

House Study Bill 185

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

1 An Act relating to cemeteries and related services and providing
2 fees and penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1191DP 82
5 av/gg/14

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1 1 Section 1. Section 523A.102, subsections 6 and 11, Code
1 2 2007, are amended to read as follows:
1 3 6. "Commissioner" means the commissioner of insurance or
1 4 the deputy administrator authorized in section 523A.801 to the
~~1 5 extent the commissioner delegates functions to the deputy~~
~~1 6 administrator commissioner's designee.~~

1 7 11. "Establishment" means each business establishment
1 8 entity that advertises, sells, promotes, or offers cemetery
1 9 merchandise, funeral merchandise, funeral services, or a
1 10 combination thereof prior to the death of the person named or
1 11 implied in a purchase agreement.

1 12 Sec. 2. Section 523A.102, Code 2007, is amended by adding
1 13 the following new subsection:

1 14 NEW SUBSECTION. 26A. "Sales agent" means a person,
1 15 including an employee, who is authorized by an establishment
1 16 or seller to sell cemetery merchandise, funeral merchandise,
1 17 funeral services, or a combination thereof, on behalf of the
1 18 establishment or seller.

1 19 Sec. 3. Section 523A.201, subsection 3, Code 2007, is
1 20 amended to read as follows:

1 21 3. If a purchase agreement for cemetery merchandise,
1 22 funeral merchandise, funeral services, or a combination
1 23 thereof provides that payments are to be made in installments,
1 24 the seller shall deposit eighty percent of each payment in the
1 25 trust fund until the full amount required to be placed in
1 26 trust has been deposited. If the purchase agreement is
1 27 financed with or sold to a financial institution, the purchase
1 28 agreement shall be considered paid in full and the trust
1 29 requirements shall be satisfied within fifteen days after the
1 30 ~~close of the month in which the seller receives funds from the~~
1 31 financial institution.

1 32 Sec. 4. Section 523A.201, subsection 5, Code 2007, is
1 33 amended by striking the subsection and inserting in lieu
1 34 thereof the following:

1 35 5. A seller shall have a fidelity bond or similar
2 1 insurance in an amount of not less than fifty thousand dollars
2 2 to protect against the loss of purchaser payments not placed
2 3 in trust within the time period required by this section and
2 4 section 523A.202. The commissioner may require a greater
2 5 amount as the commissioner determines is necessary. If the
2 6 establishment or seller changes ownership, the fidelity bond
2 7 or similar insurance shall continue in force for at least one
2 8 year after the transfer of ownership.

2 9 Sec. 5. Section 523A.201, subsections 8 and 10, Code 2007,
2 10 are amended to read as follows:

2 11 8. Interest or income earned on amounts deposited in trust
2 12 shall remain in trust under the same terms and conditions as
2 13 payments made under the purchase agreement, ~~except that the~~
~~2 14 seller may withdraw so much of the interest or income as~~
~~2 15 represents the difference between the amount needed to adjust~~
~~2 16 the trust funds for inflation as set by the commissioner based~~
~~2 17 on the consumer price index and the interest or income earned~~
~~2 18 during the preceding year not to exceed fifty percent of the~~

2 19 total interest or income on a calendar-year basis. The early
2 20 ~~withdrawal of interest or income under this provision does not~~
2 21 ~~affect the purchaser's right to a credit of such interest or~~
2 22 ~~income in the event of a nonguaranteed price agreement,~~
2 23 ~~cancellation, or nonperformance by the seller.~~

2 24 10. If a seller voluntarily or involuntarily ceases doing
2 25 business and the seller's obligation to provide merchandise or
2 26 services has not been assumed by another establishment holding
2 27 a current establishment permit, all trust funds, including
2 28 accrued interest or income, shall be repaid to the purchaser
2 29 within ~~one hundred twenty~~ thirty days following the seller's
2 30 ~~cessation of business or, in the event of circumstances where~~
2 31 ~~a payment is not possible within one hundred twenty days, as~~
2 32 ~~soon as is reasonably practicable. A seller may petition the~~
2 33 ~~commissioner, upon a showing of good cause, for a longer~~
2 34 ~~period of time for repayment. A seller shall notify the~~
2 35 ~~commissioner at least thirty days prior to ceasing business.~~

3 1 Sec. 6. Section 523A.202, subsection 4, Code 2007, is
3 2 amended to read as follows:

3 3 4. This section does not prohibit moving trust funds from
3 4 one financial institution to another if the commissioner is
3 5 notified of the change within thirty days of the transfer of
3 6 the trust funds.

3 7 Sec. 7. Section 523A.203, Code 2007, is amended by adding
3 8 the following new subsection:

3 9 NEW SUBSECTION. 7. The asset allocation of the trust
3 10 funds shall include a diversified portfolio, and investment
3 11 and management decisions shall be made in accordance with the
3 12 provisions of section 633A.4302.

3 13 Sec. 8. Section 523A.204, Code 2007, is amended by
3 14 striking the section and inserting in lieu thereof the
3 15 following:

3 16 523A.204. ESTABLISHMENT ANNUAL REPORTING REQUIREMENTS.

3 17 1. An establishment shall file with the commissioner not
3 18 later than April 1 of each year an annual report on a form
3 19 prescribed by the commissioner.

3 20 2. An establishment filing an annual report shall pay a
3 21 filing fee of ten dollars per purchase agreement sold during
3 22 the year covered by the report. Duplicate fees are not
3 23 required for the same purchase agreement. If a purchase
3 24 agreement has multiple sellers, the fee shall be paid by the
3 25 establishment actually providing the merchandise and services.

3 26 3. Notwithstanding chapter 22, all records maintained by
3 27 the commissioner under this section shall be confidential and
3 28 shall not be made available for inspection or copying except
3 29 upon the approval of the commissioner or the attorney general.

3 30 4. The commissioner shall levy an administrative penalty
3 31 in the amount of five hundred dollars against an establishment
3 32 that fails to file the annual report when due, payable to the
3 33 state for deposit in the general fund.

3 34 5. An establishment that fails to file the annual report
3 35 when due shall immediately cease soliciting or executing
4 1 purchase agreements until the annual report is filed and any
4 2 administrative penalty assessed has been paid.

4 3 Sec. 9. Section 523A.206, Code 2007, is amended by
4 4 striking the section and inserting in lieu thereof the
4 5 following:

4 6 523A.206 EXAMINATIONS == AUTHORITY AND SCOPE.

4 7 1. The commissioner or the commissioner's designee may
4 8 conduct an examination under this chapter of any establishment
4 9 or seller as often as the commissioner deems appropriate. If
4 10 an establishment or seller has a trust arrangement, the
4 11 commissioner shall conduct an examination of such an
4 12 establishment or seller doing business in this state not less
4 13 than once every five years. The commissioner may require an
4 14 audit of an establishment, seller, or other person by a
4 15 certified public accountant to verify compliance with the
4 16 requirements of this chapter, including rules adopted and
4 17 orders issued pursuant to this chapter.

