

FEB 27 1996
Place On Calendar

3/4/96 Commerce
S- 3/20/96 Do Pass
S- 3/25/96 Referred 2/Member
S- 3/28/96 Do Pass
S- 4/1/96 Commerce

HOUSE FILE **2366**
BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HSB 639)

Passed House, ^(p. 513) Date 3-4-96 Passed Senate, Date _____
Vote: Ayes 97 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to entities and subject matter under the
2 regulatory authority of the division of insurance, including
3 prearranged funeral contracts, cemeteries, residential service
4 contracts, and business opportunities, and establishing fees.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2366

1 Section 1. Section 523A.2, subsection 1, paragraph c, Code
2 Supplement 1995, is amended by adding the following new
3 unnumbered paragraph:

4 NEW UNNUMBERED PARAGRAPH. The commissioner, by rule, may
5 waive receipt of any or all of the information listed in this
6 lettered paragraph and adopt a shorter form of annual report.
7 The shorter form may be used for all establishments or for
8 establishments meeting specified criteria. If the
9 commissioner does adopt a shorter form of annual report, the
10 commissioner shall retain the authority to require all of the
11 information listed above for audit purposes or otherwise. The
12 commissioner may accept annual reports submitted in an
13 electronic format, such as computer diskettes.

14 Sec. 2. Section 523A.2, subsection 1, paragraph d, Code
15 Supplement 1995, is amended to read as follows:

16 d. A financial institution referred to in paragraph "a"
17 shall file notice with the commissioner of all funds deposited
18 under the trust agreement. The notice shall be on forms
19 prescribed by the commissioner and shall be filed not later
20 than March 1 of each year. Each notice shall contain the
21 required information for all deposits made during the previous
22 calendar year. Forms may be obtained from the commissioner.
23 The commissioner may accept annual reports submitted in an
24 electronic format, such as computer diskettes.

25 Sec. 3. Section 523A.10, subsections 4 and 5, Code 1995,
26 are amended to read as follows:

27 4. The permit shall be deemed effective upon filing the
28 application with the commissioner. The permit shall disclose
29 on its face the permit holder's employer or the establishment
30 on whose behalf the applicant will be making or attempting to
31 make sales, the permit number, and the expiration date. A An
32 initial permit under this section shall expire one year from
33 the date the application is filed. The permit may be renewed
34 for a period of four years.

35 5. The initial application fee shall be five dollars. The

1 renewal fee shall be twenty dollars.

2 Sec. 4. Section 523A.11, Code 1995, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 1A. Notwithstanding chapter 22, keep
5 confidential the information obtained in the course of an
6 investigation. However, if the commissioner determines that
7 it is necessary or appropriate in the public interest or for
8 the protection of the public, the commissioner may share
9 information with other regulatory authorities or governmental
10 agencies, or may publish information concerning a violation of
11 this chapter or a rule or order under this chapter.

12 Sec. 5. Section 523A.12, subsection 1, Code 1995, is
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. f. The permit holder is found to have sold
15 the establishment and has not filed notice of the sale with
16 the commissioner prior to the sale. The permit shall be
17 revoked thirty days following such sale.

18 Sec. 6. Section 523A.14, Code 1995, is amended to read as
19 follows:

20 523A.14 INJUNCTIONS.

21 The attorney general or the commissioner may apply to the
22 district court in any county of the state for an injunction to
23 restrain a person subject to this chapter and any agents,
24 employees, or associates of the person from engaging in
25 conduct or practices deemed contrary to the public interest.
26 In any proceeding for an injunction, the attorney general or
27 the commissioner may apply to the court for the issuance of a
28 subpoena to require the appearance of a defendant and the
29 defendant's agents and any documents, books, and records
30 germane to the hearing upon the petition for an injunction.
31 Upon proof of any of the offenses described in the petition
32 for injunction the court may grant the injunction.

33 Sec. 7. Section 523A.19, subsection 2, Code 1995, is
34 amended to read as follows:

35 2. The attorney general or the commissioner may apply to

1 the district court in any county of the state for a
2 receivership. Upon proof of any of the grounds for a
3 receivership described in this section, the court may grant a
4 receivership.

