



STATE OF IOWA

TERRY E. BRANSTAD
GOVERNOR

NICK GERHART
COMMISSIONER OF INSURANCE

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December 1, 2016

Representative Bobby Kaufman, Chair
Government Oversight Committee
1527 330th Street
Wilton, Iowa 52778

Senator Rob Hogg, Chair
Government Oversight Committee
2750 Otis Road, S.E.
Cedar Rapids, Iowa 52403

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

Dear Representative Kaufman and Senator Hogg:

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:

Iowa Administrative Code

The Division's Regulated Industries Unit completed a "five-year review" of the administrative rules implementing Iowa Code chapters 523A and 523I. The Division also finished addressing changes made by the legislature in House File 632 during the 2015 legislative session. The preneed regulations were recodified as Chapter 100 and the cemetery regulations were recodified as Chapter 101.

One of the significant revisions was a change in the license terms and renewal procedures for preneed sellers and preneed sales agents to make compliance with the licensing provisions easier for our licensees. The terms of the licenses were reduced from a four-year license to a one-year license so that licensees would not need to keep track of license expiration dates and so that renewals could be coordinated with the annual report requirements. Licensees no longer need to submit a separate renewal application and are able to renew their license as part of their annual report filing.

Electronic Filing and Automation

The regulatory activities of the Division's Regulated Industries Unit have never been truly computerized and automated. We have been creating new applications to free up a large

amount of staff time spent on administrative tasks, which can be better used for enhanced monitoring and oversight.

In the first phase that went live early in 2016, a web-based, electronic filing portal was created to automate the Division's processing of filings by preneed sellers, preneed sales agents, cemeteries, insurance companies and financial institutions. A significant amount of automated reconciliation between the various reports will allow staff to target their review of annual reports to areas of potential discrepancies and eliminate the need to review reports that match up. System-generated reports will allow the staff to identify non-compliance with the filings requirements in a timely fashion without maintaining time-consuming spreadsheets.

The 2016 annual filings by preneed sellers, preneed sales agents, insurance companies and financial institutions were submitted electronically through the new portal. Perpetual care cemeteries will begin filing electronically through the new portal in 2017.

In the second phase that went live in the fall of this year, initial applications for preneed seller and preneed sales agent licenses are now submitted and processed electronically through the new filing portal. If funding permits, the Division also intends to develop a project-management type of application that will assist with scheduling and documenting our compliance examination programs. Preneed Sellers and Perpetual Care Cemeteries are examined at least once every five years.

Total Return Distribution Method

The Division adopted Rule 191 IAC 140.8 effective January 1, 2014, which is now 191 IAC 101.8. Low interest rates have impacted many perpetual care cemeteries, because of their typical investment practices. The rule allows perpetual care cemeteries to increase the revenue from their perpetual care trust funds by changing their investment practices.

The rule creates a new option that is intended to encourage investments in appreciating assets (versus solely income-producing assets) with the hope that the trust principal will grow over time and generate increased income as a result. If a perpetual care cemetery adopts the total return distribution method, they are allowed to withdraw the greater of the net ordinary income or a percentage (not to exceed 5%) of the fair market value of the trust fund.

Seven applications have been approved and the following cemeteries are currently using the total return distribution method. Another application is currently pending.

1. Cedar Memorial Cemetery in Cedar Rapids
2. Chapel Hill Cemetery in Des Moines
3. Davenport Memorial Park Cemetery in Davenport
4. Marshall Cemetery dba Riverside Cemetery in Marshalltown
5. Oak Hill Cemetery in Cedar Rapids
6. Resthaven Cemetery Association in West Des Moines
7. Sunset Memorial Cemetery in Des Moines

Financial Stress on Cemeteries

A majority of cemeteries in Iowa 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. However, perpetual care cemeteries do have some funds in place, even if inadequate, and the Division has been doing what we can to help them leverage the available funds.

The previously mentioned House File 632, which was adopted during the 2015 legislative session, added provisions allowing perpetual care cemeteries to, in essence, borrow from themselves rather than a financial institution. This reduces the cost of financing necessary items, such as the purchase of a lawn mower or backhoe. The care funds are replenished by a five-year repayment schedule. Although the cemetery loses the investment income on the funds used until replenished, that amount is less than what they would pay to borrow the money.

A filing is required with the Division. Two cemeteries used this approach in 2015: Atlantic Cemetery in Atlantic and Calvary Cemetery Association in Grand Mound. Three cemeteries used this approach in 2016: Oak Hill Cemetery in Coralville, Oakview Cemetery in DeWitt and Sunset Cemetery in Des Moines.

As another small step, the Division is proposing changes to the receivership provisions in Chapter 523A, regarding preneed sellers, and Chapter 523I, regarding perpetual care cemeteries, that will create authorization for voluntary, uncontested receivership actions. This authority may allow the Division to temporarily stabilize a perpetual care cemetery in the event of a short-term crisis. If the financial issues are long-term and a turn-around is not likely, the Division could help to transition a cemetery to new ownership.

Conclusion

Our ongoing investigation of consumer complaints and our compliance examination program remain an important way to oversee these two industries. As we continue to identify regulatory solutions to some of the issues faced by cemeteries and preneed sellers, we will bring them to your attention. Please let me know if you have any questions.

Sincerely,



Nick Gerhart
Commissioner of Insurance

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Rosanne Mead, Assistant Insurance Commissioner

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