4 18 2. An establishment or a seller shall reimburse the
4 19 division for the expense of conducting the examination unless
4 20 the commissioner waives this requirement. The expense of an
4 21 examination involving multiple sellers or other persons shall
4 22 be prorated among them upon any reasonable basis as determined
4 23 by the commissioner.

4 24 3. For purposes of completing an examination under this
4 25 chapter, the commissioner may examine or investigate any
4 26 person, or the business of any person, if the examination or
4 27 investigation is, in the sole discretion of the commissioner,
4 28 necessary or material to the examination of the establishment
4 29 or seller.

4 30 4. Upon determining that an examination should be
4 31 conducted, the commissioner or the commissioner's designee may
4 32 appoint one or more examiners to perform the examination and
4 33 instruct those examiners as to the scope of the examination.

4 34 5. An establishment, seller, or other person from whom
4 35 information is sought, and its officers, directors, employees,
5 1 and agents shall provide to the examiners appointed under
5 2 subsection 3, timely, convenient, and free access at their
5 3 offices, at all reasonable hours, to all books, records,
5 4 accounts, papers, documents, and all electronic or other
5 5 recordings related to the property, assets, business, and
5 6 affairs of the establishment or seller being examined and
5 7 shall facilitate the examination as much as possible.

5 8 a. The refusal of an establishment or seller, by its
5 9 officers, directors, employees, or agents, to submit to an
5 10 examination or to comply with a reasonable written request of
5 11 an examiner shall constitute grounds for the suspension,
5 12 revocation, or nonrenewal of any permit held by the
5 13 establishment or seller to engage in business subject to the
5 14 commissioner's jurisdiction.

5 15 b. If an establishment or seller declines or refuses to
5 16 submit to an examination as provided in this chapter, the
5 17 commissioner shall immediately suspend, revoke, or nonrenew
5 18 any permit held by the establishment or business to engage in
5 19 business subject to the commissioner's jurisdiction, and shall
5 20 report the commissioner's action to the attorney general, who
5 21 shall immediately apply to the district court for the
5 22 appointment of a receiver to administer the final affairs of
5 23 the establishment or seller.

5 24 6. The commissioner shall not make information obtained in
5 25 the course of an examination public, except when a duty under
5 26 this chapter requires the commissioner to take action against
5 27 an establishment or seller or to cooperate with another law
5 28 enforcement agency, or when the commissioner is called as a
5 29 witness in a civil or criminal proceeding.

5 30 7. This section shall not be construed to limit the
5 31 commissioner's authority to terminate or suspend any
5 32 examination in order to pursue other legal or regulatory
5 33 actions pursuant to this chapter. Findings of fact and
5 34 conclusions made pursuant to an examination are deemed to be
5 35 prima facie evidence in any legal or regulatory action.

6 1 Sec. 10. NEW SECTION. 523A.207 AUDITS BY CERTIFIED
6 2 PUBLIC ACCOUNTANTS.

6 3 A purchase agreement shall not be sold or transferred, as
6 4 part of the sale of a business or the assets of a business,
6 5 until an audit has been performed by a certified public
6 6 accountant and filed with the commissioner that expresses the
6 7 auditor's opinion of the adequacy of funding related to the
6 8 purchase agreements to be sold or transferred.

6 9 Sec. 11. Section 523A.401, subsection 5, paragraphs a and
6 10 b, Code 2007, are amended to read as follows:

6 11 a. Except as necessary and appropriate to satisfy the
6 12 requirements regarding burial trust funds under Title XIX of
6 13 the federal Social Security Act, the policy shall not be owned
6 14 by the establishment or seller, the policy shall not be
6 15 irrevocably assigned to the establishment or seller, and the
6 16 assignment of proceeds from the insurance policy to the
6 17 establishment or seller shall be limited to the
6 18 establishment's interests as they appear in the purchase
6 19 agreement, and conditioned on the establishment's or seller's
6 20 delivery of cemetery merchandise, funeral merchandise, and
6 21 funeral services pursuant to a purchase agreement.

6 22 b. The policy shall provide that any assignment of
6 23 benefits is contingent upon the establishment's or seller's
6 24 delivery of cemetery merchandise, funeral merchandise, and
6 25 funeral services pursuant to a purchase agreement.

6 26 Sec. 12. Section 523A.401, subsection 6, unnumbered
6 27 paragraph 1, Code 2007, is amended to read as follows:

6 28 With the written consent of the purchaser, an existing
6 29 prepaid purchase agreement with trust-funded benefits may be
6 30 converted to a prepaid purchase agreement with
6 31 insurance-funded benefits provided the establishment or seller
6 32 and the insurance benefits comply with the following
6 33 provisions:

6 34 Sec. 13. Section 523A.401, subsection 6, paragraph d, Code
6 35 2007, is amended to read as follows:

7 1 d. The establishment or seller shall maintain a copy of
7 2 any prepaid trust-funded purchase agreement that was converted
7 3 to a prepaid insurance-funded purchase agreement and retain
7 4 the payment history records for each converted purchase
7 5 agreement prior to conversion until the cemetery merchandise,

7 6 funeral merchandise, and funeral services have been delivered.
7 7 Sec. 14. Section 523A.404, subsection 1, paragraphs f and
7 8 h, Code 2007, are amended to read as follows:

7 9 f. Use a method of storage that allows for visual ~~audits~~
7 10 ~~examinations~~ of the merchandise.

7 11 h. File a consent to be ~~audited~~ examined and inspected by
7 12 the commissioner.

7 13 Sec. 15. Section 523A.501, Code 2007, is amended to
7 14 amended to read as follows:

7 15 523A.501 ~~ESTABLISHMENT~~ PRENEED SELLERS == PERMITS.

7 16 1. A person shall not advertise, sell, promote, or offer
7 17 to furnish cemetery merchandise, funeral merchandise, funeral
7 18 services, or a combination thereof when performance or
7 19 delivery may be more than one hundred twenty days following
7 20 the initial payment on the account without an establishment
7 21 permit. ~~Each establishment must have an establishment permit.~~

7 22 2. An application for an establishment permit shall be
7 23 filed on a form prescribed by the commissioner, ~~and be~~
7 24 ~~accompanied by a fifty dollar filing fee, and include a copy~~
~~7 25 of each purchase agreement the person will use for sales of~~
~~7 26 cemetery merchandise, funeral merchandise, funeral services,~~
~~7 27 or a combination thereof.~~

7 28 3. ~~The application shall contain:~~

7 29 a. ~~The name and address of the establishment.~~

7 30 b. ~~The name and address of any additional provider of~~
~~7 31 cemetery merchandise, funeral merchandise, funeral services,~~
~~7 32 or a combination thereof.~~

7 33 c. ~~The name and address of each owner, officer, or other~~
~~7 34 official of the establishment, including when relevant the~~
~~7 35 chief executive officer and the members of the board of~~
~~8 1 directors.~~

8 2 d. ~~A description of any common business enterprise or~~
~~8 3 parent company.~~

8 4 e. ~~The types of cemetery merchandise, funeral merchandise,~~
~~8 5 funeral services, or a combination thereof to be sold.~~

8 6 f. ~~The types of trust or trust alternatives utilized by~~
~~8 7 the establishment and a list of the financial institutions,~~
~~8 8 storage facilities, surety companies, and insurance companies~~
~~8 9 utilized by the establishment on a regular basis.~~

8 10 4. ~~A permit holder shall inform the commissioner of~~
~~8 11 changes in the information required to be provided by~~
~~8 12 subsection 3 within thirty days of the change.~~

8 13 5. ~~3.~~ An establishment permit is not assignable or
8 14 transferable. A permit holder selling all or part of a
8 15 business entity that has an establishment permit shall cancel
8 16 the permit, and the purchaser shall apply for a new permit in
8 17 the purchaser's name within thirty days of the sale.

