale of interment rights, whichever is more.

For the concept to work, however, the cemetery needs to sell enough interment rights to generate a large enough fund to support ongoing maintenance. Cemeteries also need balances large enough to allow cemeteries to repair damage from extreme weather events, such as derechos and tornados, when the cemetery's operating funds can not cover the repairs necessary.

In light of the need for a large enough fund balance and the difficult trends noted above, the Division analyzed last year's annual report trust balances. The results are alarming. Of the approximately 312 perpetual care cemeteries in Iowa, thirty-five percent, or approximately 112 of these cemeteries have less than \$50,000 in trust, while sixty percent, or approximately 188 of the cemeteries have less than \$100,000 in trust. The Division is concerned that many cemeteries that are operating as perpetual care cemeteries are in fact going to be unable to offer perpetual care without significant outside assistance. Furthermore, the trend of consumers choosing cremations over traditional burials continues to stress the finances of many cemeteries and makes it even harder for cemeteries to accrue adequate funds to provide perpetual care.

At this point, the Division is still analyzing the scope of the problem and considering potential solutions. One partial solution would be to extend the taxation authority townships have to cities as well. Another solution would be to allow perpetual care cemeteries with small fund balances to spend the fund and cease operating as a perpetual care cemetery. The Division is still studying these and other potential solutions.

CONCLUSION

As we continue our efforts to identify issues faced by the preneed funeral and cemetery industry 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.

Respectfully,

Doug Ommen
Commissioner of Insurance

Copies to: Maria Wagenhofer, Analyst, Legislative Service Agency
(maria.wagenhofer@legis.iowa.gov)
Alan Harder, Acting Chief Financial Officer
Andrew Hartnett, Assistant Commissioner for Securities and Regulated Industries
Chance McElhaney, Communications Director and Legislative Liaison
Heather Schaffer, Assistant Bureau Chief, Securities and Regulated Industries Bureau