



[HF 838](#) – Insurance Omnibus (LSB1333HZ)
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Fiscal Note Version – New

Description

[House File 838](#) provides for the following significant fiscal changes:

- Imposes a monetary penalty on and provides for 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 fine revenue from penalties that have been collected due to insurers' failure to file a timely own risk and solvency assessment summary 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.
- Clarifies that the licenses for advisory organizations are for three years and sets the fee by rule rather than by statute.
- Adds a new late fee to be set by the Insurance Commissioner (not to exceed \$500) for each day after April 15 that a preneed seller, preneed sales agent, and perpetual care cemetery fails to file 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.
- Changes the examination fee that is deposited into the Insurance Division Enforcement Fund from \$5 to an amount established by the Insurance Commissioner by rule.

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 Insurance 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 summary report into the 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 Regulatory Fund has used industry fees to cover the expenses of receiverships, or arrangements for managing the finances and groundskeeping of cemeteries that have become insolvent. In 2007, the amount that could be retained in the Regulatory Fund was increased from \$200,000 to \$500,000. Approximately \$160,000 is deposited into the Regulatory Fund annually. The Division currently operates three receiverships: Springdale Cemetery in Clinton, Linwood Cemetery in Dubuque, 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 has 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 Enforcement Fund revenue of approximately \$5,000 to \$20,000 in fiscal years 2017 to 2019 if the maximum late fee of \$500 had been assessed on the late filers for those fiscal years.

Assumptions

- The Bill amends numerous Iowa Code sections that impose fees related to the insurance industry. The amended Iowa Code sections eliminate specific dollar amounts by stipulating that the fees be established by rule by the Insurance Commissioner. The Insurance Division has stated that the rules filed would not change existing fee amounts.
- The number of late filers of annual preneed sales reports has increased in recent years with 40 late filers in FY 2019, compared to 10 late filers in FY 2017. It is assumed that approximately 50 filers will be annually charged a late fee established by the Commissioner of \$5 per day for 100 days beginning in FY 2022. These revenues will be deposited into the Commerce Revolving Fund.
- The number of receiverships being operated by the Division has increased as more cemeteries across the State have become insolvent due to an increase in cremations. It is assumed that the Insurance Division will increase the examination fees from \$5 to \$10, generating an additional \$23,000 annually in revenue for deposit in the Enforcement Fund. Cemeteries that do not sell preneed products would use the additional fee revenue.
- There are 18 advisory organizations that will be annually assessed a new license fee of \$100 established by the Commissioner to receive and renew their licenses. These revenues will be deposited into the Commerce Revolving Fund.

Fiscal Impact

The overall identifiable fiscal impact of HF 838 will be as follows:

- The fiscal impact of the late filing fee on preneed sellers, preneed sales agents, and perpetual care cemeteries is estimated to range between \$14,000 and \$20,000 annually, if late filers are assessed the maximum late fee of \$500. These revenues will be deposited into the Commerce Revolving Fund.
- The revenue increase associated with eliminating the \$50,000 cap for receivership examination fees and increasing the fee from \$5 to \$10 is estimated at \$23,000 annually and will be deposited into the Insurance Division Enforcement Fund.
- The revenue increase of setting license fees for advisory organizations is estimated to be \$1,800 annually.

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 risk and solvency assessment report.

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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