8 18 6. ~~4.~~ If no denial order is in effect and no proceeding
8 19 is pending under section 523A.503, the application becomes
8 20 effective at noon of the thirtieth day after a completed
8 21 application or an amendment completing the application is
8 22 filed, unless waived by the applicant. The commissioner may
8 23 specify an earlier effective date. Automatic effectiveness
8 24 under this subsection shall not be deemed approval of the
8 25 application. If the commissioner does not grant the permit,
8 26 the commissioner shall notify the person in writing of the
8 27 reasons for the denial.

8 28 7. ~~An initial permit is valid for two years from the date~~
~~8 29 the application is filed. A permit may be renewed for two~~
~~8 30 years by filing the form prescribed by the commissioner under~~
~~8 31 subsection 2, accompanied by a ten dollar renewal fee.~~

8 32 ~~Submission of purchase agreements is not required for renewals~~
~~8 33 unless the purchase agreements have been modified since the~~
~~8 34 last filing.~~

8 35 5. An establishment permit shall remain valid until it is
9 1 denied, suspended, revoked, or surrendered.

9 2 ~~8. 6.~~ The commissioner may by rule create or accept a
9 3 multijurisdiction establishment permit. If the establishment
9 4 permit is issued by another jurisdiction, the rules shall
9 5 require the filing of an application or notice form and
9 6 payment of the applicable filing fee of fifty dollars for an
9 7 initial application and ten dollars for a renewal application.
9 8 The application or notice form utilized and the effective
9 9 dates and terms of the permit may vary from the provisions set
9 10 forth in ~~subsections 2, 3, and 7~~ this section.

9 11 Sec. 16. Section 523A.502, Code 2007, is amended to read
9 12 as follows:

9 13 523A.502 SALES AGENTS == PERMITS.

9 14 1. A person shall not advertise, sell, promote, or offer
9 15 to furnish cemetery merchandise, funeral merchandise, funeral
9 16 services, or a combination thereof when performance or

9 17 delivery may be more than one hundred twenty days following
9 18 initial payment on the account ~~without unless the person has a~~
9 19 sales permit. ~~A permit holder must be an employee or and is a~~
9 20 sales agent of a person holding an establishment permit who
9 21 can deliver the cemetery merchandise, funeral merchandise,
9 22 funeral services, or a combination thereof being sold. A
9 23 person must have a sales permit for each establishment at
9 24 which the person works. However, a person may apply for a
9 25 sales permit covering multiple establishments, if the
9 26 establishments have common ownership. The establishment
9 27 permit holder is liable for the acts of its ~~employees and~~
9 28 sales agents performed in advertising, selling, promoting, or
9 29 offering to furnish, upon the future death of a person named
9 30 or implied in a purchase agreement, cemetery merchandise,
9 31 funeral merchandise, funeral services, or a combination
9 32 thereof.

9 33 2. This chapter does not permit a person to practice
9 34 mortuary science without a license. A person holding a
9 35 current sales permit may advertise, sell, promote, or offer to
10 1 furnish a funeral director's services as an employee or agent
10 2 of a funeral establishment furnishing the funeral services
10 3 under chapter 156.

10 4 3. An application for a sales permit shall be filed on a
10 5 form prescribed by the commissioner and be accompanied by a
10 6 five dollar filing fee.

10 7 4. ~~The application shall contain:~~

10 8 a. ~~The name and address of the person.~~

10 9 b. ~~The name and address of the person's employer and each~~
10 10 ~~establishment on whose behalf the person will be advertising,~~
10 11 ~~selling, promoting, or offering to furnish cemetery~~
10 12 ~~merchandise, funeral merchandise, funeral services, or a~~
10 13 ~~combination thereof.~~

10 14 c. ~~The name and address of the provider who will provide~~
10 15 ~~the cemetery merchandise, funeral merchandise, funeral~~
10 16 ~~services, or a combination thereof if different from the~~
10 17 ~~person's employer.~~

10 18 5. ~~An initial permit expires one year from the date the~~
10 19 ~~application is filed. The permit may be renewed for four~~
10 20 ~~years by filing the form prescribed by the commissioner under~~
10 21 ~~subsection 3, accompanied by a twenty dollar filing fee.~~

10 22 4. ~~The sales permit shall be valid until denied,~~
10 23 ~~suspended, revoked, or surrendered.~~

10 24 6. ~~5. A permit holder shall inform the commissioner of~~
10 25 ~~changes in the information required to be provided by~~
10 26 ~~subsection 4 within thirty days of the change.~~

10 27 7. ~~6. A sales permit is not assignable or transferable.~~
10 28 ~~An establishment selling all or part of its business to a~~
10 29 ~~purchaser shall cancel the establishment's sales permit. The~~
10 30 ~~purchaser shall apply for a new sales permit in the~~
10 31 ~~purchaser's name within thirty days of the sale.~~

10 32 8. ~~7. If no denial order is in effect and no proceeding~~
10 33 ~~is pending under section 523A.503, the application becomes~~
10 34 ~~effective at noon of the thirtieth day after a completed~~
10 35 ~~application or an amendment completing the application is~~
11 1 ~~filed, unless waived by the applicant. The commissioner may~~
11 2 ~~specify an earlier effective date. Automatic effectiveness~~
11 3 ~~under this subsection shall not be deemed approval of the~~
11 4 ~~application. If the commissioner does not grant the permit,~~
11 5 ~~the commissioner shall notify the applicant in writing of the~~
11 6 ~~reasons for the denial.~~

11 7 9. ~~8. The commissioner may by rule create or accept a~~
11 8 ~~multijurisdiction sales permit. If the sales permit is issued~~
11 9 ~~by another jurisdiction, the rules shall require the filing of~~
11 10 ~~an application or notice form and payment of the applicable~~
11 11 ~~filing fee of five dollars for each year. The application or~~
11 12 ~~notice form utilized and the effective dates and terms of the~~
11 13 ~~permit may vary from the provisions set forth in subsections 3~~
11 14 ~~and 5 through 7.~~

11 15 Sec. 17. NEW SECTION. 523A.504 APPOINTMENT OF SALES
11 16 AGENTS.

