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[HF 2388](#) – Insurance, Cemetery, and Preneed Omnibus (LSB5362HV)  
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Fiscal Note Version – New

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**Description**

[House File 2388](#) provides for the following significant fiscal changes:

- Imposes a monetary penalty on and the suspension or revocation of the license of a person who violates any order of the Insurance Commissioner, rather than limiting the penalty and suspension or revocation to those violating cease and desist orders.
- Allows the Insurance Commissioner to deposit penalties that have been collected due to insurers' failure to file a timely own risk and solvency assessment report into the Department of Commerce Revolving Fund and into the Insurance Division Regulatory Fund. Under current law, these penalties are to be transferred to the State General Fund.
- Adds a new late fee of \$5 per day (not to exceed \$500) when a preneed seller, preneed sales agent, and a perpetual care cemetery is at least 15 days late in the filing of its annual preneed sales report.
- Eliminates the \$500,000 cap for funds that may be retained in the Insurance Division Regulatory Fund.
- Eliminates the \$50,000 cap for funds that may be retained in the Insurance Division Enforcement Fund.
- Increases the examination fee that is deposited into the Insurance Division Enforcement Fund from \$5 to \$10.

**Background**

The monetary penalty of individuals violating cease and desist orders is a maximum of \$1,000 for each offense and an aggregate penalty of no more than \$10,000 per individual, or, if the individual committed the offense knowingly, \$5,000 for each offense and an aggregate penalty of no more than \$50,000. Under the Bill, the same penalty will be imposed for an individual's violation of any order issued by the Division. To date, this penalty has not been assessed. The Bill allows the Insurance Commissioner to deposit penalties that have been collected due to insurers' failure to file a timely own risk and solvency assessment report into the Department of Commerce Revolving Fund instead of transferring collected funds to the General Fund. To date, this penalty has not been assessed.

Beginning in 2005, the Insurance Division's Regulatory Fund has used industry fees to cover the expenses of receiverships, or arrangements for managing the finances and groundskeeping for cemeteries that have become insolvent. In 2007, the amount that could be retained in the Insurance Division's Regulatory Fund was increased from \$200,000 to \$500,000. Approximately \$160,000 is deposited into the Regulatory Fund annually. The Division currently operates four receiverships: Fairmount in Davenport, Springdale in Clinton, Fort Dodge Memorial Park in Fort Dodge, and Joyce Funeral Home in Emmetsburg.

Cemeteries that do not sell preneed products cannot receive transfers from the Regulatory Fund, and are limited to funds from the Enforcement Fund, which includes fees collected from the purchase of burial plots, to cover costs. The Enforcement Fund receives approximately \$23,000 annually in revenues.

The Division indicated that imposing the new assessment of late filing fees specified in the Bill on preneed sellers, preneed sales agents, and perpetual care cemeteries that are at least 15 days late in filing preneed sales reports could have resulted in an increase in Division Enforcement Fund revenue of approximately \$5,000 to \$20,000 in fiscal years 2017 to 2019, if the maximum late fee of \$500 was assessed on the late filers for those fiscal years.

### **Assumptions**

- The number of late filers of annual preneed sales reports has increased, with 40 late-filers in FY 2019, compared to 10 late-filers in FY 2017.
- Approximately 50 filers will be charged a late fee of \$5 per day for 50 days.
- The number of receiverships being operated by the Division has increased as more cemeteries across the State have become insolvent. Currently, approximately 55.0% of deceased individuals are cremated, which is a positive trend when compared to previous years.

### **Fiscal Impact**

The fiscal impact cannot be determined for the assessment of a monetary penalty on an individual violating any order from the Division, or for the deposit of penalties into the Department of Commerce Revolving Fund instead of the General Fund. These would include penalties assessed on insurers for failure to file a timely own risk and solvency assessment report.

The fiscal impact of increasing the examination fee that is deposited into the Insurance Division Enforcement Fund from \$5 to \$10 could result in an additional \$23,000 in revenue to be deposited into the Fund. Cemeteries that do not sell preneed products would use the additional fee revenue.

The fiscal impact of the late filing fee on preneed sellers, preneed sales agents, and perpetual care cemeteries is estimated to be minimal at \$12,500.

### **Source**

Insurance Division

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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