5 Sec. 8. Section 523B.8, subsections 1 and 4, Code 1995,
6 are amended to read as follows:

7 1. If it appears to the administrator that a person has
8 engaged, is engaging, or is about to engage in any act or
9 practice constituting a violation of this chapter or a rule or
10 order adopted or issued under this chapter, the administrator
11 may issue an order directed at the person requiring the person
12 to cease and desist from engaging in the act or practice. The
13 person named in the order may, within fourteen days ~~after~~
14 receipt of the date of the order, file a written request for a
15 hearing. The hearing shall be held in accordance with chapter
16 17A.

17 Any consent agreement between the administrator and the
18 seller may be filed in the miscellaneous docket of the clerk
19 of the district court.

20 4. If it appears to the administrator that a person has
21 engaged, is engaged, or is about to engage in any act or
22 practice constituting a violation of this chapter, or of a
23 rule or order adopted or issued under this chapter, the
24 administrator may take either or both of the following
25 actions:

26 a. Notify the attorney general who shall bring an action
27 in the district court to enjoin the acts or practices
28 constituting the violation and to enforce compliance with this
29 chapter or any rule or order adopted or issued pursuant to
30 this chapter. Upon a proper showing a permanent or temporary
31 injunction shall be granted and a receiver or conservator may
32 be appointed for the defendant or the defendant's assets.

33 ~~b. Sue-on-behalf-of-a-purchaser-to-enforce-the-purchaser's~~
34 ~~rights.~~ Bring an action in district court. Upon proper
35 showing by the administrator, the court may enter an order of

1 rescission, restitution, or disgorgement, as well as
2 prejudgment and postjudgment interest, directed at any person
3 who has engaged in an act constituting a violation of this
4 chapter. The administrator shall not be required to post
5 bond.

6 Sec. 9. Section 523B.8, Code 1995, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 2A. Notwithstanding chapter 22, keep
9 confidential the information obtained in the course of an
10 investigation. However, if the administrator determines that
11 it is necessary or appropriate in the public interest or for
12 the protection of the public, the administrator shall share
13 information with other regulatory authorities or governmental
14 agencies, or may publish information concerning a violation of
15 this chapter or a rule or order under this chapter.

16 Sec. 10. Section 523C.16, Code 1995, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 5. A service contract, guarantee or
19 warranty issued by a manufacturer, third party or retail
20 company, covering the repair, maintenance or replacement of
21 individual appliances and other individual items of
22 merchandise marketed and sold by a retail company, in the
23 ordinary course of business.

24 Sec. 11. Section 523E.2, subsection 1, paragraph c, Code
25 Supplement 1995, is amended by adding the following new
26 unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. The commissioner, by rule, may
28 waive receipt of any or all of the information listed in this
29 lettered paragraph and adopt a shorter form of annual report.
30 The shorter form may be used for all establishments or for
31 establishments meeting specified criteria. If the
32 commissioner does adopt a shorter form of annual report, the
33 commissioner shall retain the authority to require all of the
34 information listed above for audit purposes or otherwise. The
35 commissioner may accept annual reports submitted in an

1 electronic format, such as computer diskettes.

2 Sec. 12. Section 523E.2, subsection 1, paragraph d, Code
3 Supplement 1995, is amended to read as follows:

4 d. A financial institution referred to in paragraph "a"
5 shall file notice with the commissioner of all funds deposited
6 under the trust agreement. The notice shall be on forms
7 prescribed by the commissioner and shall be filed not later
8 than March 1 of each year. Each notice shall contain the
9 required information for all deposits made during the previous
10 calendar year. Forms may be obtained from the commissioner.
11 The commissioner may accept annual reports submitted in an
12 electronic format, such as computer diskettes.

13 Sec. 13. Section 523E.10, subsections 3 and 4, Code 1995,
14 are amended to read as follows:

15 3. The permit shall be deemed effective upon filing the
16 application with the commissioner. The permit shall disclose
17 on its face the permit holder's employer or the establishment
18 on whose behalf the applicant will be making or attempting to
19 make sales, the permit number, and the expiration date. A An
20 initial permit under this section shall expire one year from
21 the date the application is filed. The permit may be renewed
22 for a period of four years.

23 4. The initial application fee shall be five dollars and
24 the renewal fee shall be twenty dollars; provided, however,
25 that if an applicant also applies for or has a permit under
26 section 523A.10, no additional fee shall be required under
27 this subsection.