11 17 1. A person shall not sell or offer to furnish cemetery
11 18 merchandise, funeral merchandise, funeral services, or a
11 19 combination thereof when performance or delivery may be more
11 20 than one hundred twenty days following initial payment on the
11 21 account except through a sales agent who holds a sales permit
11 22 issued pursuant to section 523A.502. If a person holding an
11 23 establishment permit appoints a sales agent to act on behalf
11 24 of the establishment, the person shall file a notice of such
11 25 appointment with the commissioner within thirty days of the
11 26 appointment, in a format approved by the commissioner, and
11 27 annually thereafter.

11 28 2. An establishment shall pay an annual fee of five
11 29 dollars for each sales agent appointed by the establishment,
11 30 which fee shall be submitted with the annual report.
11 31 Sec. 18. Section 523A.601, Code 2007, is amended by adding
11 32 the following new subsection:
11 33 NEW SUBSECTION. 6. a. A purchase agreement that is
11 34 funded by a trust shall include a conspicuous statement in
11 35 substantially the following language:
12 1 "There is potential risk under a prearranged funeral
12 2 agreement that the seller may not be able to deliver on the
12 3 arrangements contained in the agreement due to insufficient
12 4 funding. We will deposit (insert number) percent of your
12 5 payment(s) in trust at (name of financial institution),
12 6 (street address), (city), (state) (zip code). To protect
12 7 yourself, you should confirm that the deposit of these funds
12 8 has been made by contacting the financial institution
12 9 directly. If you are unable to confirm the deposit of these
12 10 funds in trust, you should report this fact to the Iowa
12 11 insurance division, by calling the insurance division at
12 12 (telephone number). Written reports should be mailed to the
12 13 Iowa insurance division at (street address), (city), Iowa (zip
12 14 code)."
12 15 b. A purchase agreement that is funded with an insurance
12 16 policy or an annuity shall include a conspicuous statement in
12 17 substantially the following language:
12 18 "There is potential risk under a prearranged funeral
12 19 agreement that the seller may not be able to deliver on the
12 20 arrangements contained in the agreement due to insufficient
12 21 funding. An (insurance policy or annuity) will be purchased
12 22 from (name of issuer of the policy or annuity), (street
12 23 address), (city), (state) (zip code). If you pay pursuant to
12 24 your purchase agreement with a single payment, you should
12 25 receive confirmation of the purchase of an insurance policy or
12 26 certificate, or an annuity within sixty days of making the
12 27 payment. If you pay pursuant to your purchase agreement with
12 28 multiple, periodic payments, you should receive confirmation
12 29 of the purchase of an insurance policy or certificate, or an
12 30 annuity within sixty days of making the first payment and
12 31 within sixty days of making the last payment pursuant to the
12 32 agreement. Delivery of the actual insurance policy or
12 33 certificate or annuity shall also constitute confirmation. If
12 34 you do not receive confirmation that an insurance policy or
12 35 certificate or an annuity has been purchased or receive the
13 1 insurance policy or certificate or the annuity, you should
13 2 report this fact to the Iowa insurance division, by calling
13 3 the insurance division at (telephone number). Written reports
13 4 should be mailed to the Iowa insurance division at (street
13 5 address), (city), Iowa (zip code)."
13 6 c. A purchase agreement that is funded with a surety bond
13 7 shall include a conspicuous statement in substantially the
13 8 following language:
13 9 "There is potential risk under a prearranged funeral
13 10 agreement that the seller may not be able to deliver on the
13 11 arrangements contained in the agreement due to insufficient
13 12 funding. Coverage under a surety bond, in the amount of
13 13 \$(amount) will be purchased from (name of issuer of surety
13 14 bond), (street address), (city), (state) (zip code) to fund
13 15 your purchase. If you pay pursuant to your purchase agreement
13 16 with a single payment, you should receive confirmation of the
13 17 purchase of a surety bond within sixty days of making the
13 18 payment. If you pay pursuant to your purchase agreement with
13 19 multiple, periodic payments, you should receive confirmation
13 20 of the purchase of a surety bond within sixty days of making
13 21 the first payment and within sixty days of making the last
13 22 payment pursuant to the agreement. If you do not receive
13 23 confirmation of coverage under a surety bond within sixty days
13 24 of making the first payment and within sixty days of making
13 25 the last payment, you should report this fact to the Iowa
13 26 insurance division, by calling the insurance division at
13 27 (telephone number). Written reports should be mailed to the
13 28 Iowa insurance division at (street address), (city), Iowa (zip
13 29 code)."
13 30 d. A purchase agreement that is funded by the purchase of
13 31 merchandise shall include a conspicuous statement in
13 32 substantially the following language:
13 33 "There is potential risk under a prearranged funeral
13 34 agreement that the seller may not be able to deliver on the
13 35 arrangements contained in the agreement due to insufficient
14 1 funding or because the merchandise was not purchased. By
14 2 state law, only two types of merchandise may be purchased and
14 3 warehoused in lieu of trust arrangements: outer burial

14 4 containers made of either polystyrene or polypropylene, and
14 5 grave markers, memorials, and monuments. We will purchase
14 6 (description of merchandise to be purchased) and it will be
14 7 warehoused in lieu of trust arrangements at (company name),
14 8 (street address), (city), (state) (zip code). If you pay
14 9 pursuant to your purchase agreement with a single payment, you
14 10 should receive a copy of the warehouse receipt evidencing your
14 11 title to that merchandise within sixty days of making the
14 12 payment. If you pay pursuant to your purchase agreement with
14 13 multiple, periodic payments, you should receive a copy of the
14 14 warehouse receipt evidencing your title to that merchandise
14 15 within sixty days of making the last payment pursuant to the
14 16 agreement. If you do not receive the warehouse receipt
14 17 evidencing your title to that merchandise within sixty days of
14 18 making your single payment or your last payment pursuant to
14 19 the purchase agreement, you should report this fact to the
14 20 Iowa insurance division, by calling the insurance division at
14 21 (telephone number). Written reports should be mailed to the
14 22 Iowa insurance division at (street address), (city), Iowa (zip
14 23 code)."

14 24 Sec. 19. NEW SECTION. 523A.603 SECURITY AND NOTICE
14 25 REQUIREMENTS.

14 26 1. If a purchase agreement is funded with an insurance
14 27 policy or an annuity, the purchaser shall receive a notice
14 28 thereof from the insurance company. If the purchase agreement
14 29 is paid with a single payment, the purchaser shall receive
14 30 notice that an insurance policy or annuity secures the
14 31 agreement within sixty days of making the payment. If the
14 32 purchase agreement is being paid with multiple, periodic
14 33 payments, the purchaser shall receive notice that an insurance
14 34 policy or annuity secures the agreement within sixty days of
14 35 making the first payment and within sixty days of making the
15 1 last payment. The notice shall include the name and address
15 2 of the insurance company, the policy number of the insurance
15 3 policy that secures the agreement, the name of the insured
15 4 under the insurance policy or annuity, and the amount of the
15 5 accumulated death benefit. Delivery of the insurance policy
15 6 or certificate or annuity shall satisfy this notice
15 7 requirement.

15 8 2. If a purchase agreement is funded by the purchase of
15 9 merchandise, the purchaser shall receive a copy of a warehouse
15 10 receipt of ownership evidencing title in the name of the
15 11 purchaser or the beneficiary. If the purchase agreement is
15 12 paid with a single payment, the purchaser shall receive the
15 13 warehouse receipt evidencing the purchaser's title to
15 14 merchandise within sixty days of making the payment. If the
15 15 purchase agreement is being paid with multiple, periodic
15 16 payments, the purchaser shall receive the warehouse receipt
15 17 evidencing the purchaser's title to merchandise within sixty
15 18 days of making the last payment.

15 19 3. If a purchase agreement is funded by a surety bond, the
15 20 purchaser shall receive a notice from the surety company that
15 21 evidences coverage under the bond, the name of the purchaser
15 22 or beneficiary, and the amount of coverage. If the purchase
15 23 agreement is paid with a single payment, the purchaser shall
15 24 receive notice of the surety bond within sixty days of making
15 25 the payment. If the purchase agreement is being paid with
15 26 multiple, periodic payments, the purchaser shall receive
15 27 notice of the surety bond within sixty days of making the last
15 28 payment.

15 29 Sec. 20. Section 523A.801, subsection 1, Code 2007, is
15 30 amended to read as follows:

15 31 1. This chapter shall be administered by the commissioner.
15 32 ~~The deputy administrator appointed pursuant to section 502.601~~
15 33 ~~shall be the principal operations officer responsible to the~~
15 34 ~~commissioner for the routine administration of this chapter~~
15 35 ~~and management of the administrative staff. In the absence of~~
16 1 ~~the commissioner, whether because of vacancy in the office due~~
16 2 ~~to absence, physical disability, or other cause, the deputy~~
16 3 ~~administrator shall, for the time being, have and exercise the~~
16 4 ~~authority conferred upon the commissioner. The commissioner~~
16 5 ~~or the commissioner's designee may by order from time to time~~
16 6 ~~delegate to the deputy administrator any or all of the~~
16 7 ~~functions assigned to the commissioner in this chapter. The~~
16 8 ~~deputy administrator shall employ officers, attorneys,~~
16 9 ~~accountants, and other employees as needed for administering~~
16 10 ~~this chapter.~~

16 11 Sec. 21. Section 523A.811, subsection 1, Code 2007, is
16 12 amended by adding the following new paragraph:

16 13 NEW PARAGRAPH. f. A receivership has been established for
16 14 a cemetery subject to chapter 523I that is owned or operated

16 15 by a seller who is subject to this chapter.
16 16 Sec. 22. Section 523A.811, Code 2007, is amended by adding
16 17 the following new subsection:
16 18 NEW SUBSECTION. 3. If a seller who is subject to this
16 19 chapter owns or operates a cemetery subject to chapter 523I,
16 20 for which a receivership has been established, the
16 21 receivership provisions of section 523I.212 shall apply to any
16 22 receivership established under this section.
16 23 Sec. 23. Section 523A.812, Code 2007, is amended to read
16 24 as follows:
16 25 523A.812 INSURANCE DIVISION REGULATORY FUND.
16 26 The insurance division may authorize the creation of a
16 27 special revenue fund in the state treasury, to be known as the
16 28 insurance division regulatory fund. The commissioner shall
16 29 allocate annually from the fees paid pursuant to section
16 30 523A.204, two dollars for each purchase agreement reported on
16 31 an establishment permit holder's annual report for deposit to
16 32 the regulatory fund. The remainder of the fees collected
16 33 pursuant to section 523A.204 shall be deposited into the
16 34 general fund of the state. The commissioner shall also
16 35 allocate annually the ~~audit examination~~ fees paid pursuant to
17 1 section 523A.814 and any examination expense reimbursement for
17 2 deposit to the regulatory fund. The moneys in the regulatory
17 3 fund shall be retained in the fund. The moneys are
17 4 appropriated and, subject to authorization by the
17 5 commissioner, may be used to pay ~~auditors, audit examiners,~~
17 6 examination expenses, investigative expenses, the expenses of
17 7 mediation ordered by the commissioner, consumer education
17 8 expenses, the expenses of a toll-free telephone line to
17 9 receive consumer complaints, and the expenses of receiverships
17 10 established under section 523A.811. An annual allocation to
17 11 the regulatory fund shall not be imposed if the current
17 12 balance of the fund exceeds ~~two~~ five hundred thousand dollars.
17 13 Sec. 24. Section 523A.814, Code 2007, is amended to read
17 14 as follows:
17 15 523A.814 AUDIT EXAMINATION FEE.
17 16 In addition to the filing fee paid pursuant to section
17 17 523A.204, subsection 5 2, an establishment filing an annual
17 18 report shall pay an ~~audit examination~~ fee in the amount of
17 19 five dollars for each purchase agreement subject to a filing
17 20 fee that is sold between July 1, 2005, and December 31, 2007,
17 21 and in the amount of ten dollars for each purchase agreement
17 22 subject to a filing fee that is sold after December 31, 2007.
17 23 Sec. 25. Section 523I.102, subsections 3 and 8, Code 2007,
17 24 are amended to read as follows:
17 25 3. "Capital gains" means appreciation in the value of
17 26 trust assets for which a market value may be determined with
17 27 reasonable certainty after deduction of investment losses,
17 28 taxes, expenses incurred in the sale of trust assets, any
17 29 costs of the operation of the trust, examination expenses, and
17 30 any ~~annual audit fees~~ expenses.
17 31 8. "Commissioner" means the commissioner of insurance or
17 32 the ~~deputy administrator authorized in section 523A.801 to the~~
17 33 ~~extent the commissioner delegates functions to the deputy~~
17 34 ~~administrator commissioner's designee authorized in section~~
17 35 ~~523A.801.~~
18 1 Sec. 26. Section 523I.102, subsection 17, unnumbered
18 2 paragraph 1, Code 2007, is amended to read as follows:
18 3 "Income" means the return in money or property derived from
18 4 the use of trust principal after deduction of investment
18 5 losses, taxes, and expenses incurred in the sale of trust
18 6 assets, any cost of the operation of the trust, examination
18 7 expenses or fees, and any ~~annual audit fees~~ expenses.
18 8 "Income" includes but is not limited to:
18 9 Sec. 27. Section 523I.201, subsection 1, Code 2007, is
18 10 amended to read as follows:
18 11 1. This chapter shall be administered by the commissioner.
18 12 ~~The deputy administrator appointed pursuant to section 502.601~~
18 13 ~~shall be the principal operations officer responsible to the~~
18 14 ~~commissioner for the routine administration of this chapter~~
18 15 ~~and management of the administrative staff. In the absence of~~
18 16 ~~the commissioner, whether because of vacancy in the office due~~
18 17 ~~to absence, physical disability, or other cause, the deputy~~
18 18 ~~administrator shall, for the time being, have and exercise the~~
18 19 ~~authority conferred upon the commissioner. The commissioner~~
18 20 ~~may by order from time to time delegate to the deputy~~
18 21 ~~administrator any or all of the functions assigned to the~~
18 22 ~~commissioner in this chapter. The deputy administrator or the~~
18 23 ~~commissioner's designee shall employ officers, attorneys,~~
18 24 ~~accountants, and other employees as needed for administering~~
18 25 ~~this chapter.~~

18 26 Sec. 28. Section 523I.212, subsection 1, Code 2007, is
18 27 amended by adding the following new paragraph:
18 28 NEW PARAGRAPH. d. A receivership has been established for
18 29 a seller subject to chapter 523A who owns or operates a
18 30 cemetery that is subject to this chapter.