28 Sec. 14. Section 523E.11, Code 1995, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 1A. Notwithstanding chapter 22, keep
31 confidential the information obtained in the course of an
32 investigation. However, if the commissioner determines that
33 it is necessary or appropriate in the public interest or for
34 the protection of the public, the commissioner may share
35 information with other regulatory authorities or governmental

1 agencies, or may publish information concerning a violation of
2 this chapter or a rule or order under this chapter.

3 Sec. 15. Section 523E.12, subsection 1, Code 1995, is
4 amended by adding the following new paragraph:

5 NEW PARAGRAPH. f. The permit holder is found to have sold
6 the establishment and has not filed notice of the sale with
7 the commissioner prior to the sale. The permit shall be
8 revoked thirty days following such sale.

9 Sec. 16. Section 523E.14, Code 1995, is amended to read as
10 follows:

11 523E.14 INJUNCTIONS.

12 The attorney general or the commissioner may apply to the
13 district court in any county of the state for an injunction to
14 restrain a person subject to this chapter and any agents,
15 employees, or associates of the person from engaging in
16 conduct or practices deemed contrary to the public interest.
17 In any proceeding for an injunction, the attorney general or
18 the commissioner may apply to the court for the issuance of a
19 subpoena to require the appearance of a defendant and the
20 defendant's agents and any documents, books, and records
21 germane to the hearing upon the petition for an injunction.
22 Upon proof of any of the offenses described in the petition
23 for injunction the court may grant the injunction.

24 Sec. 17. Section 523E.19, subsection 2, Code 1995, is
25 amended to read as follows:

26 2. The attorney general or the commissioner may apply to
27 the district court in any county of the state for a
28 receivership. Upon proof of any of the grounds for a
29 receivership described in this section, the court may grant a
30 receivership.

31 Sec. 18. Section 523I.3, subsections 2 and 3, Code
32 Supplement 1995, are amended to read as follows:

33 2. Applications for a permit shall be made to and filed
34 with the commissioner on forms approved by the commissioner
35 ~~and-accompanied-by-a-filing-fee-of-twenty-dollars.~~ If the

1 application contains the following information, the
2 commissioner shall issue the license:

- 3 a. The name and principal address of the applicant.
- 4 b. The identity of the applicant's owner or owners.
- 5 c. Evidence of a trust fund for cemetery maintenance and
6 care in compliance with section 566A.3 or 566A.4.

7 3. Each permit issued under this chapter shall expire on
8 June 30 of the fourth year following the date of issuance.

9 Sec. 19. Section 566A.3, unnumbered paragraph 1, Code
10 Supplement 1995, is amended to read as follows:

11 Any Except for political subdivisions of the state, any
12 such organization subject to the provisions of this chapter
13 which is organized or commences business in the state of Iowa
14 after July 4, 1953 and desires to operate as a perpetual care
15 cemetery shall, before selling or disposing of any interment
16 space or lots, establish a minimum perpetual care and
17 maintenance guarantee fund of twenty-five thousand dollars in
18 cash. The perpetual care and maintenance guarantee fund shall
19 be permanently set aside in trust to be administered under the
20 jurisdiction of the district court of the county wherein the
21 cemetery is located. Notwithstanding chapter 633, annual
22 reports shall not be required unless specifically required by
23 the district court. Reports shall be filed as necessary to
24 approve trustees, trust agreements and amendments, changes in
25 fees or expenses, and other matters within the district
26 court's jurisdiction. The district court so having
27 jurisdiction shall have full jurisdiction over the approval of
28 trustees, reports and accounting of trustees, amount of surety
29 bond required, and investment of funds. Only the income from
30 such fund shall be used for the care and maintenance of the
31 cemetery for which it was established.

32 Sec. 20. Sections 523A.23 and 523E.22, Code Supplement
33 1995, are repealed.

34 EXPLANATION

35 This bill amends provisions relating to the regulatory

1 authority of the division of insurance over prearranged
2 funeral contracts, cemeteries, and business opportunities.

3 Section 523A.2 is amended to provide that the commissioner
4 may waive the receipt of information identified in that
5 section to be included in the annual report of a person
6 selling funeral services and merchandise under an agreement.
7 The section is also amended to allow the annual report to be
8 submitted in an electronic format as approved by the
9 commissioner.

10 Section 523A.10 is amended to provide that the renewal time
11 period for a sales permit required for a person to enter into
12 an agreement to furnish upon the death of a person funeral
13 services or merchandise is four years. The time period for
14 the initial sales permit is one year. The renewal permit fee
15 is established at \$20.

16 Section 523A.11 is amended to provide that the attorney
17 general or commissioner may keep confidential the information
18 obtained in the course of an investigation under chapter 523A.
19 The commissioner may share such information with other
20 regulatory authorities or governmental agencies, or publish
21 such information if the commissioner determines that such
22 disclosure is in the public interest.

23 Section 523A.12 is amended to provide that a permit issued
24 under chapter 523A is revoked 30 days following a sale of the
25 establishment providing funeral services or funeral
26 merchandise, if prior notice of the sale is not filed with the
27 commissioner.

28 Section 523A.14 is amended to authorize the commissioner to
29 seek an injunction or subpoena under chapter 523A.

30 Section 523A.19 is amended to authorize the commissioner to
31 apply to the district court for a receivership.

32 Section 523B.8, relating to the powers of the administrator
33 with respect to business opportunity promotions, is amended to
34 permit a person receiving a cease and desist order from the
35 administrator to file a written request for a hearing within

1 14 days of the date of the order rather than 14 days after
2 receipt of the order. The section is amended to provide that
3 the administrator may bring an action in district court and
4 seek an order of rescission, or disgorgement, including
5 prejudgment and postjudgment interest. The section is also
6 amended to provide that the attorney general or commissioner
7 may keep confidential the information obtained in the course
8 of an investigation under chapter 523B. The commissioner may
9 share such information with other regulatory authorities or
10 governmental agencies, or publish such information if the
11 commissioner determines that such disclosure is in the public
12 interest.

13 Section 523C.16 is amended to exclude from the provisions
14 of chapter 523C, a service contract, guarantee, or warranty
15 issued by a manufacturer, third party, or retail company,
16 which covers the repair, maintenance, or replacement of
17 individual appliances or items of merchandise, which is sold
18 in the ordinary course of a business.

19 Section 523E.2 is amended to provide that the commissioner
20 may waive the receipt of information identified in that
21 section to be included in the annual report of a person
22 selling cemetery merchandise under an agreement. The section
23 is also amended to allow the annual report to be submitted in
24 an electronic format as approved by the commissioner.

25 Section 523E.10 is amended to provide that the renewal time
26 period for a sales permit required for a person to enter into
27 an agreement to furnish upon the death of a person funeral
28 services or merchandise is four years. The time period for
29 the initial sales permit is one year. The renewal permit fee
30 is established at \$20.

31 Section 523E.11 is amended to provide that the attorney
32 general or commissioner may keep confidential the information
33 obtained in the course of an investigation under chapter 523E.
34 The commissioner may share such information with other
35 regulatory authorities or governmental agencies, or publish

1 such information if the commissioner determines that such
2 disclosure is in the public interest.

3 Section 523E.12 is amended to provide that a permit issued
4 under chapter 523E is revoked 30 days following a sale of the
5 establishment providing cemetery merchandise, if prior notice
6 of the sale is not filed with the commissioner.

7 Section 523E.14 is amended to authorize the commissioner to
8 seek an injunction or subpoena under chapter 523E.

9 Section 523E.19 is amended to authorize the commissioner to
10 apply to the district court for a receivership.

11 Section 523I.3, which relates to the permit requirements
12 for perpetual care cemeteries, is amended to strike the \$20
13 permit fee and extend the period of validity of a permit from
14 one to four years.

15 Sections 523A.23 and 523E.22 are repealed. These sections
16 require that a seller of funeral services and merchandise and
17 a seller of cemetery merchandise are to maintain a fidelity
18 bond or insurance policy covering losses resulting from a
19 dishonest or fraudulent acts committed by employees of the
20 seller which cause a loss, theft, or misappropriation of cash,
21 property, or a negotiable instrument submitted to the seller
22 pursuant to an agreement for the purchase of such services and
23 merchandise.

24 Section 566A.3 is amended to exclude political subdivisions
25 which operate a perpetual care cemetery from the requirement
26 of establishing a minimum perpetual care and maintenance
27 guarantee fund of \$25,000. The section is also amended to
28 provide that annual reports concerning the guarantee fund are
29 not required unless specifically required by the district
30 court.

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**HOUSE FILE 2366
FISCAL NOTE**

REQ. BY SENATOR DELUHERY

A fiscal note for House File 2366 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2366 makes changes regarding oversight and regulation of cemeteries. The Bill eliminates the perpetual care permit fee of \$20 and changes annual sales permits to four-year permits, adjusting the fee accordingly.