18 31 Sec. 29. Section 523I.212, subsection 2, Code 2007, is
18 32 amended to read as follows:

18 33 2. The commissioner or attorney general may apply to the
18 34 district court in any county of the state for the
18 35 establishment of a receivership. Upon proof that any of the
19 1 conditions described in this section have occurred, the court
19 2 may grant a receivership. The commissioner may request that
19 3 the insurance division be named as a receiver or that the
19 4 court appoint a third party as a receiver. If the division is
19 5 appointed as a receiver, the division shall not be subject to
19 6 the requirements concerning an oath and surety bond contained
19 7 in section 680.3.

19 8 Sec. 30. Section 523I.212, Code 2007, is amended by adding
19 9 the following new subsections:

19 10 NEW SUBSECTION. 3. In addition to the powers granted to
19 11 receivers under chapter 680, a receiver appointed under this
19 12 section shall be granted all powers necessary to locate and to
19 13 temporarily preserve and protect perpetual care trust funds,
19 14 consumer and business assets, interment records, records of
19 15 consumer purchases of interment rights, and records of
19 16 consumer purchases of funeral services and funeral or cemetery
19 17 merchandise as defined in chapter 523A. The receiver shall
19 18 also be granted such powers as are necessary in the course of
19 19 the receivership to temporarily preserve and protect a
19 20 cemetery or burial site and to temporarily restore or sustain
19 21 cemetery operations, including interments, as operating funds
19 22 or trust funds become available.

19 23 NEW SUBSECTION. 4. The commissioner may petition the
19 24 court to terminate a receivership at any time and to enter
19 25 such orders as are necessary to transfer the duty to preserve
19 26 and protect the physical integrity of the cemetery or burial
19 27 site, the interment records, and other records documenting
19 28 consumer purchases of interment rights to the applicable
19 29 governmental subdivision, as provided in section 523I.316,
19 30 subsection 3. The court shall grant the petition if following
19 31 the first one hundred twenty days of the receivership such
19 32 duty to preserve and protect cannot be reasonably assumed by a
19 33 private entity, association, or by other means.

19 34 Sec. 31. Section 523I.213, Code 2007, is amended to read
19 35 as follows:

20 1 523I.213 INSURANCE DIVISION'S ENFORCEMENT FUND.
20 2 A special revenue fund in the state treasury, to be known
20 3 as the insurance division's enforcement fund, is created under
20 4 the authority of the commissioner. The commissioner shall
20 5 allocate annually from the audit examination fees paid
20 6 pursuant to section 523I.808, an amount not exceeding fifty
20 7 thousand dollars, for deposit to the insurance division's
20 8 enforcement fund. The moneys in the enforcement fund shall be
20 9 retained in the fund. The moneys are appropriated and,
20 10 subject to authorization by the commissioner, shall be used to
20 11 pay auditors, audit examiners, examination expenses,
20 12 investigative expenses, the expenses of consumer education,
20 13 compliance, and education programs for filers and other
20 14 regulated persons, and educational or compliance program
20 15 materials, the expenses of a toll-free telephone line for
20 16 consumer complaints, and the expenses of receiverships of
20 17 perpetual care cemeteries established under section 523I.212.

20 18 Sec. 32. NEW SECTION. 523I.213A EXAMINATIONS ==
20 19 AUTHORITY AND SCOPE.

20 20 1. The commissioner or the commissioner's designee may
20 21 conduct an examination under this chapter of any cemetery as
20 22 often as the commissioner deems appropriate. If a cemetery
20 23 has a trust arrangement, the commissioner shall conduct an
20 24 examination not less than once every five years.

20 25 2. A cemetery shall reimburse the division for the expense
20 26 of conducting the examination unless the commissioner waives
20 27 this requirement. The expense of an examination involving
20 28 multiple cemeteries or other persons shall be prorated among
20 29 them upon any reasonable basis as determined by the
20 30 commissioner.

20 31 3. For purposes of completing an examination pursuant to
20 32 this chapter, the commissioner may examine or investigate any
20 33 person, or the business of any person, if the examination or
20 34 investigation is, in the sole discretion of the commissioner,
20 35 necessary or material to the examination of the cemetery.

21 1 4. Upon determining that an examination should be

21 2 conducted, the commissioner or the commissioner's designee may
21 3 appoint one or more examiners to perform the examination and
21 4 instruct them as to the scope of the examination.

21 5 5. A cemetery or person from whom information is sought,
21 6 and its officers, directors, and agents shall provide to the
21 7 examiners appointed under subsection 3, timely, convenient,
21 8 and free access at their offices, at all reasonable hours, to
21 9 all books, records, accounts, papers, documents, and all
21 10 electronic or other recordings related to the property,
21 11 assets, business, and affairs of the cemetery being examined
21 12 and shall facilitate the examination as much as possible. If
21 13 a cemetery, by its officers, directors, employees, or agents,
21 14 refuses to submit to an examination as provided in this
21 15 chapter, the commissioner shall immediately report the refusal
21 16 to the attorney general, who shall then immediately apply to
21 17 district court for the appointment of a receiver to administer
21 18 the final affairs of the cemetery.

21 19 6. This section shall not be construed to limit the
21 20 commissioner's authority to terminate or suspend any
21 21 examination in order to pursue other legal or regulatory
21 22 actions pursuant to this chapter. Findings of fact and
21 23 conclusions made pursuant to an examination are deemed to be
21 24 prima facie evidence in any legal or regulatory action.

21 25 Sec. 33. NEW SECTION. 523I.213B VENUE.

21 26 All actions relating to the enforcement of this chapter
21 27 shall be governed by the laws of the state of Iowa. Venue of
21 28 any action relating to enforcement of this chapter may be in a
21 29 court of competent jurisdiction in Polk county, at the
21 30 discretion of the commissioner.

21 31 Sec. 34. Section 523I.305, subsection 3, Code 2007, is
21 32 amended to read as follows:

21 33 3. SPECIFICATIONS. Upon request, a cemetery shall provide
21 34 reasonable written specifications and instructions governing
21 35 installation of memorials, which shall apply to all
22 1 installations whether performed by the cemetery or another
22 2 person. The written specifications shall include provisions
22 3 governing hours of installation or any other relevant
22 4 administrative requirements of the cemetery. A copy of these
22 5 specifications and instructions shall be provided upon
22 6 request, without charge, to the owner of the interment space,
22 7 next of kin, or a personal representative or agent of the
22 8 owner, including the person installing the memorial. The
22 9 person installing the memorial shall comply with the
22 10 cemetery's written installation specifications and

22 11 instructions. In order to verify that a memorial is installed
22 12 on the proper interment space in accordance with cemetery
22 13 rules and regulations, the cemetery shall mark the place on
22 14 the interment space where the memorial is to be installed and
22 15 shall inspect the installation when completed. This
22 16 subsection shall not be construed to require that a cemetery
22 17 lay out or engineer an interment space for the installation of
22 18 a memorial. A cemetery shall not adopt or enforce any rule
22 19 prohibiting the installation of a memorial by a memorial
22 20 dealer or independent third party, unless the rule is ~~adopted~~
22 21 applicable to all memorials from whatever source obtained and
22 22 enforced uniformly for all memorials installed in the
22 23 cemetery.