FISCAL IMPACT

Changing from a \$5 annual sales permit to a \$5 initial permit with a \$20 four-year renewal would have no effect on General Fund revenues over a five-year period.

Eliminating the perpetual care permit fee would reduce General Fund revenues by \$4,000 to \$6,000 each year beginning in FY 1997.

SOURCES

Insurance Division, Department of Commerce

(LSB 3304HV, VMT)

FILED APRIL 1, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

HSB 639

VAN FOSSEN : CHAIR

SUKUP

HOLUECK

COMMERCE - REGULATION

Succeeded By

SF/HF 2366

SENATE/HOUSE FILE

BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

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31 make sales, the permit number, and the expiration date. A An
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9 information with other regulatory authorities or governmental
10 agencies, or may publish information concerning a violation of
11 this chapter or a rule or order under this chapter.

12 Sec. 5. Section 523A.12, subsection 1, Code 1995, is
13 amended by adding the following new paragraph:

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15 the establishment and has not filed notice of the sale with
16 the commissioner prior to the sale. The permit shall be
17 revoked thirty days following such sale.

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10 order adopted or issued under this chapter, the administrator
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12 to cease and desist from engaging in the act or practice. The
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19 of the district court.

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33 ~~b. Sue-on-behalf-of-a-purchaser-to-enforce-the-purchaser's~~
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6 Sec. 9. Section 523B.8, Code 1995, is amended by adding
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19 this subsection.

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16 Sec. 16. Section 523E.19, subsection 2, Code 1995, is
17 amended to read as follows:

18 2. The attorney general or the commissioner may apply to
19 the district court in any county of the state for a
20 receivership. Upon proof of any of the grounds for a
21 receivership described in this section, the court may grant a
22 receivership.

23 Sec. 17. Section 523I.3, subsections 2 and 3, Code
24 Supplement 1995, are amended to read as follows:

25 2. Applications for a permit shall be made to and filed
26 with the commissioner on forms approved by the commissioner
27 ~~and accompanied by a filing fee of twenty dollars.~~ If the
28 application contains the following information, the
29 commissioner shall issue the license:

- 30 a. The name and principal address of the applicant.
- 31 b. The identity of the applicant's owner or owners.
- 32 c. Evidence of a trust fund for cemetery maintenance and
33 care in compliance with section 566A.3 or 566A.4.

34 3. Each permit issued under this chapter shall expire on
35 June 30 of the fourth year following the date of issuance.

1 commissioner.

2 Section 523A.10 is amended to provide that the renewal time
3 period for a sales permit required for a person to enter into
4 an agreement to furnish upon the death of a person funeral
5 services or merchandise is four years. The time period for
6 the initial sales permit is one year. The renewal permit fee
7 is established at \$20.

8 Section 523A.11 is amended to provide that the attorney
9 general or commissioner may keep confidential the information
10 obtained in the course of an investigation under chapter 523A.
11 The commissioner may share such information with other
12 regulatory authorities or governmental agencies, or publish
13 such information if the commissioner determines that such
14 disclosure is in the public interest.

15 Section 523A.12 is amended to provide that a permit issued
16 under chapter 523A is revoked 30 days following a sale of the
17 establishment providing funeral services or funeral
18 merchandise, if prior notice of the sale is not filed with the
19 commissioner.

20 Section 523A.14 is amended to authorize the commissioner to
21 seek an injunction or subpoena under chapter 523A.

22 Section 523A.19 is amended to authorize the commissioner to
23 apply to the district court for a receivership.

24 Section 523B.8, relating to the powers of the administrator
25 with respect to business opportunity promotions, is amended to
26 permit a person receiving a cease and desist order from the
27 administrator to file a written request for a hearing within
28 14 days of the date of the order rather than 14 days after
29 receipt of the order. The section is amended to provide that
30 the administrator may bring an action in district court and
31 seek an order of rescission, or disgorgement, including
32 prejudgment and postjudgment interest. The section is also
33 amended to provide that the attorney general or commissioner
34 may keep confidential the information obtained in the course
35 of an investigation under chapter 523B. The commissioner may

1 share such information with other regulatory authorities or
2 governmental agencies, or publish such information if the
3 commissioner determines that such disclosure is in the public
4 interest.

5 Section 523E.2 is amended to provide that the commissioner
6 may waive the receipt of information identified in that
7 section to be included in the annual report of a person
8 selling cemetery merchandise under an agreement. The section
9 is also amended to allow the annual report to be submitted in
10 an electronic format as approved by the commissioner.

11 Section 523E.10 is amended to provide that the renewal time
12 period for a sales permit required for a person to enter into
13 an agreement to furnish upon the death of a person funeral
14 services or merchandise is four years. The time period for
15 the initial sales permit is one year. The renewal permit fee
16 is established at \$20.

17 Section 523E.11 is amended to provide that the attorney
18 general or commissioner may keep confidential the information
19 obtained in the course of an investigation under chapter 523E.
20 The commissioner may share such information with other
21 regulatory authorities or governmental agencies, or publish
22 such information if the commissioner determines that such
23 disclosure is in the public interest.

24 Section 523E.12 is amended to provide that a permit issued
25 under chapter 523E is revoked 30 days following a sale of the
26 establishment providing cemetery merchandise, if prior notice
27 of the sale is not filed with the commissioner.

28 Section 523E.14 is amended to authorize the commissioner to
29 seek an injunction or subpoena under chapter 523E.

30 Section 523E.19 is amended to authorize the commissioner to
31 apply to the district court for a receivership.

32 Section 523I.3, which relates to the permit requirements
33 for perpetual care cemeteries, is amended to strike the \$20
34 permit fee and extend the period of validity of a permit from
35 one to four years.

1 Sections 523A.23 and 523E.22 are repealed. These sections
2 require that a seller of funeral services and merchandise and
3 a seller of cemetery merchandise are to maintain a fidelity
4 bond or insurance policy covering losses resulting from a
5 dishonest or fraudulent acts committed by employees of the
6 seller which cause a loss, theft, or misappropriation of cash,
7 property, or a negotiable instrument submitted to the seller
8 pursuant to an agreement for the purchase of such services and
9 merchandise.

10 Section 566A.3 is amended to exclude political subdivisions
11 which operate a perpetual care cemetery from the requirement
12 of establishing a minimum perpetual care and maintenance
13 guarantee fund of \$25,000. The section is also amended to
14 provide that annual reports concerning the guarantee fund are
15 not required unless specifically required by the district
16 court.

17 BACKGROUND STATEMENT

18 SUBMITTED BY THE AGENCY

19 The proposed legislation adopts several provisions designed
20 to reduce the insurance division's administrative and
21 industry's regulatory compliance burdens without reducing
22 consumer protection. The annual permit applications in
23 sections 523A.10, 523E.10, and 523I.3 are being amended to
24 require filings only once every four years. With the addition
25 of a full-time auditor the division believes that it can
26 acquire more information through the audit process than
27 through annual reports. Thus, the division is requesting
28 statutory authorization to adopt a short-form of the annual
29 report required by sections 523A.2 and 523E.2. These sections
30 are also being amended to allow establishments to file the
31 reports in an electronic format, such as computer diskettes.

32 The division is concerned about its ability to protect
33 confidential and proprietary information received by the
34 division in the course of its audits and investigations in
35 situations that do not involve formal administrative actions.

1 To address that concern, language is added to sections
2 523A.11, 523B.11, and 523E.11.

3 To address the division's concern about an establishment's
4 failure to notify the division of changes in ownership, the
5 division proposes to amend sections 523A.12 and 523E.12 to
6 provide a 30-day "safe harbor", after which the permit expires
7 absent notice of the sale.

8 Sections 523A.14, 523A.19, subsection 2, 523E.14, and
9 523E.19 are amended to allow either the attorney general or
10 the commissioner of insurance to be the moving party.

11 The division is proposing repeal of two sections, sections
12 523A.23 and 523E.22, adopted last session, which require
13 establishments to have at least \$50,000 of insurance or a
14 bond. The provision has been more expensive than anticipated
15 and some establishments have not been able to receive the
16 insurance because of standard insurance underwriting
17 standards. The largest problem discovered was with sole
18 proprietorships.

19 Section 523B.8 is amended to provide that the attorney
20 general or commissioner may keep confidential the information
21 obtained in the course of an investigation under chapter 523B,
22 but may also share that information with other regulatory
23 authorities or governmental agencies or publish the
24 information if it is determined that such disclosure is in the
25 public interest.

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