22 24 Sec. 35. NEW SECTION. 523I.314A STANDARDS FOR INTERMENT
22 25 SPACES.

22 26 1. A standard interment space for full body interment
22 27 developed on or after July 1, 2007, shall measure at least
22 28 forty inches in width and ninety-six inches in length.

22 29 2. Prior to the sale of interment rights in an undeveloped
22 30 area of a cemetery, internal reference markers shall be
22 31 installed and maintained no more than one hundred feet apart.
22 32 The internal reference markers shall be established with
22 33 reference to survey markers that are no more than two hundred
22 34 feet apart, have been set by a surveyor and mapper, and have
22 35 been documented in a land survey. Both the map and the land
23 1 survey shall be maintained by the cemetery and made available
23 2 upon request to the commissioner and to members of the public.

23 3 Sec. 36. Section 523I.808, Code 2007, is amended to read
23 4 as follows:

23 5 523I.808 AUDIT EXAMINATION FEE.

23 6 An audit examination fee shall be submitted with the
23 7 cemetery's annual report in an amount equal to five dollars
23 8 for each certificate of interment rights issued during the
23 9 fiscal year covered by the report. The cemetery may charge
23 10 the audit examination fee directly to the purchaser of the
23 11 interment rights.

23 12 Sec. 37. Section 523I.810, subsection 9, Code 2007, is

23 13 amended to read as follows:

23 14 9. A cemetery may, by resolution adopted by a vote of at
23 15 least two-thirds of the members of its board at any authorized
23 16 meeting of the board, authorize the withdrawal and use of not
23 17 more than twenty percent of the principal of the care fund to
23 18 acquire additional land for cemetery purposes, to repair a
23 19 mausoleum or other building or structure intended for cemetery
23 20 purposes, ~~or~~ to build, improve, or repair roads and walkways
23 21 in the cemetery, or to purchase recordkeeping software used to
23 22 maintain ownership records or interment records. The

23 23 resolution shall establish a reasonable repayment schedule,
23 24 not to exceed five years, and provide for interest in an
23 25 amount comparable to the care fund's current rate of return on
23 26 its investments. However, the care fund shall not be
23 27 diminished below an amount equal to the greater of twenty-five
23 28 thousand dollars or five thousand dollars per acre of land in
23 29 the cemetery. The resolution, and either a bond or proof of
23 30 insurance to guarantee replenishment of the care fund, shall
23 31 be filed with the commissioner thirty days prior to the
23 32 withdrawal of funds.

23 33 Sec. 38. Section 523I.813, subsection 1, Code 2007, is
23 34 amended by striking the subsection and inserting in lieu
23 35 thereof the following:

24 1 1. A perpetual care cemetery shall file an annual report
24 2 at the end of each fiscal year of the cemetery.

24 3 Sec. 39. Section 523I.813, Code 2007, is amended by adding
24 4 the following new subsection:

24 5 NEW SUBSECTION. 3. The commissioner shall levy an
24 6 administrative penalty in the amount of five hundred dollars
24 7 against a cemetery that fails to file the annual report when
24 8 due, payable to the state for deposit in the general fund.

24 9 EXPLANATION

24 10 This bill makes changes relating to cemeteries and related
24 11 services.

24 12 PREARRANGED CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL
24 13 SERVICES. Code section 523A.102, which contains the chapter's
24 14 definitions, is amended to provide that for the purposes of
24 15 Code chapter 523A "commissioner" means the commissioner of
24 16 insurance or the commissioner's designee, and "establishment"
24 17 includes each business entity that deals with cemetery and
24 18 funeral merchandise and funeral services. A conforming
24 19 amendment to reflect these changes is made in Code section
24 20 523A.801.

24 21 Code section 523A.102 is also amended by adding a
24 22 definition of "sales agent" that means a person, including an
24 23 employee, who is authorized by an establishment or seller to
24 24 sell cemetery merchandise, funeral merchandise, funeral
24 25 services, or combination thereof, on behalf of the
24 26 establishment or seller.

24 27 Code section 523A.201 is amended to provide that if a
24 28 purchase agreement is financed with or sold to a financial
24 29 institution, the agreement shall be considered paid in full
24 30 and the trust requirements satisfied within 15 days after the
24 31 seller receives funds from the financial institution.

24 32 Code section 523A.201, subsection 5, is rewritten to
24 33 require a seller of cemetery and funeral merchandise and
24 34 services to have a minimum fidelity bond or similar insurance
24 35 of \$50,000 or more if required by the commissioner and to
25 1 continue the bond or insurance for at least one year after an
25 2 establishment or seller changes or transfers ownership.

25 3 Code section 523A.201, subsection 8, is amended to require
25 4 that all interest or income earned on amounts deposited in
25 5 trust are to remain in trust.

25 6 Code section 523A.201, subsection 10, is amended to require
25 7 a seller who ceases business to notify the commissioner at
25 8 least 30 days prior to ceasing business and to repay all trust
25 9 funds, including accrued interest or income within 30 days of
25 10 such cessation or within a longer period of time, if approved
25 11 by the commissioner.

25 12 Code section 523A.202, subsection 4, is amended to require
25 13 that the commissioner be notified within 30 days of the
25 14 movement of trust funds between financial institutions.

25 15 Code section 523A.203 is amended by adding a requirement
25 16 that trust fund assets be allocated by including a diversified
25 17 portfolio and making investment and management decisions in
25 18 accordance with the provisions of Code section 633A.4302 of
25 19 the Iowa trust code.

25 20 Code section 523A.204, containing annual reporting
25 21 requirements for establishments, is amended to delete specific
25 22 requirements for information to be included in the report, to
25 23 require the commissioner to levy an administrative penalty in

25 24 the amount of \$500 against an establishment that fails to file
25 25 the report when due, and to prohibit an establishment that
25 26 fails to timely file an annual report from soliciting or
25 27 executing purchase agreements until the report is filed and
25 28 any administrative penalty has been paid. A filing fee of \$10
25 29 for filing an annual report remains the same.

25 30 Code section 523A.206 is rewritten to provide that the
25 31 commissioner shall conduct an examination rather than an audit
25 32 of an establishment as often as necessary but not less than
25 33 once every five years. The commissioner may also require an
25 34 audit of an establishment, seller, or other person by a
25 35 certified public accountant to verify compliance with chapter
26 1 523A, including rules and orders issued pursuant to the
26 2 chapter. The cost of the examination shall be reimbursed to
26 3 the division by the establishment or seller unless this
26 4 requirement is waived. The commissioner is authorized to
26 5 examine any person or business necessary or material to the
26 6 examination of an establishment and to appoint examiners to
26 7 perform the examination. The establishment and its officers,
26 8 directors, employees, and agents are required to facilitate
26 9 the examination, and the refusal to do so constitutes grounds
26 10 for suspension, revocation, or nonrenewal of the
26 11 establishment's or seller's permit to engage in business
26 12 subject to Code chapter 523A and shall result in application
26 13 to the district court for appointment of a receiver to
26 14 administer the establishment's or seller's affairs.
26 15 Information obtained in an examination is not public except
26 16 under specified circumstances. Conforming amendments to
26 17 reflect the change in terminology from "audit" to
26 18 "examination" are made in Code sections 523A.404, subsection
26 19 1, 523A.812, and 523A.814.

26 20 New Code section 523A.207 provides that a purchase
26 21 agreement shall not be sold or transferred, as part of the
26 22 sale of a business or the assets of a business, until an audit
26 23 has been performed by a certified public accountant and filed
26 24 with the commissioner that expresses the auditor's opinion of
26 25 the adequacy of the funding related to the purchase agreements
26 26 to be sold or transferred.

26 27 Code section 523A.401, is amended to provide that
26 28 requirements for insurance policies used to fund purchase
26 29 agreements pertain to both establishments and sellers.

26 30 Code section 523A.501 is amended to remove the requirement
26 31 that each establishment have a permit, to remove specific
26 32 requirements for information on applications for establishment
26 33 permits, and to allow such permits to remain valid until
26 34 denied, suspended, revoked, or surrendered.

26 35 Code section 523A.502 is amended to remove the requirement
27 1 that a sales agent must have a sales permit for each
27 2 establishment at which the person works, to remove specific
27 3 requirements for information on applications, and to allow
27 4 such permits to remain valid until denied, suspended, revoked,
27 5 or surrendered. Currently such a permit expires after one
27 6 year and can be renewed for four years upon application and
27 7 payment of a \$20 fee.

27 8 New Code section 523A.504 requires prearranged cemetery and
27 9 funeral merchandise and funeral services to be sold only
27 10 through a sales agent who holds a permit issued pursuant to
27 11 Code section 523A.502, requires holders of establishment
27 12 permits to appoint such sales agents to act on their behalf,
27 13 and requires notice of such appointment to the commissioner
27 14 within 30 days along with payment of a \$5 annual fee for each
27 15 sales agent appointed.

27 16 Code section 523A.601 is amended to provide that purchase
27 17 agreements that are funded by trust, insurance policies or
27 18 annuities, surety bonds, or the purchase of merchandise must
27 19 include a conspicuous statement informing the purchaser of the
27 20 right to have notice of the funding arrangements within
27 21 specified times and that the purchaser should contact the
27 22 insurance division if such notice does not occur.

27 23 New Code section 523A.603 contains the security and notice
27 24 requirements that purchasers are required to be notified of in
27 25 Code section 523A.601.

27 26 Code section 523A.801 is amended to provide that Code
27 27 chapter 523A shall be administered by the commissioner or the
27 28 commissioner's designee.

27 29 Code section 523A.811 is amended to provide that if a
27 30 receivership has been established for a cemetery subject to
27 31 Code chapter 523I that is owned or operated by a seller who is
27 32 subject to Code chapter 523A, a receivership shall be
27 33 established for the seller under this section pursuant to the
27 34 provisions of Code section 523I.212.

27 35 Code section 523A.812 is amended to provide that an annual
28 1 allocation of examination fees shall not be imposed if the
28 2 current balance of the fund exceeds \$500,000 instead of
28 3 \$200,000.

28 4 Code section 523A.814 is amended to raise the filing fee
28 5 for purchase agreements filed from \$5 to \$10 after December
28 6 31, 2007.

28 7 CEMETERY REGULATION. Code section 523I.102, which contains
28 8 the chapter's definitions, is amended to include examination
28 9 expenses in the calculation of capital gains and income. The
28 10 Code section is also amended to provide that for purposes of
28 11 Code chapter 523I "commissioner" means the commissioner of
28 12 insurance or the commissioner's designee. A conforming
28 13 amendment to reflect this change is made in Code section
28 14 523I.201, subsection 1.

28 15 Code section 523I.212, subsection 1, is amended to require
28 16 the commissioner to notify the attorney general of the need to
28 17 establish a receivership for a cemetery if a receivership has
28 18 been established for a seller subject to Code chapter 523A who
28 19 owns or operates a cemetery subject to this chapter.

28 20 Code section 523I.212, subsection 2, is amended to allow
28 21 the commissioner to request that either the division or a
28 22 third party be appointed as the receiver when a receivership
28 23 is established for a cemetery and to provide that the
28 24 provisions of Code section 680.3 requiring an oath and bond do
28 25 not apply when the division is appointed as the receiver.

28 26 Code section 523I.212 is also amended to grant additional
28 27 powers to the receiver of a cemetery to administer the
28 28 cemetery's affairs and to allow the commissioner to petition
28 29 the court to terminate the receivership and transfer the duty
28 30 to administer the cemetery to a governmental subdivision under
28 31 certain circumstances.

28 32 New Code section 523I.213A concerns the authority of the
28 33 commissioner to conduct examinations of cemeteries and the
28 34 scope of such examinations and requires the examination of
28 35 cemeteries with trust arrangements not less than once every
29 1 five years. Conforming amendments reflecting the change in
29 2 terminology from "audit" to "examination" are made in Code
29 3 sections 523I.213 and 523I.808.

29 4 New Code section 523I.213B provides that actions for
29 5 enforcement of Code chapter 523I shall be governed by Iowa law
29 6 and that the venue of any action under the Code chapter may be
29 7 in a court of competent jurisdiction in Polk county, at the
29 8 discretion of the commissioner.

29 9 Code section 523I.305 is amended to require cemeteries to
29 10 mark interment spaces and inspect installations of memorials
29 11 to ensure that memorials are installed in the proper place in
29 12 accordance with cemetery rules and regulations. The section
29 13 is also amended to prohibit a cemetery from adopting or
29 14 enforcing any rule prohibiting the installation of a memorial
29 15 by a memorial dealer or third party unless the rule is
29 16 applicable to all memorials from whatever source obtained.

29 17 New Code section 523I.314A establishes standards for the
29 18 size of full body interment spaces and requirements for
29 19 marking such spaces and maintaining maps and land surveys of
29 20 the cemetery.

29 21 Code section 523I.810, subsection 9, is amended to allow
29 22 cemetery care funds to be used to purchase recordkeeping
29 23 software to maintain ownership or interment records.

29 24 Code section 523I.813 is amended by removing specific
29 25 requirements for information to be provided on annual reports
29 26 by perpetual care cemeteries.

29 27 Code section 523I.813 is also amended to require the
29 28 commissioner to levy an administrative penalty of \$500 against
29 29 a perpetual care cemetery that fails to timely file its annual
29 30 report.

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29 32 av:sc/gg/14.1